Determination

Applications for authorisation

lodged by

Air New Zealand

on behalf of members of the Star Alliance

in respect of

Star Alliance’s Corporate Plus, Conventions Plus and Meetings Plus Programs

Date: 25 July 2012

Authorisation numbers: A91300 – A91306

Commissioners: Sims
Rickard
Court
Dimasi
Willett
Summary

The ACCC grants authorisation to current and future members of the Star Alliance to give effect to the Corporate Plus, Conventions Plus and Meetings Plus programs for eight years – until 16 August 2020. The Corporate Plus and Conventions Plus programs have been authorised by the ACCC since 2003. The Meetings Plus program has not previously been offered in Australia and has therefore not previously been authorised by the ACCC.

1. The applications for authorisation

1.1. On 23 April 2012, Air New Zealand on behalf of current and future members of Star Alliance (Star Alliance, together the Applicants) lodged authorisation applications A91300-A91306 with the ACCC under sections 88(1A), 88(1) and 88(8) of the Competition and Consumer Act 2012 (Act). The Applicants are seeking authorisation to give effect to the Corporate Plus, Conventions Plus and Meetings Plus Programs (the Programs).

1.2. The ACCC issued a draft determination proposing to grant authorisation, on 27 June 2012. At this time the ACCC also granted interim authorisation to allow members of Star Alliance to give effect to the Programs while the ACCC considered the merits of the applications.

1.3. The Programs cover arrangements between Star Alliance members to jointly offer discounted fares, discounts and rebates to corporate customers and conference organisers under a single contract.

1.4. The Applicants seek authorisation as the Programs:

- may involve the Applicants agreeing fares, discounts and rebates to be offered to particular customers; and

- involve an agreement between the Applicants that if:
  
  (i) a customer has agreed to receive a joint offer under one of the Programs; and
  
  (ii) an Applicant has agreed to participate in that offer,

  that Applicant will not make a separate offer to the customer while the joint offer is current or being prepared.

  Accordingly the Applicants submit that some aspects of the Programs may constitute cartel provisions or exclusionary provisions under the Act.

1.5. The Applicants also submit that an argument might also be made that the Conventions Plus program involves third line forcing because an Applicant may refuse to supply a discounted fare to a person unless they can establish that
they are a registered delegate of a particular convention (i.e., that they have acquired services from the organisers of that convention).

1.6. Star Alliance is a marketing alliance of airlines formed in 1997. It is a framework for integrating certain marketing and limited operational functions of its members. More specifically, it provides for interlining of services, code-sharing, coordination of schedules, cooperation at members’ principal hubs to permit more efficient connections, mutual lounge access, coordinated check-in services and cooperative marketing activities to promote Star Alliance wide services. The alliance does not provide for revenue sharing between members.

1.7. Each member retains its unique identity and brand and no member can enter into any commitments in relation to the Star Alliance on behalf of other members.

1.8. Star Alliance includes 25 member airlines. The combined networks of these members serve 1,290 airport destinations in Europe, Africa, Asia and the Americas. Other globally significant marketing alliances include oneworld and SkyTeam. Member airlines of Star Alliance and competing alliances are listed in table 1. All three marketing alliances have multiple members currently operating services to/from Australia.

<table>
<thead>
<tr>
<th>Star Alliance</th>
<th>SkyTeam</th>
<th>oneworld</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adria Airways</td>
<td>Aeroflot</td>
<td>Air Berlin</td>
</tr>
<tr>
<td>Aegean Airlines</td>
<td>Aeromexico</td>
<td>American Airlines</td>
</tr>
<tr>
<td>Air Canada</td>
<td>Air Europa</td>
<td>British Airways</td>
</tr>
<tr>
<td>Air China</td>
<td>Air France</td>
<td>Cathay Pacific</td>
</tr>
<tr>
<td>Air New Zealand</td>
<td>Alitalia</td>
<td>Finnair</td>
</tr>
<tr>
<td>ANA</td>
<td>China Airlines</td>
<td>Iberia</td>
</tr>
<tr>
<td>Asiana Airlines</td>
<td>China Eastern</td>
<td>Japan Airlines</td>
</tr>
<tr>
<td>Austrian Airlines</td>
<td>China Southern</td>
<td>LAN</td>
</tr>
<tr>
<td>Blue1</td>
<td>Czech Airlines</td>
<td>Qantas</td>
</tr>
<tr>
<td>Brussels Airlines</td>
<td>Delta</td>
<td>Royal Jordanian</td>
</tr>
<tr>
<td>Croatia Airlines</td>
<td>Kenya Airways</td>
<td>S7 Airlines</td>
</tr>
<tr>
<td>EGYP TAIR</td>
<td>KLM</td>
<td></td>
</tr>
<tr>
<td>Ethiopian Airlines</td>
<td>Korean Air</td>
<td></td>
</tr>
<tr>
<td>LOT Polish Airlines</td>
<td>Saudia</td>
<td></td>
</tr>
<tr>
<td>Lufthansa</td>
<td>TAROM</td>
<td></td>
</tr>
<tr>
<td>Scandinavian Airlines</td>
<td>Vietnam Airlines</td>
<td></td>
</tr>
<tr>
<td>Singapore Airlines</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South African Airways</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SWISS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAM Airlines</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAP Portugal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thai Airways</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Turkish Airlines</td>
<td></td>
<td></td>
</tr>
<tr>
<td>United</td>
<td></td>
<td></td>
</tr>
<tr>
<td>US Airways</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


1.9. Currently eight Star Alliance members fly in or out of Australia including Air Canada, Air China, Air New Zealand, Asiana Airlines, Singapore Airlines, South African Airways, Thai Airways and United Airlines. Collectively these airlines offer 353 weekly international flights from Australian mainland capital
city airports to hub destinations. The applicants submit that there is currently no overlap in the direct city pairs flown by any of the Star Alliance members from Australia.

1.10. The Corporate Plus and Conventions Plus programs are currently authorised by the ACCC. This authorisation is due to expire on 9 August 2012. The Meetings Plus Program has not previously been offered in Australia and therefore has not previously been authorised.

1.11. On 15 June 2012, following the lodgement of the applications for authorisation, the Applicants also requested interim authorisation to allow them to operate all the Programs while the ACCC considered the merits of the applications. The ACCC granted interim authorisation on 27 June 2012.

1.12. The Programs are outlined below.

**Corporate Plus Program**

1.13. This arrangement provides a structure in which members of Star Alliance may approach potential corporate customers to ask if the customer would like to receive a joint offer from Star Alliance members. Members wishing to participate collect and exchange information required to develop the relevant bid, offering the customer access to discounted fares and volume incentives across the participating carriers’ combined networks.

**Conventions Plus Program**

1.14. The Conventions Plus Program provides a framework within which Star Alliance can seek appointment as the official airline network for convention events and provide discounts off published fares under a single arrangement with convention organisers. In order to qualify for the Program a convention must have at least 500 delegates from a minimum of three different countries and two different continents. If a convention organiser elects to receive a joint bid, Star Alliance members submit bids for discounts they are prepared to offer. The bidding phase and all administrative tasks are automated using Star Alliance tools and systems.

**Meetings Plus Program**

1.15. The Meetings Plus Program is essentially identical in concept and design to the Conventions Plus Program, except it provides discounts for travel to corporate meetings that are organised through professional travel managers.

2. **Submissions received by the ACCC**

2.1. At the time the ACCC received the applications and again after releasing its draft determination, the ACCC wrote to over 45 interested parties potentially affected by the application inviting them to make submissions. No submissions were received.
3. **ACCC evaluation**

3.1. The ACCC’s evaluation of the Programs is in accordance with the relevant net public benefit tests\(^1\) contained in the Act. While there is some variation in the language of the tests, in broad terms, the ACCC is required to identify and assess the likely public benefits and detriments, including those constituted by any lessening of competition. The ACCC may grant authorisation if it is satisfied that the benefit to the public would outweigh the public detriments.

**The market**

3.2. The ACCC considers the relevant areas of competition for the purpose of assessing the impact of the Programs are the markets for:

- international air passenger transport services between Australia and Europe/Africa/Asia/North America/South America; and
- the sale of air travel.

3.3. In relation to the relevant international air passenger transport service markets, the ACCC considers that there may be separate markets for services to corporate and non-corporate customers and for direct and indirect (one or more stop) air travel services. However, the outcome of the competition assessment in this matter is not materially impacted by such distinction.

3.4. In relation to the market for the sale of air travel, the ACCC has previously defined the geographic scope of this market to include the whole of Australia. However, the ACCC notes that the geographic boundary of this market is becoming increasingly blurred through the development of internet web sales sites by both agents and airlines. The ACCC considers that the product dimension includes air travel services sold directly by airlines as well as those sold through indirect channels, such as travel agents.

**The counterfactual**

3.5. The ACCC applies the ‘future with-and-without test’ (or ‘counterfactual’) established by the Australian Competition Tribunal (Tribunal) to identify and weigh the public benefit and anti-competitive detriment generated by conduct for which authorisation has been sought.\(^2\)

3.6. Under this test, the ACCC compares the public benefit and anti-competitive detriment generated by arrangements in the future if the authorisation is granted with those generated if the authorisation is not granted.

---

\(^1\) Sections 90(5B), (7) and (8).
3.7. The ACCC considers without the authorisation:

- Corporate customers seeking to acquire international air passenger transport services between Australia and overseas destinations could invite offers from various potential service providers, including Qantas (and oneworld alliance partners), Virgin Australia (and alliance partners\(^3\)) and other international airlines operating in the relevant air passenger transport markets.

- Corporate customers that prefer to negotiate and contract with a single service provider and have a dedicated customer account manager to oversee the arrangement could do so by contracting with a standalone carrier or a carrier that is authorised to coordinate with its alliance partners on fares/discounts/rebates in order to make joint price and service offers.

- Star Alliance members would not be authorised to coordinate their fare, discount and rebate offers to corporate customers. As a result, in order to contract with multiple Star Alliance members, corporate customers need to negotiate separate price and service agreements with each Star Alliance member (rather than one lead carrier on behalf of all Star Alliance members).

3.8. Similarly, for convention organisers, the ACCC considers without the authorisation:

- Convention organisers seeking to negotiate a discount on published fares for convention events could invite offers from various international air passenger transport service providers.

- Convention organisers that prefer to negotiate and contract with a single party and have a dedicated customer account manager to oversee the arrangement could do so by contracting with a standalone carrier or a carrier that is authorised to coordinate with its alliance partners on fares/discounts in order to make joint price and service offers.

- Star Alliance members would not be authorised to coordinate their fares, discounts or rebates to convention organisers. Consequently, to broker an arrangement involving multiple Star Alliance members, conference organisers would negotiate separate price and service agreements with each Star Alliance member (rather than one lead carrier on behalf of all Star Alliance members).

- Delegates of international conferences are not bound by any agreement between convention organisers and international airlines. They are free to make alternative arrangements for their travel.

---

\(^3\) These include Singapore Airlines, Air New Zealand, Delta Airlines and Etihad.
Public benefits

3.9. Public benefit is not defined in the Act. However, the Tribunal has stated that the term should be given its widest possible meaning. In particular, it includes:

...anything of value to the community generally, any contribution to the aims pursued by society including as one of its principle elements ... the achievement of the economic goals of efficiency and progress.\(^4\)

3.10. The Applicants submit the Programs provide the following public benefits:

- increased competition;
- lower business fares;
- efficiencies and cost savings for the Applicants;
- efficiencies and cost savings for customers; and
- stimulation of trade and tourism.

3.11. The ACCC’s assessment of the likely public benefits is as follows:

Enhanced products and services

3.12. The Applicants submit that corporate customers commonly seek to consolidate as much of their air travel needs as possible in a single contract, because this enables them to:

- use their combined travel spend to negotiate greater volume discounts;
- better manage their travel expenditures; and
- save time and money in negotiating and administering their travel arrangements compared with administering multiple contracts with separate carriers.

3.13. The Applicants submit that the Programs enable the Applicants to combine their complementary networks to offer Australian corporate customers a ‘one stop’ solution. It enables them to offer:

- a dedicated account manager representing the Star Alliance who is informed and empowered to negotiate on behalf of Star Alliance members;
- a streamlined negotiation and communication process whereby the corporation would only need to provide its requirements to and negotiate with one point of contact;

the ability to present a single agreement to corporate customers and conference organisers that indicate they would like a single offer; and

the ability to access a consolidated performance report summarising international travel on all participating carriers.

3.14. The ACCC accepts that, without the Programs, corporate customers and conference organisers that prefer a service provider who can match the range of discounted routes likely to be offered by Qantas and Virgin Australia (including through their various authorised alliances) would need to negotiate separate discount agreements with individual Star Alliance members to achieve a potentially competitive offer from Star Alliance members.

3.15. The ACCC considers that the Programs allow Star Alliance members to enhance their offering to corporate and convention customers by facilitating convenient access to a wider range of discounted routes. For customers who would otherwise have entered into separate agreements with Star Alliance members, it has the potential to save them time in administering their travel arrangements and monitoring their performance.

3.16. The ACCC considers that this enhanced service offering from Star Alliance members to corporate and convention customers is likely to constitute a public benefit.

Cost savings and other efficiencies

3.17. Star Alliance submits that the Programs are likely to lead to cost savings and efficiencies for the alliance because, where customers agree to receive a joint offer, the Programs provide a framework through which proposals can be put together quickly and efficiently using shared resources. In relation to the Conventions Plus and Meetings Plus programs, the Star Alliance has developed an automated system to undertake the bidding phase, to generate draft contractual arrangements (under the supervision of the lead carrier) and undertake other administrative tasks.

3.18. The ACCC considers that the arrangements, by enabling a single airline to manage a corporate proposal on behalf of other members of Star Alliance as well as providing access to Star Alliance’s automated tools, may deliver some resource cost savings to Star Alliance members. However, the ACCC considers that the extent of this benefit depends on a range of factors including:

- the number of corporate and convention customers that join a program/s rather than administering individual contracts with separate Star Alliance members; and

- the average number of Star Alliance members that corporate and convention customers would otherwise transact with (in the absence of the authorisation).

3.19. If, in the absence of the authorisation, very few customers would contract with numerous individual members of the Star Alliance, the ACCC considers the transaction cost savings of the authorisation are likely to be very limited.
3.20. Notwithstanding this, to the extent that cost savings and efficiencies to the Applicants do arise, they may be passed through to customers, in full or part, in the form of lower fares or higher levels of service. On this basis, the ACCC accepts that the Programs have the potential to confer public benefits through resource cost savings.

Promotion of competition

3.21. The Applicants submit that the Programs are pro-competitive because they allow Star Alliance to more effectively compete for the provision of international air passenger transport services to corporate and convention customers. In particular, the Applicants would be in a stronger position to provide a competitive constraint to Qantas for corporate customers with global travel needs.

3.22. The ACCC has previously acknowledged that to the extent that airline alliances result in enhanced products and services and/or lower fares, they can stimulate competitive responses amongst rivals in the relevant international air passenger transport services markets.

3.23. The ACCC considers that the enhanced service offering of Star Alliance members under the Programs has the potential to trigger a competitive response from Qantas (and its oneworld alliance partners), which currently has a strong position in the corporate and convention segment of the relevant international air passenger transport services markets. The ACCC also considers that the Programs have the potential to trigger a competitive response from Virgin Australia (and its alliance partners).

3.24. On balance, the ACCC considers that the Programs have the potential to trigger a competitive response from rivals operating in the same international air passenger transport service markets, resulting in further enhancements to products and services and lower fares. This is potentially a further source of public benefit associated with the Programs.

Stimulation of tourism and trade

3.25. The Applicants submit that facilitating the Programs which provide the possibility of reduced fares and confidence in being able to enjoy a seamless travel experience increases the attractiveness of Australia as a destination for conferences and meetings, with all the benefits for trade and tourism that this creates.

3.26. The ACCC has noted previously that there are a wide range of factors which influence tourism demand and expenditure, including general purchasing power in source countries, the relative cost of other destinations, the total cost of visiting Australia and the perceived quality of Australia as a destination. There are also a large number of factors likely to affect the volume and value of trade between Australia and other countries.

3.27. The ACCC accepts that airline alliances have the potential to stimulate tourism and trade to the benefit of Australian businesses and individuals, but only to the
extent that they generate increased passenger traffic and/or bring additional higher spending visitors to Australia.

3.28. The ACCC considers that the Programs have the potential to have some stimulatory effect on tourism and trade in Australia, but only to the extent that they generate increased passenger traffic flows or spend in Australia. This is likely to depend on a number of factors, including:

- the extent to which the Programs increase the relative attractiveness of Australia as a destination for international conferences and meetings; and
- how proactive the Star Alliance members are in promoting Australia as a tourism destination to their corporate customers and prospective conference delegates.

3.29. The ACCC therefore considers that the Programs have the potential to bring about some, likely very limited, tourism and trade related public benefits provided they increase convention and meeting activity and attendance in Australia.

Public detriments

3.30. Public detriment is also not defined in the Act but the Tribunal has given the concept a wide ambit, including:

...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.\(^5\)

3.31. In assessing potential public detriment that may arise from agreements formed between competitors, the ACCC’s primary concern is whether the proposed conduct may result in prices being pushed up or the quality of goods and services being lowered.

3.32. The Applicants submit that the reasons for the ACCC’s conclusions regarding the limited likely anti-competitive detriment arising in the 2007 authorisation regarding the Corporate Plus and Conventions Plus programs remain current and extend to the Meetings Plus program. In particular Applicants submit that it is still the case that:

- the networks of the Star Alliance members are largely complementary;
- competition will remain from non-Star Alliance carriers, particularly Qantas;
- Star Alliance members continue to compete on their underlying fares;
- the arrangements are voluntary for both the customers and participating Star Alliance members;

\(^5\) Re 7-Eleven Stores (1994) ATPR 41-357 at 42,683.
• the agreement among members not to compete with a joint bid ceases as soon as a bid is rejected; and
• there are strict protocols on the sharing of information in developing a joint bid.

3.33. The Applicants submit the following as additional reasons why the Programs do not give rise to material competitive detriment:
• customers are never compelled to purchase fares under any of the Programs, but may instead always purchase any other fare available in the market; and
• there is no market segment in which the Applicants account for a total share of passengers that would be likely to give rise to competition concerns.

3.34. The ACCC notes that there is no overlap on direct city pair services operated by the Applicants between points in Australia and points in Asia, North America, Africa and Asia (see Table 2). There is some overlap on non-direct city pair services and on some direct routes that are beyond the destinations listed in Table 2 and within a relevant international air passenger transport services market (e.g. Australia to Europe). However, overall the ACCC considers that the networks of individual Star Alliance members are largely complementary.

<table>
<thead>
<tr>
<th>Star Alliance member</th>
<th>Destination for direct service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Canada</td>
<td>Vancouver</td>
</tr>
<tr>
<td>Air China</td>
<td>Beijing, Shanghai</td>
</tr>
<tr>
<td>Air New Zealand</td>
<td>Auckland, Christchurch, Wellington, Queenstown, Rarotonga, Norfolk Island, Rotorua</td>
</tr>
<tr>
<td>Asiana Airlines</td>
<td>Incheon</td>
</tr>
<tr>
<td>Singapore Airlines</td>
<td>Singapore</td>
</tr>
<tr>
<td>South African Airways</td>
<td>Johannesburg</td>
</tr>
<tr>
<td>Thai Airways</td>
<td>Bangkok, Phuket</td>
</tr>
<tr>
<td>United Airlines</td>
<td>Los Angeles, San Francisco</td>
</tr>
</tbody>
</table>

Source: Applicant’s submission, 23 April 2012, page 7.

3.35. The ACCC also notes that the prospective client can receive either a joint bid from Star Alliance (or any subset thereof), separate bids from Star Alliance members, or both a joint bid and separate bids from any members not participating in the joint bid.

3.36. The ACCC considers that the Programs are likely to result in limited, if any, public detriment, primarily because:
• the networks of the Star Alliance members are largely complementary;
• there are a number of competing carriers operating in the relevant international air passenger transport services markets, including Qantas (and its oneworld alliance partners) and Virgin Australia (and its alliance partners). These competitors are well placed to discipline the price and service offerings of Star Alliance members post-authorisation;
- Star Alliance members are only authorised to coordinate on fares/discounts to be offered to corporate and convention customers that invite a joint offer. The applicants are not authorised to coordinate more widely on fares and discounts; and

- customers are not compelled to purchase fares under any of the Programs and are free to negotiate with individual Star Alliance members if that is their preference.

**Balance of public benefit and detriment**

3.37. In general, the ACCC may grant authorisation if it is satisfied that, in all the circumstances, the proposed conduct is likely to result in a public benefit, and that public benefit will outweigh any likely public detriment.

3.38. In the context of applying the net public benefit test in section 90(8)\(^6\) of the Act, the Tribunal commented that:

\[\ldots\text{something more than a negligible benefit is required before the power to grant authorisation can be exercised.}\]^7

3.39. For the reasons outlined in this determination the ACCC considers the public benefits likely to result from the conduct are:

- an enhanced service offering to corporate customers involving a single contract incorporating discounts across numerous routes offered to corporate customers;

- cost savings and other efficiencies obtained by the Applicants in sharing proposal resources; and

- the promotion of competition resulting from lower prices to corporate customers by Star Alliance members and the competitive responses that the Programs may stimulate from rivals.

3.40. The ACCC does not consider that the Programs are likely to result in any significant public detriment, particularly as the networks of Star Alliance members are largely complementary and there remains continued competition from competing carriers. Further, fares will continue to be offered individually by Star Alliance members outside the Programs.

3.41. Accordingly, the ACCC is satisfied that the public benefit that is likely to result would outweigh the public detriment, including from any lessening of competition that may result. The ACCC is therefore satisfied that the tests are met.

---

\(^6\) The test at 90(8) of the Act is in essence that conduct is likely to result in such a benefit to the public that it should be allowed to take place.

\(^7\) *Re Application by Michael Jools, President of the NSW Taxi Drivers Association* [2006] ACompT 5 at paragraph 22.
Length of authorisation

3.42. The Act allows the ACCC to grant authorisation for a limited period of time. In this instance, the Applicants seek authorisation for:

"a period of seven years from the date of authorisation (Sales Authorisation Period). In addition, the Applicants seek authorisation to give effect to Sales Contracts entered into during the Sales Authorisation Period for a further 12 months (Runoff Period)."

3.43. As indicated above, the ACCC considers that the Programs are likely to result in a number of public benefits, and there is unlikely to be any significant public detriment. Further, the Conventions Plus and Corporate Plus programs have already been authorised by the ACCC for over eight years and the Meetings Plus program is conceptually similar to the Conventions Plus program. On this basis, and taking into account the submission of the Applicants seeking authorisation for seven years and an additional 12 month runoff period, the ACCC proposes to grant authorisation for the Programs for eight years.

4. Determination

The application

4.1. On 23 April 2012, Air New Zealand on behalf of the current and future members of Star Alliance lodged authorisation applications A91300-A91306 with the ACCC. In particular, authorisation is sought for the Corporate Plus, Conventions Plus and Meetings Plus programs.

4.2. Applications A91300, A91302 and A91305 were made using Form A, Schedule 1, of the Competition and Consumer Regulations 2010. The applications were made under subsections 88(1) and 88(1A) of the Act to:

- give effect to a contract, arrangement or understanding, a provision of which is or may be an exclusionary provision within the meaning of section 45 of the Act.
- give effect to a provision of a contact, arrangement or understanding, a provision of which is, or may be, a cartel provision and which is also, or may also be, an exclusionary provision within the meaning of section 45 of that Act.

4.3. Applications A91301, A91303 and A91306 were made using Form B, Schedule 1, of the Competition and Consumer Regulations 2010. The application was made under subsections 88(1A) and 88(1) of the Act to:

- give effect to a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the

---

8 Section 91(1).
effect, of substantially lessening competition within the meaning of section 45 of the Act.

- give effect to a contract or arrangement, or arrive at an understanding a provision of which would be, or might be, a cartel provision (other than a provision which would also be, or might also be, an exclusionary provision within the meaning of section 45 of that Act).

4.4. Application A91304 was made using Form E, Schedule 1, of the Competition and Consumer Regulations 2010. The application was made under subsection 88(8) of the Act to engage in conduct that constitutes or may constitute the practice of exclusive dealing with respect to the Conventions Plus program only.

The net public benefit test

4.5. For the reasons outlined in this determination, the ACCC considers that in all the circumstances the conduct for which authorisation is sought is likely to result in a public benefit that would outweigh the detriment to the public constituted by any lessening of competition arising from the conduct.9

4.6. The ACCC is satisfied that the conduct for which authorisation is sought is likely to result in such a benefit to the public that the conduct should be allowed to take place.10

4.7. The ACCC therefore grants authorisation to applications A91300, A91301, A91302, A91303, A91304, A91305 & A91306.

Conduct for which the ACCC grants authorisation

4.8. The ACCC grants authorisation to the current and future members of Star Alliance to give effect to the Programs for eight years; that is until 16 August 2020. The ACCC notes that any amendments to the Programs during the term of this authorisation would not be covered by the authorisation.

4.9. This determination is made on 25 July 2012.

Interim authorisation

4.10. On 15 June 2012 Air New Zealand on behalf of members of Star Alliance requested interim authorisation for the Programs. On 27 June 2012 the ACCC granted interim authorisation to give effect to the Programs.

4.11. Interim authorisation will remain in place until the date the ACCC’s final determination comes into effect or until the ACCC decides to revoke interim authorisation.

9 The relevant tests are set out in s90(5B) and (7) of the Act.
10 The relevant test is set out in s90(8) of the Act.
Date authorisation comes into effect

4.12. This determination is made on 25 July 2012. If no application for review of the determination is made to the Australian Competition Tribunal the authorisation will come into force on 16 August 2012.