



**Australian
Competition &
Consumer
Commission**

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9 August 2013

Dear Sir/Madam

Virgin Australia & Air New Zealand applications for authorisation A91362 & A91363 – consultation in relation to the Applicants' proposed changes to the draft determination proposed condition

I am writing to invite you to provide any further information or additional comments on changes proposed by the Applicants to the condition that was proposed in the draft determination issued on 10 July 2013 in respect of the application for authorisation lodged by Virgin Australia Airlines & Air New Zealand Limited on 8 March 2013.

The ACCC's proposed condition in the draft determination

In the draft determination, the ACCC proposed to grant conditional authorisation to Virgin Australia and Air New Zealand (Applicants) to maintain and continue to give effect to the Australasian Airline Alliance Agreement (Alliance Agreement), an associated Code Share Agreement and related agreements which are contemplated by the Alliance Agreement for a term of three years. A copy of the draft determination is available on the ACCC's website www.accc.gov.au/AuthorisationsRegister.

In the draft determination, the ACCC proposed to require the Applicants to:

- Maintain at least an aggregated base level of capacity, subject to a growth factor, on the following groups of routes:
 - i. Christchurch – Brisbane and Christchurch – Melbourne;
 - ii. Dunedin – Brisbane, Dunedin – Sydney and Dunedin – Melbourne.
- Maintain at least a base level of capacity, subject to a growth factor, individually on the following routes:
 - i. Wellington – Brisbane
 - ii. Queenstown – Brisbane
 - iii. Auckland – Gold Coast.

The ACCC also proposed requiring the Applicants to provide capacity, passenger, revenue, cost, fare schedule, and tactical fare data at the conclusion of each scheduling season to assist the ACCC in assessing coordinated and unilateral effects.

Submissions received on the draft determination proposed condition

In response to the draft determination, the Applicants made submissions in relation to the ACCC's proposed condition. A copy of the Applicants' submission dated 24 July 2013 is available on the ACCC's website.

The Applicants put forward an alternative proposal for the structure of the proposed condition of authorisation. In summary, the Applicants submit that if the ACCC is minded to impose capacity conditions it should, rather than impose the condition proposed in the draft determination:

- impose a condition that:
 - i. bundles the Brisbane – Queenstown/Dunedin/Christchurch/Wellington routes.
 - ii. removes the Dunedin – Sydney/Melbourne routes from routes on which a condition will be imposed
 - iii. removes the Auckland-Gold Coast and Christchurch-Melbourne routes from routes on which a condition will be imposed.
- or, if the ACCC remains of the view that the routes identified at (ii) and (iii), above, should still be subject to a condition, it should consider a bundle option for those routes as well; and
- in either case, not impose a growth factor or if a growth factor is to be applied, any growth factor should initially be set at 0%.

A number of interested parties also made submissions in relation to the proposed condition, with two interested parties making submissions on the structure of the proposed condition. Queenstown Airport Corporation submitted that it may be more appropriate to impose total capacity conditions in and out of Brisbane to the South Island, namely the Christchurch, Dunedin, Queenstown – Brisbane routes.

The Key Wellington Stakeholder Group supported the proposed condition as it applied to the Wellington – Brisbane route, but considered that it should extend to the Wellington – Sydney and Wellington – Melbourne routes as well.

Submissions commenting on the potential changes to the proposed condition

In light of the submissions responding to the draft determination, the ACCC invites you to comment on the Applicants' and interested party proposed changes to the condition.

Specifically, the ACCC seeks your views on:

- the Applicants' proposed bundling options or any other bundling of the routes of concern
- the removal of the Dunedin – Sydney/Melbourne routes from a condition
- imposing no growth factor or imposing an initial growth factor of 0%, subject to review.

Duration of the authorisation

The ACCC also notes that the Applicants also addressed the length of authorisation in their submission responding to the draft determination. They submitted that the ACCC should grant authorisation for five, rather than the proposed three years.

The Applicants submit that a five year authorisation period will provide an increased level of certainty and confidence for the Applicants to continue to invest in key projects that will drive benefits from the Alliance.

The ACCC seeks your views, to the extent that you have not already addressed this issue in earlier submissions, on the requested length of authorisation.

The ACCC will consider submissions received by **4:00pm on 16 August 2013**. Any submissions should be lodged at adjudication@acc.gov.au.

Submissions will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's [Guidelines for excluding information from the public register](#).

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 Anna Giannakos on (03) 9290 6920 or anna.giannakos@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal line extending to the right.

Richard Chadwick
General Manager
Adjudication Branch

Virgin Australia & Air New Zealand - Authorisations - A91362 & A91363 – interested party consultation

Christchurch International Airport

Dunedin International Airport

Key Wellington Stakeholders

New Zealand Ministry of Transport

Queenstown Airport Corporation

Rotorua International Airport