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Ref: Leg/12.1/03.1

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601
Australia

Phone: 612 6243 1124

Dear General Manager,

Subject: **Virgin Australia and Air New Zealand – application for variation to conditions of authorisation A191227 & A91228**

We have considered our position in relation to the recent application for a variation to the equity/marketing alliance between the **Virgin Australia** Company and **Air New Zealand**. As we understand, the approved Code Share alliance is applied within the Single Aviation Market (SAM).

The arguments tabled for the establishment of the original alliance have changed in that **Virgin Australia** has moved to increase its alliance strategies within the SAM.

That is, the company is seeking to form another marketing alliance, additionally, with **Singapore Airlines** that will change the market structure of the SAM.

We note the following contentions that you would no doubt have considered (and repeat some previous comment): –

1. **Virgin Blue** also maintains an alliance with Middle Eastern carrier **Etihad Airlines** and **Delta Airlines**.
2. There is an increasing dominance of the **Virgin Grouping** and its equity and marketing alliances and their potential to manipulate capacity and market power in the SAM. For example, the **Virgin Group** own 20% of **Air Asia X** which in turn is majority owned by parent **Air Asia**. The parent operates into Australia and New Zealand.
3. The impact of low cost carrier, **Tiger Airlines**, a part sovereign and **Singapore Airlines** owned carrier with the availability of immense foreign funds, operating in the SAM having been operating in that market since 2007. The carrier has accumulated continual considerable losses. This airline is identified as a predatory operator against a backdrop of a strong alliance possibility between **Virgin Australia** and **Singapore Airlines**. We put it that this developing web of alliances is structuring to gain dominance in the market. We fervently object to this alliance.
4. The **Virgin Grouping** has historic access to extensive capital and finance.

5. The Christchurch earthquake did realistically reduce demand to and from that location as a considerable proportion of residents have departed reducing the **VFR** Trans Tasman travel. **Business** travel has suffered as most of the CBD has been destroyed. Tourism **holiday** attractions have been severely affected as many venues have been shut down, reducing the number of tourists travelling.
6. There is no justification to claim public benefit for any alliance in the Trans Tasman market.
7. The rationale to create a domestic region between Australia and New Zealand fails to consider border control aspects in an increasingly unstable region. Including rising terrorism, air rage, drug trafficking and illegal immigration that has a high probability of generating substantial legal liability problems for airlines. (*Est. illegal immigrants in New Zealand - 20,000 of mostly Asian/Indian ethnicity*)

On the basis of the comments made above we address the following issues: -

- *Whether the proposed variation to the Conditions is necessary, having regard to the impact of the Christchurch earthquake on demand;*

The variation sought is reasonable under the circumstances brought about by the Christchurch earthquake. Demand has been impacted unfavourably, which has significantly reduced load factors for all operators.

- *The impact that the variation is likely to have on competition on the services to and from Christchurch;*

The balance of competition remains the same but the market has reduced in size as a result of the earthquake. and;

- *Whether the proposed variation would change the balance between the public benefit and detriment;*

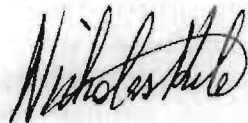
There is no justification to claim public benefit for any alliance in the Trans Tasman market, prior to or following the Christchurch earthquake.

The varying of capacity by operators downward is of modest consequence to the competition aspects of the market but the escalation of capacity upward could be seen as an exercise to prohibit market entry or "**price-out**" a carrier.

Such increases in capacity could have predatory connotations due to the substantial power in the market gained by alliance airlines.

Thank you for the opportunity to comment on this matter.

Cordially,



Nick Kile
Managing Director

cc. Ministry of Transport - New Zealand