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L A W Y E R S

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By email

Richard Chadwick
General Manager, Adjudication
Australian Competition and Consumer Commission
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Dear Dr Chadwick,

Virgin Australia and Skywest Airlines – Applications for Authorisation of Corporate Alliance

We refer to Gold Airways' submission to the ACCC of 24 March 2012.

Gold Airways has incorrectly attributed to the Western Australian Government, its suggestion that the proposed Corporate Alliance "has the potential to lessen competition for FIFO bidding which could result in the collapse of smaller but important FIFO carriers." In its submission to the ACCC of 27 February 2012, the Western Australian Government expressed support for the Corporate Alliance, noting that it "will provide obvious benefits to corporate customers."

As the ACCC has concluded in its Draft Determination, smaller stand-alone regional and charter operators are currently able to operate profitably despite competing with a party (Qantas) with an integrated offer.¹ The Corporate Alliance will not change this. Further, the ACCC has noted "To the extent that changing customer preferences give an advantage to operators able to offer an integrated service, the ACCC considers that this is not caused by the Corporate Alliance, which seeks to meet this preference and enhance the applicants' ability to compete with Qantas on this aspect of their offer."²

Gold Airways has further suggested that there is nothing in the Corporate Alliance to prevent Virgin Australia from extending the alliance to other airlines and that final authorisation should be subject to conditions restricting Virgin Australia's ability to enter into arrangements with other FIFO operators. As the ACCC is aware, the Corporate Alliance is the result of a commercial agreement between Virgin Australia and Skywest and does not extend to any other airlines. The Corporate Alliance Framework

¹ ACCC, Draft Determination, Applications for authorisation lodged by Virgin Australia and Skywest Airlines, 22 March 2012, [4.63], [4.65], [4.82].

² As above, [4.82].

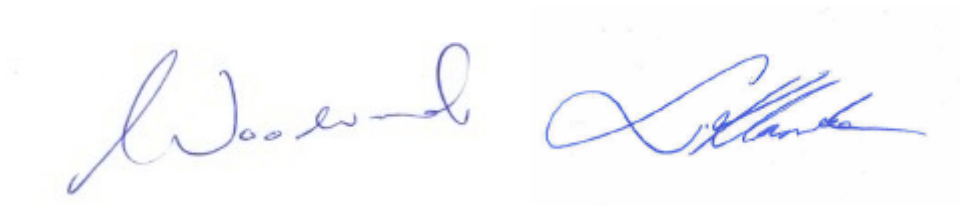
Agreement, provided as Annexure A to the Applicants' submission, sets out the terms of that commercial agreement.

If either Virgin Australia or Skywest sought to enter into an alliance of this nature with any other parties, they would be required to seek authorisation from the ACCC and it would be assessed against the public benefits test. As such, conditions of authorisation are neither necessary nor appropriate.

Please contact us if you would like to discuss this letter or require further information from the Applicants.

Yours faithfully

Gilbert + Tobin



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