

Head of Legal
Anna Pritchard



21 March 2014

Mr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
GPO BOX 3131
Canberra ACT 2601

By email: adjudication@accc.gov.au

Dear Richard

Notification of American Express Qantas Corporate and Business Card Offers

We refer to the existing Notification Number 91154 lodged by Qantas on 29 July 2003 (**Existing Notification**). Legal immunity provided by that notification commenced on 12 August 2003.

The Existing Notification relates to offers by Qantas to American Express Qantas Business and Corporate Card holders who are businesses (**Clients**) of discounted Qantas Club membership and rebates on amounts spent annually on qualifying Qantas flights, provided payments are made using the cards. A simultaneous notification was lodged by American Express in relation to this conduct (see Notification Number 91155).

Qantas is now lodging the attached Notification as the range of benefits offered to Clients has expanded. Eligible Clients can now choose whether to receive the existing rebate, or points that can be redeemed for other benefits, when their employees travel on qualifying Qantas flights for business related travel.

The nature of the conduct described in the Existing Notification and the parties involved has not otherwise materially changed. Broadening the offer to include the ability to earn points expands on existing public benefits. Clients will be able to choose whether to participate in the existing rebate offer or the new points proposition. For completeness we note that there were previously two separate corporate cards offered – the American Express Qantas Business Card for small businesses and the American Express Qantas Corporate Card for medium sized businesses. The Business Card is no longer offered.

While Qantas does not believe these arrangements contravene section 47 of the *Competition and Consumer Act 2011* (Cth), arguments could be made that the conduct may result in a technical contravention on the basis that they are offers to provide discounts, rebates and other benefits or privileges on condition the Client acquires financial services from American Express.

Accordingly, we attach a new Form G Notification by Qantas pursuant to section 93(1) of the Act and confirm that \$100 has electronically transferred to the Commission as payment of relevant lodgement fees.

Qantas Airways Limited

ABN 16 009 661 901

10 Bourke Road Mascot New South Wales 2020 Australia
Telephone 61 (2) 9691 5515 Facsimile 61 (2) 9691 5417

Please do not hesitate to contact me on (02) 9691 5515 if you have any questions.

Yours sincerely



Anna Pritchard
Head of Legal

cc: Andrew Finch – General Counsel, Qantas

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)

NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice:

N97327 Qantas Airways Limited ABN 16 009 661 901 (**Qantas**).

(b) Short description of business carried on by that person:

Provision of domestic and international air services.

(c) Address in Australia for service of documents on that person:

Anna Pritchard - Head of Legal
Qantas Airways Limited
10 Bourke Road
Mascot
NSW 2020

2. Notified arrangement

(a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

The supply of card issuing services in Australia; the supply of passenger airline and related services in Australia.

(b) Description of the conduct or proposed conduct:

Offers by Qantas, in conjunction with American Express, of the American Express Qantas Corporate Card ("**the Card**") to approved Card applicants who are businesses ("**Clients**") under which various benefits and privileges may be provided from time to time, including:

- Clients may acquire a special discounted 4-person Qantas Club membership for their employees and officers, provided they pay for the membership using the Card; and
- eligible Clients may receive rebates on the amount spent annually on qualifying Qantas flights using the Card or alternatively points that can

be redeemed for other benefits, when their employees travel on qualifying Qantas flights for business related travel.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

(a) Class or classes of persons to which the conduct relates:

Medium size businesses which acquire corporate charge card services from American Express.

(b) Number of those persons:

(i) At present time:

Approximately 5,500 medium size businesses are current Card Clients.

(ii) Estimated within the next year:

It is expected that there will be approximately 5,800 medium size businesses who will be Card Clients in the next year.

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable.

4. Public benefit claims

(a) Arguments in support of notification:

The benefits and privileges described in 2(b) above will provide medium sized enterprises access to benefits of the kind that have traditionally been more easily accessible to larger organisations. They will enable these businesses to lower their travel costs.

The change to the conduct previously notified in 2003 represents a broadening of the offer and therefore further public benefits. Clients will be able to choose whether to participate in the existing rebate offer or the new points proposition. They will continue to have access to individual and 10 person Qantas Club memberships directly from Qantas.

There will be no lessening of competition as any offer will be presented as an option to Clients. Clients remain free to acquire card services or passenger air services from other suppliers.

Any potential offer will also be pro-competitive by encouraging competing suppliers to offer their products at cheaper rates.

(b) Facts and evidence relied upon in support of these claims:

Not applicable

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The relevant markets are:

- the market for credit and charge card issuing in Australia; and
- the market for passenger airline services in Australia.

Credit and charge card issuers compete on a broad range of product dimensions including card fees, interest rates, interest free periods, reward programs and member services. The notified conduct will assist American Express to continue to offer a competitive product in this highly competitive market and is therefore pro-competitive.

In relation to the passenger airline services market, there is already a broad range of rebate, discounts and other offers available. The notified conduct will continue to provide Qantas with an efficient and cost effective distribution channel to promote, administer and deliver benefits to small and medium sized businesses and is therefore pro-competitive.

Qantas and American Express believe that the offer of various benefits will not have any detrimental impact on competition and that such offers are easily replicated by competitors.

6. Public detriments

- (a) **Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:**

We submit the notified conduct causes no public detriment.

- (b) **Facts and evidence relevant to these detriments:**

Not applicable

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Anna Pritchard
Head of Legal
Qantas Airways Limited
10 Bourke Road
Mascot NSW 2020

Dated..... 21 March 2014

Signed by/on behalf of the applicant
..... Anna Pritchard

(Signature)
..... Anna Pritchard

(Full Name)
..... Qantas Airways Limited

(Organisation)
..... Head of Legal

(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.