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L A W Y E R S

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22 August 2012

**PUBLIC REGISTER VERSION**

Australian Competition & Consumer Commission  
Adjudication Branch  
23 Marcus Clarke Street  
CANBERRA ACT 2601

**Attention: Dr Richard Chadwick  
Mr Mark Basile**

Dear Sirs

**Qantas Airways Limited and Jetstar Airways Pty Ltd - Authorisation Applications  
A91314 & A91315**

We refer to the email from Mark Basile to Sar Katdare dated 8 August 2012.

Our clients provide the following response to the interested party submissions provided to the Commission. Terms used in this letter have the same meanings as in the submission accompanying the Applicants' authorisation applications (**Submission**).

**Qantas' role in the Proposed Conduct is necessary and clear**

1. Qantas is an Applicant because Jetstar Airways is a wholly owned subsidiary and it owns the "Jetstar" brand.
2. The Proposed Conduct **will not** extend to Qantas coordinating with any of JAL, Vietnam Airlines or China Eastern Airlines on any route to or from Australia (as supported by the ring fencing protocols). Qantas will be involved in coordination (pricing and capacity) decisions relating to Jetstar Airways which will affect the network operations of the Jetstar LCCs (but not involve their full service airline shareholders).
3. The public benefits that directly arise from the Proposed Conduct (including Qantas' involvement in that conduct) are set out in section 7 of the Submission.

**There is currently only one overlapping route touching Australia**

4. Perth-Singapore is the only route in respect of which the Proposed Conduct involves parties (in this case, Qantas and Jetstar Asia) coordinating on a route to or from Australia.

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5. The Proposed Conduct does not involve any of Jetstar Japan, Jetstar Pacific or Jetstar Hong Kong coordinating on any route from Australia.

**There is sufficient certainty regarding Jetstar Hong Kong**

6. For the reasons outlined in the Submission and paragraphs 9 to 11 below, there is sufficient certainty regarding the establishment and proposed operations of Jetstar Hong Kong to enable the Commission to make a proper assessment of the competitive effects and public benefits resulting from Jetstar Hong Kong's participation in the Proposed Conduct.
7. It is currently anticipated that Jetstar Hong Kong will commence operations in 2013. The route network is yet to be finalised.

**The competitive effects and public benefits resulting from the participation of Future Jetstar Joint Ventures in the Proposed Conduct are clear**

8. As the Commission is aware, the Jetstar Pan-Asia Strategy entails:
- (a) the establishment of joint ventures in a number of Asian jurisdictions by the Applicants (generally the minority owner) and local partners (including local FSAs);
  - (b) coordination between each Jetstar LCC and its FSA shareholder (where relevant); and
  - (c) coordination of each of the Jetstar LCCs with each other and with each of Qantas and Jetstar Airways.
9. This structure is required to comply with international aviation regulatory requirements. It is not possible for the Qantas Group to utilise a more traditional subsidiary model.
10. Although the identities of Future Jetstar Joint Ventures and their FSA shareholders (where relevant) are unknown at this stage, the competitive effects and public benefits resulting from their involvement in the Proposed Conduct will be no different than as expressed in the Submission.
11. This is because the Applicants seek authorisation for a "strategy" (the Jetstar Pan-Asia Strategy) which, regardless of the identity of Future Jetstar Joint Ventures and their FSA shareholders (where relevant), is based upon the same underlying rationale to stimulate demand through offering low fares across an integrated network. Given this objective and that the Proposed Conduct will not involve coordination between Qantas and other FSAs, the Proposed Conduct will, for the reasons outlined in sections 6 and 7 of the Submission, always be pro-competitive and result in significant public benefits regardless of routes affected, the countries in which Future Jetstar Joint Ventures are established and the identity of any FSA shareholders.
12. Despite the above, if the Commission considers that it is unable to properly assess the applications for authorisation on the basis that Future Jetstar Joint Ventures and their FSA shareholders (where relevant) are parties to the Proposed Conduct, the Applicants confirm that they seek authorisation for the Applicants and the Existing

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Jetstar Joint Ventures (including Jetstar Hong Kong) to engage in the Proposed Conduct.

**Increased inbound tourism will be a direct and real public benefit arising from the Proposed Conduct**

13. Even though Perth-Singapore is the only route touching Australia in respect of the Proposed Conduct, an increase in inbound tourism will be a direct result of the Proposed Conduct because:
- (a) a larger number of residents in Asia including those in secondary ports will be able to acquire lower priced air transportation services in and around Asia than would otherwise be the case; and
  - (b) in light of the Jetstar integrated network and one brand and business model, those residents will be able to purchase one ticket from one source to travel seamlessly to Australia at low cost.
14. For example, with the Proposed Conduct, a consumer in Hanoi may in the future be able to purchase one low cost ticket on the Jetstar network to fly Hanoi-Ho Chi Minh (Jetstar Pacific), Ho Chi Minh-Singapore (Jetstar Asia), Singapore-Perth (Jetstar Asia), Perth-Gold Coast (Jetstar Airways), Gold Coast-Tokyo (Jetstar Airways), Tokyo-Osaka (Jetstar Japan) and Osaka-Hanoi (Jetstar Japan). Such opportunities would not exist but for the Proposed Conduct.
15. Indeed, since lodging the Submission with the Commission, Tourism Australia has further indicated support for the Jetstar Pan-Asia Strategy.
16. On 3 July 2012, Tourism Australia stated that it believed that:
- “the launch today of Jetstar Japan’s first commercial flight, flying from Narita to Sapporo, will boost Japanese visitors to Australia by better connecting the country’s key urban markets with Jetstar’s already established Australian international flight network.”*<sup>1</sup>
17. Tourism Australia Managing Director Andrew McEvoy said:
- “Jetstar’s new Japan-based off-shoot will help rejuvenate the Japanese inbound market, by making affordable travel more widely available to Japanese travellers as well as improving their ease of aviation access to Australia’s eastern seaboard.”*<sup>2</sup>
18. More recently, on 17 August 2012, Tourism Australia confirmed plans to accelerate its marketing activities in Asia including Japan and targeting secondary cities in China.<sup>3</sup>

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<sup>1</sup> Tourism Australia, “Tourism Australia welcomes first Jetstar Japan flight” 3 July 2012, press release (accessed 20 August 2012 at [http://www.media.australia.com/en-au/mediareleases/default\\_8619.aspx](http://www.media.australia.com/en-au/mediareleases/default_8619.aspx).)

<sup>2</sup> Tourism Australia, “Tourism Australia welcomes first Jetstar Japan flight” 3 July 2012, press release (accessed 20 August 2012 at [http://www.media.australia.com/en-au/mediareleases/default\\_8619.aspx](http://www.media.australia.com/en-au/mediareleases/default_8619.aspx).)

<sup>3</sup> Tourism Australia, “Tourism Australia unveils new marketing push in Asia” 17 August 2012, press release (accessed 20 August 2012 at [http://www.media.australia.com/en-au/mediareleases/default\\_9065.aspx](http://www.media.australia.com/en-au/mediareleases/default_9065.aspx).)

## PUBLIC REGISTER VERSION

**Increased competition and innovation will be direct and real public benefits arising from the Proposed Conduct**

19. The Proposed Conduct will result in rival LCCs expanding operations in Asia and to Australia. This will result in an increase in competition including lower fares on routes to and from Australia and increased innovation and quality of services.
20. For instance, AirAsia X continues develop a number of AirAsia branded LCCs in Asian jurisdictions which appear to operate together to form one Asian network.
21. Further, since the lodgement of the Submission, it has been reported that:
  - (a) AirAsia X plans to add seven Airbus A330-300s in 2013 and another seven A330-300s in 2014 to become the “pre-eminent pan-Asian carrier” including doubling frequencies to Melbourne, Perth, Sydney and the Gold Coast and potentially considering new services to Adelaide;<sup>4</sup>
  - (b) AirAsia X is offering Samsung Galaxy Tab 10.1 Android tablets for rental as part of its new in-flight service on all its Australian flights;<sup>5</sup>
  - (c) Scoot plans to expand its Australian presence (currently Sydney and Gold Coast) to include services to Melbourne by early 2013;<sup>6</sup> and
  - (d) In addition to Darwin, SilkAir may commence operating to other new destinations in Australia such as Cairns, particularly in light of the alliance between Singapore Airlines and Virgin Australia and the introduction of the 737 MAX 8, which will offer improved range over the 737-800 or A320.<sup>7</sup>

**Without the Proposed Conduct, the substantial public benefits will not arise**

22. If the Proposed Conduct is not allowed, each of the participants to the Proposed Conduct (other than related bodies) would be required to operate independently of one another.
23. This would prevent the parties achieving the significant cost savings and economic efficiencies and generating the substantial and real public benefits that would

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<sup>4</sup> CAPA, “AirAsia X, accelerating growth in response to Scoot, looks to capture Asian market once and for all” 17 August 2012 (accessed 20 August 2012 at <http://centreforaviation.com/analysis/airasia-x-accelerating-growth-in-response-to-scoot-looks-to-capture-asian-market-once-and-for-all-80473>.); Sydney Morning Herald, “AirAsia X takes the fight to Jetstar” 26 July 2012 (accessed 20 August 2012 at <http://www.smh.com.au/travel/travel-news/airasia-x-takes-the-fight-to-jetstar-20120725-22qun.html>.)

<sup>5</sup> Australian Business Traveller, “AirAsia X picks inflight Samsung Galaxy Tab 10.1 Android tablets” 26 July 2012 (accessed 20 August 2012 at <http://www.ausbt.com.au/airasia-x-picks-inflight-samsung-galaxy-tab-10-1-android-tablets>.)

<sup>6</sup> Sydney Morning Herald, “Scoot weighs up new Australian routes” 30 July 2012 (accessed 20 August 2012 at <http://www.smh.com.au/business/scoot-weighs-up-new-australian-routes-20120729-236fv.html>.)

<sup>7</sup> CAPA, “Singapore Airlines regional unit SilkAir poised for rapid growth after quietly emerging as SIA’s gem” 13 August 2012 (accessed 20 August 2012 at <http://centreforaviation.com/analysis/singapore-airlines-regional-unit-silkair-poised-for-rapid-growth-after-quietly-emerging-as-sias-gem-80190>.)

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otherwise result from the Proposed Conduct. Further, the Applicants would cease to invest in the Jetstar Pan-Asia Strategy including the establishment of Future Jetstar Joint Ventures such that an integrated Jetstar network would not exist. With the Proposed Conduct, such a network would not only exist but would expand for the benefit of consumers as Future Jetstar Joint Ventures are established.

In addition to this letter, the Applicants reiterate the comments made in the Submission and our letter of 7 August 2012 in responding to interested party submissions.

Please do not hesitate to contact us if you require further information.

Yours faithfully

*Johnson Winter & Slattery*