



**Australian
Competition &
Consumer
Commission**

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16 December 2011

Dear Sir/Madam

**Virgin Australia and Skywest Airlines (Australia) Pty Ltd applications for
authorisation A91287 and A91288 - interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) has received applications for authorisation from Virgin Australia and Skywest Airlines (Australia) Pty Ltd (Skywest). The ACCC invites you to comment on the applications. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

Virgin Australia and Skywest are seeking authorisation to make, and give effect to, a Corporate Alliance Framework Agreement, Frequent Flyer and Lounge Agreement and Joint Sales Agreement (together the Corporate Alliance) for the provision of commercial passenger airline services to corporate customers.

Under the Corporate Alliance, the applicants will jointly market to, tender for, and contract with, corporate customers. The Corporate Alliance will be limited to tenders and contracts for corporate customers that involve a suite of services including both chartered and regular scheduled air services (known as 'regular public transport' or RPT air services). The cooperation will extend to the applicants' RPT services to the extent that these services form part of an integrated offer to be supplied to corporate customers.

A full copy of the application for authorisation, including a full description of the applicants and their proposed alliance, is available on the ACCC's website
<www.accc.gov.au/AuthorisationsRegister>.

Interim authorisation

Virgin Australia and Skywest have also requested *interim* authorisation for their Corporate Alliance pending the outcome of the ACCC's final decision on authorisation. The applicants seek interim authorisation to implement the Corporate Alliance in early 2012. They submit

that this would enable them to begin marketing an integrated offer and be ready to respond to corporate tenders from that time onwards.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct. Nevertheless, submissions in relation to interim authorisation are invited in this matter.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim authorisation is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim authorisation state if the ACCC should later deny authorisation.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements. Submissions are invited both in relation to the application for authorisation and in relation to the application for interim authorisation. In particular the ACCC would appreciate your views on the following issues:

- the impact that the Corporate Alliance is likely to have on competition in Australia for the provision of charter and RPT air services
- the likely public benefits and of the proposed Corporate Alliance
- the likely public detriments of the proposed Corporate Alliance
- the impact on the relevant market(s) if the applicants were to implement the Corporate Alliance under a grant of interim authorisation.

If you intend to provide a submission in relation to the applications for authorisation, please do so by **27 January 2012**. Any submissions in relation to interim authorisation should be provided by **9 January 2012**.

Alternatively, if you would like to provide comments orally, please contact Imogen Hartcher-O'Brien on (02) 6243 1049 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

8 December 2011	Lodgement of application and supporting submission.
9 December 2011	Applicants provide revised public register version of supporting submission.
16 December 2011	Public consultation process begins.
9 January 2012	Closing date for submissions on interim authorisation.
January/February 2012	ACCC decision regarding interim authorisation.
27 January 2012	Closing date for submissions from interested parties on authorisation.
3 February 2012	Applicants respond to issues raised in the public consultation process.
March/April 2012	Draft determination.
April 2012	Public consultation on draft determination including any conference if called.
May/June 2012	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the applications at the draft and final determination stages. If this is the case, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Imogen Hartcher-O'Brien on (02) 6243 1049.

Yours sincerely



David Jones
Director
Adjudication Branch

Interested parties list – A91287 & A91288 – Virgin Australia and Skywest Airlines (Australia) Pty Ltd

Air Tahiti Nui
AirAsia X
AirTran Airways
Alcoa
Alinta
Asiana Cargo
Australian Federation of Travel Agents
Australian Services Union
BHP Billiton
Boral
Board of Airline Representatives of Australia
BP
Brisbane Airport Corporation Pty Limited
British Airways
Cargolux Airlines International S.A.
Cathay Pacific Airways
Centre for Asia Pacific Aviation
CITIC Pacific Mining
China Eastern
China Southern Airlines
CHOICE
Consolidated Travel Group
Consumer Action Law Centre
CSBP Limited
Delta Air Lines, Inc
Department of Infrastructure, Transport, Regional Development and Local Government
Department of State Development
Energy Users Association of Australia
Energy Networks Association
ERM Power
Etihad Airways
Fortescue Metals
International Air Services Commission
JetBlue Airways
LAN Airlines
Malaysia Airlines
Melbourne Airport
Northern Territory Airports
Qantas Airways
Qatar Airlines
Rio Tinto
Royal Brunei
Solomon Airlines
Sydney Airport
Synergy
The Chamber of Commerce and Industry (WA)

The Chamber of Minerals and Energy of Western Australia
Tiger Airways Pte Ltd
Tourism Australia
United Airlines