

Virgin Australia and Air New Zealand

Compliance with ACCC Authorisations

A91362 & A91363

Second Audit Report to ACCC

5 December 2014

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About Pitcher Partners

Pitcher Partners is an association of independent accounting firms located in Melbourne, Sydney, Perth, Adelaide, Brisbane and Newcastle.

Pitcher Partners is also an independent member of Baker Tilly International, an Australia wide and global network of like-minded independent firms. Baker Tilly International is the eighth largest accounting network in the world by fee income and is represented by 161 firms in 137 countries.

Pitcher Partners refers to the New South Wales partnership and its associated entities including Pitcher Partners NSW Investment Services Pty Ltd, Pitcher Partners Solutions Pty Ltd, Pitcher Partners NSW Pty Ltd, Pitcher Partners NSW Corporate Pty Ltd and Pitcher Partners NSW Consulting Pty Ltd.

In this report any reference to Pitcher Partners refers to Pitcher Partners NSW Pty Ltd.

Address: Level 22, MLC Centre, 19 Martin Place Sydney NSW 2000

Tel: 02 9221 2099 | **Fax:** 02 9223 1762

www.pitcher.com.au

Definitions

Term / Acronym	Meaning
ACCC	The Australian Competition and Consumer Commission.
ABS	Australian Bureau of Statistics.
Alliance	The alliance between the Applicants pursuant to the Australasian Airline Alliance Agreement (AAA) dated 3 May 2010 and amended 15 June 2012, an associated Code Share Agreement dated 3 May 2010 and amended 15 June 2012, and related agreements which are contemplated by the AAA.
Alliance Master Spreadsheet	The Excel spreadsheet maintained by Air New Zealand on behalf of the Alliance and the key financial and data model utilised to forecast scheduled seat capacity, capture actual seat capacity, and compare actual seat capacity with ACCC requirements.
Applicants	Refers to Virgin Australia Airlines Pty Ltd, Virgin Australia Airlines (NZ) Ltd, Virgin Australia Airlines (SE Asia) Pty Ltd, Virgin Australia International Airlines Pty Ltd (together Virgin), and Air New Zealand Limited (Air New Zealand).
ASAE 3100 "Compliance Engagements"	Professional standard on assurance engagements reissued by the Auditing and Assurance Standards Board (AUASB) in September 2008.
Auditor	Independent party appointed at the direction of the ACCC in accordance with clause 7 of the conditions to the Authorisation.
Authorisation	The ACCC determination of the Applicants' applications A91362 and A91363 for authorisation.
Base Year	The 12 month period from 1 November 2012 to 31 October 2013.
BITRE	Bureau of Infrastructure, Transport, and Regional Economics.
Conditions	Conditions on which the Authorisation was granted as set out in Attachment B to the ACCC's Final Determination.
Relevant Routes	City pairs: Wellington – Brisbane; Queenstown – Brisbane; Auckland – Gold Coast; Christchurch – Brisbane ; Christchurch – Melbourne; Dunedin – Brisbane.
NS	Northern Summer season from 1 April to 31 October.
NW	Northern Winter season from 1 November to 31 March.
Scheduling Season	Either the NS season from 1 April to 31 October or the NW season from 1 November to 31 March.
Scheduling Season Base Year Seat Capacity	Applicants' combined total number of seats flown on the Relevant Routes in, as applicable, the NS Season or the NW Season in the Base Year as set

Term / Acronym	Meaning
	out in Schedule A of the Conditions, and as adjusted in accordance with clause 4 of the Conditions.
Scheduling Season Seat Capacity	<p>The Scheduling Season Base Year Seat Capacity in, as applicable, the NS Season or the NW Season, and as:</p> <ul style="list-style-type: none"> (a) adjusted for any Capacity Growth Rate determined by the ACCC pursuant to clause 5(a) of the Conditions; or (b) varied in accordance with clause 6 of the Conditions.
Transitional Scheduling Season Seat Capacity	Seat capacity figures set out in Schedule B to the Conditions.
Trans-Tasman Route	Any route between a particular Australian location and a particular New Zealand location.

Disclaimer

Issues Considered

This compliance audit has been prepared in accordance with the Determination issued on 3 September 2013 by the Australian Competition and Consumer Commission ("ACCC").

Under the Conditions of Authorisation, we are required to provide a written report on the Applicants' compliance with the Conditions, reasons for conclusions reached, and any qualifications and recommendations arising from the performance of our function as Auditor.

The Conditions also set out independence requirements that must be complied with in the performance of our function as Auditor.

Sources of Information

The report has been prepared based on data obtained from the following information sources:

- ACCC Determination and Authorisations A91362 and A91363 dated 3 September 2013.
- ACCC letter dated 12 March 2014 advising the amended Schedule A - Scheduling Season Base Year Seat Capacity for NS Season.
- Documentation prepared and provided by the applicants to explain relevant systems and procedures.
- Raw data extracted from the Virgin Australia and Air New Zealand systems
 - For Virgin Australia, raw data extracted from the Sabre system;
 - For Air New Zealand, raw data extracted from Schedule Manager and the Air New Zealand Group database (GDB), a central repository of flight data drawn from various systems including Departure control and AirOps.
- Alliance Master Spreadsheets.
- Relevant corroborative evidence obtained from external sources including the Dii Mi aviation planning data software product, seat guru (www.seatguru.com), seatmaestro (www.seatmaestro.com), flight aware (www.flightaware.com), flightradar24 (www.flightradar24.com) and plane spotters (www.planespotters.net).

Scope and Limitations

This compliance audit report has been prepared for Virgin Australia and Air New Zealand in accordance with clause 7.5 of Attachment B to ACCC authorisations A91362 & A91363. We disclaim any assumption of responsibility for any reliance on this report to any persons or users other than the ACCC, or for any purpose other than that for which it was prepared.

Because of the inherent limitations of any internal control structure it is possible that fraud, error or non-compliance may occur and not be detected. Further, the internal control structure, within which the control procedures that we have audited operate, has not been audited and no opinion is expressed as to its effectiveness.

An assurance engagement is not designed to detect all instances of non-compliance with the conditions of authorisation, as assurance procedures are not performed continuously throughout the period and the procedures performed in respect of compliance with the conditions of authorisation are undertaken on a test basis. The conclusion expressed in this report has been formed on the above basis.

Executive Summary

Overview of Obligations

The applicants are responsible for ensuring that they achieve compliance with the minimum seat capacity conditions outlined in Attachment B and Schedule A of ACCC authorisations A91362 & A91363.

The audit is designed to provide reasonable assurance regarding the applicants' compliance with the ACCC conditions of authorisation during the NS14 scheduling season.

Findings

- Each airline measured actual seat capacity offered during the NS14 scheduling season in accordance with the methodology used for the derivation of the Northern Summer Scheduling Season Base Year Seat Capacity as set out in Attachment B of the ACCC's determination. That is, Virgin Australia applied 'physical capacity' based on the actual configuration of the aircraft used and Air New Zealand applied 'operating capacity' based on physical capacity reduced by works deluxe seats (where applicable) and changes related to day of operation adjustments required by Air New Zealand load control restrictions (i.e. weather, aircraft range, water storage, crew).
- In respect of the Relevant Routes, during the NS14 scheduling season, the applicants have flown not less than 100% of the Northern Summer Scheduling Season Seat Capacity for the aggregate of the relevant routes as defined in the conditions of authorisation and detailed on Schedule A.
- In our opinion, Virgin Australia and Air New Zealand have complied, in all material respects, with the ACCC conditions of authorisation as measured by their achievement of the minimum seat capacity for the NS14 scheduling season as detailed in the Conditions.

Previous Recommendations

Recommendation arising from the audit of the NW13 transitional season

That information provided to the ACCC in accordance with clause 3 (a)(i) of the conditions of authorisation be provided to the auditor at the same time it is provided to the ACCC.

Recommendations

There are no recommendations arising from the audit of the NS14 season.

Compliance Audit Approach

Audit Scope

The ACCC Conditions, and the requirements outlined in our engagement letter dated 31 January 2014, require the auditor to:-

- 1) prepare detailed written reports (Auditor's Reports), so that the Applicants can provide the Auditor's Report to the ACCC within 25 business days of the end of each Scheduling Season (including the Transitional Scheduling Season), on:
 - i) the Applicants' compliance with the Conditions;
 - ii) all of the reasons for the conclusions reached in the Auditor's Report;
 - iii) any qualifications made by the Auditor in forming his or her views; and
 - iv) any recommendations by the Auditor to improve the integrity of the auditing process and any reasonable recommendations to improve the Applicants' processes or reporting systems in relation to compliance with the Conditions
- 2) provide the Applicants with a draft Auditor's Report prior to it being provided to the ACCC to allow the Applicants to identify any factual errors contained therein and provide the ACCC with details of any corrections proposed by the Applicants and accepted by the Auditor;
- 3) continue to satisfy the independence criteria outlined in the Conditions for the period of our appointment;
- 4) provide any information or documents requested by the ACCC about the Applicant's compliance with the Conditions directly to the ACCC;
- 5) report or otherwise inform the ACCC directly of any issues that arise in the performance of our functions as Auditor or in relation to any matter that arises in connection with the Conditions; and
- 6) follow any direction given to us by the ACCC in relation to the performance of our functions as Auditor under the Conditions.

This audit report is in respect of the NS14 scheduling season from 1 April 2014 to 31 October 2014, and is limited to our audit of the applicants' compliance with the ACCC Conditions for that period.

The responsibility for the applicants' compliance with ACCC requirements rests with Virgin Australia and Air New Zealand.

Our audit, conducted in accordance with clause 7.5 of the ACCC Conditions, does not relieve the applicants of their obligations to ensure compliance with ACCC compliance requirements, measured by achievement of the minimum seat capacity conditions detailed in those Conditions for the NS14 scheduling season.

Audit Approach

Our procedures included:

- (a) discussions with management and review of procedures;
- (b) reviewing the systems and procedures for obtaining, collating and reporting data;
- (c) comparing flight data obtained from third party flight trackers throughout the NS14 scheduling season to the Alliance Master Spreadsheet;
- (d) ensuring that calculations of minimum seat capacity were in accordance with the definitions and calculations in the conditions of authorisation;
- (e) controls testing and walk throughs in key risk areas;
- (f) recalculating raw data to obtain proof-in-total corroboration of reported data;
- (g) testing the integrity and structure of key financial models and spreadsheets;
- (h) monitoring progressive compliance with the Conditions throughout the NS14 scheduling season;
- (i) obtaining and reviewing the final Alliance Master Spreadsheet as at October 2014;
- (j) obtaining corroborative evidence from external sources; and
- (k) the performance of such other procedures as we considered necessary.

Key personnel involved with the audit process included:

- Virgin Australia:
 - Matthew Yarrow – Manager, Network Planning International
 - Sally Tang – Network Planning Analyst
- Air New Zealand:
 - Simon Kleinsorge – Manager, Network Planning International
 - Bevan Callaghan – Network Planning Analyst (April – June)

Exclusions and Assumptions

Our audit has been limited to the review of the applicants' compliance with the ACCC Conditions and did not extend to any other aspect of either Virgin Australia's or Air New Zealand's operations.

Limitations

The audit is designed to provide reasonable assurance regarding the applicants' compliance with the ACCC Conditions.

Reasonable assurance means a high but not absolute level of assurance. Absolute assurance is very rarely attainable as a result of factors such as the following: the use of selective testing, the inherent limitations of internal control, the fact that much of the evidence available to us is persuasive rather than conclusive and the use of judgement in gathering and evaluating evidence and forming conclusions based on that evidence.

We cannot, in practice, examine every activity and procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and its responsibility to prevent and detect irregularities, including fraud. Accordingly, readers of our reports should not rely on the report to identify all potential instances of non-compliance which may occur.

Any projection of the evaluation of the level of compliance to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with management procedures may deteriorate.

Audit Standards

Our audit has been conducted in accordance with ASAE 3100 "Compliance Engagements" and accordingly included such tests and procedures as we considered necessary in the circumstances.

Compliance Audit Findings

Overview of Obligations

The ACCC Conditions relevant to the NS14 scheduling season from 1 April 2014 to 31 October 2014 require the applicants to meet certain seat capacity requirements outlined in the Conditions. The Conditions require the applicants to:

- Make available not less than 100 per cent of the applicable NS14 Scheduling Season Seat Capacity in aggregate across all Relevant Routes detailed in Attachment B and Schedule A of the Conditions (as amended in accordance with clause 4.1 of the conditions in a letter from the ACCC dated 12 March 2014). In other words, the Applicants must make available a seat capacity of not less than 626,908 across the Relevant Routes for the NS14 scheduling season from 1 April 2014 to 31 October 2014.

Summary of audit testing conducted to determine compliance with the ACCC conditions of authorisation:

- Reviewing the ACCC determination dated 3 September 2013 to confirm the ACCC Conditions and audit reporting requirements.
- Reviewing the ACCC amendment to Schedule A as advised by letter dated 12 March 2014.
- Obtaining and reviewing periodic Alliance Master Spreadsheets throughout the NS14 scheduling season to monitor progressive compliance with the ACCC conditions of authorisation;
- Selecting random flights throughout the NS scheduling season obtained from third party flight tracking applications including flight aware (www.flightaware.com), flightradar24 (www.flightradar24.com) and comparing with raw data provided by the applicants;
- Obtaining and reviewing the final Alliance Master Spreadsheet covering the NS14 scheduling season from 1 April 2014 through to 31 October 2014.
- Testing of the systems, processes and controls performed through a combination of discussions with relevant key personnel, document reviews, walkthroughs, sample testing and recalculation of raw data to confirm reported data.
- Comparing explanatory documents, raw data and detailed spreadsheets controlling and monitoring compliance with the Conditions obtained from Virgin Australia and Air New Zealand against third party capacity data sources including the Diio Mi aviation planning data software product, seat guru (www.seatguru.com), seatmaestro (www.seatmaestro.com), and plane spotters (www.planespotters.net).
- Ensuring that calculations of minimum seat capacity requirements are in accordance with the definitions and calculations in the ACCC's Conditions.
- Ensuring that the total seat capacity offered during the NS14 scheduling season was not less than 100 per cent of the applicable NS Scheduling Season Seat Capacity detailed in Attachment B, Schedule A (as amended) of the Conditions.
- Testing the integrity and structure of the Alliance Master Spreadsheet. Testing included a detailed review of the Alliance Master Spreadsheet ensuring that all relevant cell formulae were valid and consistently applied, raw data from Sabre (Virgin Australia) and Schedule Manager and Group Database (GDB) (Air New Zealand) systems import are accurate and complete, and resulting reports were accurate and based on the information contained in the spreadsheet.

Summary of audit findings:

In our opinion, Virgin Australia and Air New Zealand have complied, in all material respects, with the ACCC Conditions as measured by their achievement of the minimum seat capacity for the NS14 scheduling season as detailed in the Conditions.

Previous Recommendations

That information provided to the ACCC in accordance with clause 3 (a)(i) of the conditions of authorisation be provided to the auditor at the same time it is provided to the ACCC.

Recommendations

There were no recommendations arising from the audit of the NS14 scheduling season.

Compliance Level Key



Currently compliant



Planning established and/or controls implemented. Tightening of controls necessary and/or further substantive testing applied




Non-compliance



Validation work not yet commenced

Clause 1 of the ACCC conditions of authorisation - Minimum seat capacity

No.	Overview of Authorisation Obligation	Compliance Level	Status	Key Concerns / Limitations	Recommendation
1	OBLIGATION: Measurement of seat capacity		<p>Each airline has measured actual seat capacity provided to the market in accordance with the methodology used for the derivation of the NS14 Scheduling Season Seat Capacity and as set out in Attachment B of the ACCC's determination (i.e. Virgin Australia applied 'physical capacity', and Air New Zealand applied 'operational capacity'). Physical Capacity is the actual number of seats on the aircraft. Operational Capacity is based on the physical number of seats on the aircraft, reduced by works deluxe seats (where applicable) and changes related to day of operation adjustments required by Air New Zealand load control restrictions (i.e. weather, aircraft range, water storage, crew).</p> <p>Configurations and seating plans for the various aircraft operated by each airline were reviewed against external information sourced from the respective airline's website, and independent sources such as www.seatguru.com, www.seatmaestro.com and www.planespotters.net.</p>	<p>No concerns currently exist in relation to measurement of seat capacity.</p> <p>Whilst each airline measures capacity in a different manner, both airlines have consistently applied their respective calculation methodology as described consistent with the measures set out in the Conditions.</p> <p>This is consistent with findings from previous audits.</p>	None

No.	Overview of Authorisation Obligation	Compliance Level	Status	Key Concerns / Limitations	Recommendation
2	<p>OBLIGATION:</p> <p>Compliance with aggregate seat capacity across relevant routes.</p>		<p>The applicants have complied with the requirement to fly not less than 100% of the required NS14 scheduling season seat capacity aggregated across the relevant routes.</p> <p>The NS14 scheduling season seat capacity is determined by reference to Attachment B, Schedule A (as amended) of the Conditions of Authorisation. The obligation requires the Applicants to make the specified capacity available in aggregate across all Relevant Routes. There is no minimum capacity required in relation to a particular Relevant Route.</p> <p>Audit testing has confirmed that the applicants had complied with the minimum seat capacity requirements of the conditions of authorisation with the total capacity provided across relevant routes for the NS14 scheduling season exceeding the required capacity; refer to Appendix 1 – Table 1</p>	None	

Appendix 1 – Compliance Audit Findings

Table: Actuals vs NS14 Scheduling Season Seat Capacity – 1 April 2014 to 31 October 2014

Route	Northern Summer Scheduling Season Seat Capacity ¹	Actual Alliance Seat Capacity 1 Apr – 31 Oct 2014 ²	Variance between required and Actual Alliance Seat Capacity ³	% Variance ⁴
Wellington - Brisbane	156,542	149,426		
Queenstown - Brisbane	48,718	61,056		
Auckland - Gold Coast	123,126	128,477		
Christchurch - Brisbane	143,387	147,104		
Dunedin - Brisbane	52,920	41,760		
Christchurch - Melbourne	102,215	110,145		
Aggregate capacity across the Relevant Routes for NS14	626,908	637,968	11,060	1.76%

- (1) *Northern Summer Scheduling Season Seat Capacity* – as per Schedule A of the conditions in the ACCC determination dated 3 September 2013 (as amended in the ACCC letter of 12 March 2014) .
- (2) *Actual Alliance Seat Capacity for 1 April 2014 to 31 October 2014* – from the Alliance Master Spreadsheet maintained by Air New Zealand and Virgin Australia.
- (3) *Variance between Northern Summer Scheduling Season Seat Capacity and Actual Alliance Seat Capacity* – difference between Northern Summer Scheduling Season Seating Capacity and Actual Alliance Seat Capacity for 1 April 2014 to 31 October 2014 across the Relevant Routes.
- (4) *% Variance* – the percentage by which Actual Alliance Seat Capacity for 1 April 2014 to 31 October 2014 exceeded the Northern Summer Scheduling Season Seat Capacity across the Relevant Routes.

Annexure 1 – Independence Declaration

In conducting our engagement we have complied with the independence requirements of the conditions of authorisation and the Australian professional accounting bodies.

In accordance with 7.2(d) of the conditions of authorisation we declare that neither Pitcher Partners nor the engagement partner:-

- (i) is a current employee or officer of either or both of the Applicants;
- (ii) is a person who has been an employee or officer of either or both of the Applicants in the past three years;
- (iii) is a person who holds a material interest in either or both of the Applicants;
- (iv) is currently, or has been in the past three years, a professional adviser of either or both of the Applicants;
- (v) is a person who has a contractual relationship, or is an employee or contractor of a firm or company that has a contractual relationship with either or both of the Applicants, but for the Auditor agreement with the Applicants in relation to the conditions of this Authorisation;
- (vi) is a supplier, or a person who is an employee or contractor of a firm or company that is a supplier of either or both of the Applicants;
- (vii) is a material customer of, or a person who is an employee or contractor of a firm or company that is a material customer of, either or both of the Applicants; or
- (viii) has, or has had, any other relationship with either or both of the Applicants which is likely to affect our ability to act independently.

Pitcher Partners

PITCHER PARTNERS

Carl Millington

CARL MILLINGTON

Partner

Sydney, 5 December 2014

Annexure 2 – Statement of Compliance

ANNEXURE 2 - STATEMENT OF COMPLIANCE

VIRGIN AUSTRALIA AND AIR NEW ZEALAND TRANS-TASMAN ALLIANCE
STATEMENT OF COMPLIANCE
ACCC DETERMINATIONS A91362 & A91363
NORTHERN SUMMER SCHEDULING SEASON 01 APRIL 2014 – 31 OCTOBER 2014

The Australian Competition and Consumer Commission have issued a determination granting conditional reauthorisation of the alliance between Virgin Australia and Air New Zealand in respect of Trans-Tasman passenger services. The ACCC Conditions of Authorisation require certain seat capacity requirements to be met, and for the compliance with those Conditions to be subject to a compliance audit.

This statement is provided in connection with the audit of compliance by Virgin Australia and Air New Zealand with the ACCC Conditions for the Northern Summer Scheduling Season (01 April 2014 to 31 October 2014).

We acknowledge our responsibility for ensuring that Virgin Australia and Air New Zealand comply with the ACCC Conditions of Authorisation and confirm, to the best of our knowledge and belief, that for the Northern Summer Scheduling Season we have:-

- Measured actual seat capacity provided to the market in accordance with the methodology used for the derivation of the Northern Summer Scheduling Season Seat Capacity as set out in Attachment B of the ACCC's determination;
- In aggregate across all Relevant Routes (as defined in the ACCC Conditions of Authorisation), flown not less than 100% of the Northern Summer Scheduling Season Seat Capacity; and
- Established and maintained adequate systems, processes and records to forecast scheduled seat capacity, capture actual seat capacity, and compare actual seat capacity with ACCC requirements.

M. Ryanow
VIRGIN AUSTRALIA

Date: 03/12/2014
MATTHEW YARROW
MANAGER, NETWORK PLANNING INTL

Simon Klensberg
AIR NEW ZEALAND

SIMON KLENSBERG
MANAGER NETWORK PLANNING, INTL
12/05/2014

Get in touch...

Melbourne

+61 3 8610 5000
partners@pitcher.com.au

Sydney

+61 2 9221 2099
partners@pitcher-nsw.com.au

Perth

+61 8 9322 2022
partners@pitcher-wa.com.au

Adelaide

+61 8 8179 2800
partners@pitcher-sa.com.au

Brisbane

+61 7 3222 8444
partners@pitcherpartners.com.au

Newcastle

+61 2 4911 2000
newcastle@pitcher.com.au