



Australian
Competition &
Consumer
Commission

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Our Ref: A91227 & A91228
Contact Officer: Darrell Channing
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5 April 2011

Merren McArthur
Group Executive – Corporate Advisory
Virgin Blue Airlines
PO Box 1034
Spring Hill QLD 4004

cc: Luke Woodward, Partner, Gilbert + Tobin Lawyers

Dear Ms McArthur

For publication on the ACCC's public register

**Authorisations A91227 & A91228 lodged by Virgin Blue Airlines Pty Ltd and ors –
conditions of authorisation**

I refer to authorisations A91227 & A91228 granted by the Australian Competition and Consumer Commission (the ACCC) on 16 December 2010 (the authorisations).

As you know, the authorisations were expressed to be subject to the conditions set out in Attachment A of the determination.

The ACCC is now aware that there is a typographical error in Condition 5.1 *Definitions* to the authorisation. Specifically, in the definition of **Capacity Growth Factor**, the letters 'NW' and 'NS' have inadvertently been transposed in sub-paragraphs (a)(i) and (a)(ii). The definition should read:

Capacity Growth Factor: for any Scheduling Season the greater of:

- (a) the sum of quarterly changes in Australia's Trend Chain Volume GDP, as published by the Australian Bureau of Statistics in Catalogue No 5206.0, data series A2298668K over the period from:

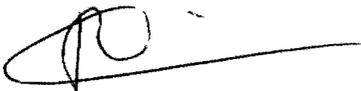
- (i) December quarter 2009 to the most recent December quarter for the NS Scheduling Season or
- (ii) June quarter 2010 to the most recent June quarter for the NW Scheduling Season; or
- (b) the sum of the annual percentage changes in Total Industry Seat Capacity across the Trans-Tasman over the period from 2 months prior to the end of the relevant Scheduling Season in 2010 to 2 months prior to the end of the most recent Scheduling Season. Total Industry Seat Capacity across the Trans-Tasman is to be sourced from *International Airline Activity data collection* published by the Australian Bureau of Infrastructure, Transport and Regional Economics (BITRE).

At the time of granting the authorisations, it was the ACCC's intention when expressing the authorisations to be subject to the conditions that the applicants, in calculating their capacity on the Nominated Routes or on the Trans-Tasman for the purposes of ensuring their compliance with the conditions of the authorisations, have regard to the most recent December quarter data in respect of the Northern Summer Scheduling Season and the most recent June quarter data in respect of the Northern Winter Scheduling Season. Therefore, the applicants should now rely on the articulation of **Capacity Growth Factor** as set out in this letter, as far as it relates to the definition and calculation of Capacity Growth Factor, when undertaking their compliance with the conditions of authorisation.

As discussed, I can also confirm that 'the most recent Scheduling Season' mentioned in paragraph (b) of the definition of **Capacity Growth Factor** refers to the season immediately prior to the season to which the capacity commitment is to apply.

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 Darrell Channing on (02) 6243 4925.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch