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Jumpjet Airlines Limited

P O Box 30031
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25 June 2015

Ref: *Leg/09.8/01.1*

Your Ref: 56245

Dr Richard Chadwick
General Manager, Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131, CANBERRA ACT 2601
Australia

Phone: 612 6243 1029

Dear Richard,

Subject: **Application for Alliance Authorisation A91265, A91266, A91502 & A91503 – Qantas Airways and American Airlines**

In relation to above application and invitation for consultative comment on the above topic considering interim and full authorisation, we believe that the Commission should deny permission on both counts.

A refusal to grant interim and full authorisation decision would assist the Federal Government to recognise the need for sound regulation in the aviation industry. Thus moving from the 20th Century obsolete **Free Market** concepts to a **Fair Market** philosophy. Values that are vital to arrest the rate of market dissolution being witnessed today.

The future affects to the long-haul international aviation market to/from Australia of a grant of any future authorisations would be continuing market dissolution resulting in the commercial division of our markets between foreign carriers with a reducing share for Australian/Single Aviation Market *(SAM)* airlines and cargo carriers.

"The direction of unrestrained alliance commercialism has substantially reduced competition and resulted in the division of the long-haul market between major foreign players. This market dissolution has relentlessly filtered away available shareholding for Australian airlines. Market dissolution in favour of foreign corporate and foreign government interests must be considered a predatory tool that has weakened Australian opportunity and the economy." *(See Attachment 3 – International Scheduled Services [AUS] 2014)*

Unless reversed, the continuing erosion of international market share for local carriers will continue to destroy the viability of the aviation industry from a sovereign and national interest perspective.

The economic effects being **loss of ticket sales revenue** to the economy, **loss of capital in the form of profit** to the local investment market and **loss of taxation revenue** to the **ATO. Thus causing a triple deterioration of real GDP growth.**

The contention that airport and local economic gains out way the analogy above is without foundation. In other words, the **public detriment,** as described above, far out ways the **public benefit** of tourist spend and airport financial gain provided by overseas airlines - owned by foreign corporate interests or foreign governments.

EFFECTS OF ALLIANCES ON COMPETITION

The network of global alliances has fostered the rise of **Elitism** *(Commercial Apartheid)* that has enabled Airlines with limitless monetary power to gain greater market control. Indifferent air travellers and vested interest politics has blinkered the adverse economic effects of loss of market share to Australian interests.

Qantas has achieved financial recovery through downsizing the group and its substantial alliance structures have not facilitated further aviation industry development, but merely facilitated the company to make marketing and revenue gains – without further company development in the sovereign market.

The Qantas **Global** journey into Asia with new airline developments has experienced mixed success. All these developments have favoured the Free Market concept even though the Qantas shareholdings have been reduced to minority status in all ventures. One has not been able to launch and the majority of its aircraft have been sold to other carriers with the Qantas shareholding being reduced to 33.3%. Another has been taken over via a 70% share purchase by a Vietnam government airline. Another in Japan has been partially successful but required on-going capital injections and the Qantas ownership has reduced to 47.1%. The Qantas Jetstar subsidiary, based in Singapore is 49% owned in a minority sense.

There are **27 Foreign Corporate and Foreign Government Airlines** operating in the Australian international market. Their market share is almost **70%** of the available market. There are **2 Australian** Carriers and one of those is owned by **3 Foreign Governments.**

ENOUGH IS SURELY ENOUGH? For any productive SAM airline company development to emerge – government policy must change. If alliance structures continue to be developed and encouraged market dissolution will continue, as described herein, to the detriment of competition, the economy and Australian/SAM aviation enterprise developments. A regulatory brake must be introduced.

ALLIANCES ON THE TRANS TASMAN MARKET

Even with the regulatory restraints of the **Single Aviation Market** *(SAM)* between Australia and New Zealand. Market dissolution is in motion by creeping predatory commercialism and wily endeavour.

Over a decade ago, Emirates gained fifth freedom rights across the Tasman to use surplus capacity parked at Australian Airports. Today, the company is in a **Marketing Alliance** with Qantas without **Revenue** sharing and it is using a mixed wide-body fleet with substantial emphasis on **490 Seat Airbus A380** aircraft.

JUMPJET HISTORIC SUBMISSION - 2006 *(ATTACHED)*

We table and release this historic document for review and public consumption in order to emphasise the predatory increase in market share by foreign governments and foreign corporate interests. The current industry state was predicted by this document and confidentially tabled with the ACCC in 2006. Further market dissolution will continue on the Tasman and Internationally unless the industry is regulated. *(See Attachment 1 – Trans Tasman Network Agreement [TNA] Authorisation 2006)*

In terms of Emirates, following the grant of services, the company subsequently gained some **9.5%** of the Tasman *(SAM)* market.

In around **9 years** this carrier has become the most commercially opportunistic with a fleet of **217** large heavy jets that includes **59 A380 Airbus** aircraft. The airline is **strategically** owned and **subsidised** by the Government of Dubai and has penetrated every **major** sovereign international market with insatiable voracity.

In terms of Tasman *(SAM)* seat market capacity, Emirates has strategically "cherry-picked" almost 20% of the market by an injection of 25,000 seats per week. This foreign airline is capacity dumping and globally positioning.

In total, fifth freedom carriers have secured over 26% of this regional market. That is, in excess of twice the original consent which transferred 12.5% of the market to foreign corporate and foreign government interests. *(See Attachment 2 - Trans Tasman Scheduled Passenger Uplift - Weekly)*

We put it that this **self-destructive path** of economic **market dissolution** is not in the national interest for the aviation industry or any of Australia's markets.

Current policies are obstructing airline company development and the well being and advancement of national aviation enterprises. Nothing will change unless recognition of the state of the industry is identified by regulatory authorities and confronted by Governments.

Thank you for the opportunity to comment on this matter.

Cordially,

Nicholas Kile

Nick Kile
Managing Director

*(**Note:** Jumpjet Airlines Limited is an independent, Investment Ready, Australian/New Zealand, airline company developing to enter the Trans Tasman market and operate between Australia and New Zealand. http://www.jumpjet.net)*

Enclosures (3)
Attachment 1- Trans Tasman Network Agreement [TNA] Authorisation - 2006
Attachment 2 - Trans Tasman Scheduled Passenger Uplift – Weekly
Attachment 3 - International Scheduled Service [AUS] 2014

PROPOSED

QANTAS AND AIR NEW ZEALAND CODE SHARE 2006

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

June 2006

Trans Tasman Network Agreement (TNA) Authorisation

A91001
A91002
A91003

***Attachment 1*: This historic submission is tabled with the Australian Competition and Consumer Commission for public review on the 25th of June 2015**

JUMPJET AIRLINES LIMITED
P O BOX 30031
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NEW ZEALAND

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ATTACHMENTS

TABLES

1. Overview

Since the 2003 (Qantas/Air New Zealand) Merger determination was handed down by the Australian Consumer and Competition Commission and the New Zealand Commerce Commission, anticipated competitive results by analysts were achieved by the carriers. The adverse results predicted by both Qantas and Air New Zealand in the **Single Aviation Market** (SAM) did not eventuate in the factual sense. In reality, within the immediate two financial periods following the determination both multi-billion dollar airline corporations achieved record earnings and profits.

The state of the market in 2006 has witnessed increasing competition from a global carrier with dominant ambitions. However, increasing marketing/code share agreements with the **Star and One World** alliance partners (and other partners) has enabled both Qantas and Air New Zealand to continue to control the greatest portion of the market. Factually, a market share of **10%** has been lost from the two airlines by increased competition in the industry since the arrival of Emirates into the SAM.

Jumpjet® discloses the view that the **SAM** is a regional market and competition must be permitted to enter from regional companies that are in a far superior position to contribute to regional economic development than global carriers. Particularly, those global carriers that use a local market for global positioning purposes. For example, of the 95 Wide Bodied jets Emirates has ordered, 43 of the Airbus A380 and 30 B777 type aircraft can achieve a potential market power that is seldom understood. *(E.g. Once delivered these types alone will increase the airlines capacity by some 12.5 million seats yearly considering a one trip per day basis – The full order list is for 95 Wide Bodied Jet Aircraft, other types will provide another 3.0 million seats)*

In our opinion, the national interest responsibility of Governments rests with the promotion of fair competition in the market and the support of local business development, as opposed to the obstruction of new ventures in the name of globalisation. Bilateral Agreements remain the most effective method to foster opportunity for local business development, as opposed to open skies policies that challenge the national interest and have the potential to destroy the viability of existing SAM airline industry foundation businesses.

Whilst we accept the requirement for minimum entry capital, a perceived weakness in the law has impeded Jumpjet Airlines Limited® from recognition as an entrant airline to the SAM market. This has also moderated the company's ability to continue to develop and defend Intellectual Property using commercial law. *(The New Zealand Civil Aviation Act basically requires $NZD 2.0 M of capital prior to market recognition)*

It is fair to state that part of the Code Share strategy of Qantas and Air New Zealand is defensive and aimed at market share protection. But the obvious major strategy is to remove competition between the two carriers, which is the primary aim of any code sharing agreement. The danger for the consumer and fair competition is that regulatory approval for a Code Share Arrangement may enable both carriers to circumvent the jurisdiction of the Trade Practises Act and the NZ Commerce Act.

2. Legal Implications

(a) Trade Practises Act 1974

Part IV—Restrictive trade practices

We put it to the Commission that under the jurisdiction of the Trade Practises Act Qantas, as signatory to a Code Share Arrangement with Air New Zealand, could have the effect of **lessening or hindering** competition in the future Trans Tasman market. That is, in relation to prices and price fixing.

The Act states: -

i. **Vol 1, Clause: 4G Lessening of competition to include preventing or hindering competition**

"For the purposes of this Act, references to the **lessening of competition** shall be read as including references to preventing or **hindering** competition."

ii. **Clause: 45A Contracts, arrangements or understandings in relation to prices**

We put it to the Commission that under the jurisdiction of the Trade Practises Act, Qantas as signatory to a Code Share Arrangement with Air New Zealand, could have the effect of **lessening or hindering** competition in the future Trans Tasman market. That is, in relation to **prices and price fixing** under Clause: 45A.

iii. **Clause: 46A Misuse of market power—corporation with substantial degree of power in trans-Tasman market**

Both Qantas and Air New Zealand currently operate under Clause 46A of the above act or Clause 36A of the Commerce Act (NZ) and we put it the Commission that any **Code Share Arrangement** resulting in **price fixing** would constitute a misuse of market power under both statutes.

We advance to the Commission that the proposed regulatory arrangement confirming the **Code Share Arrangement** is likely to remove both carriers legal compliance responsibilities under **Section 46A** of the **Trade Practises Act 1974**. Without this protection the probability of Jumpjet® gaining investment necessary to fully capitalise the company reduces substantially.

(b) Commerce Act 1986 (NZ)

The proposed **Code Share Arrangement** between Qantas and Air New Zealand and the consequential establishment of a substantial network of alliances,, incorporating the **Star** and **One World** alliances operating within the Australasian region, in a marketing sense, possibly breaches New Zealand commercial law.

Advantage of market power would be accomplished through these substantial **Marketing Alliances** that exist both in a current and projected sense. Such advantage may restrict, prevent, deter or eliminate any independent new entrant from entering the Trans-Tasman market.

We advance to the Commission that the proposed regulatory arrangement confirming the **Code Share Arrangement** is likely to remove both carriers legal compliance responsibilities under **Section 36A** of the **Commerce Act 1986**. Without this protection the probability of Jumpjet® gaining investment necessary to fully capitalise the company reduces substantially.

(c) Fair Trading Act 1986 (NZ)

The role of the NZ Commerce Commission is to enforce the provisions of the act under **Section 47** through education, warnings, identification of breaches and prosecution. Court action is possible for **misleading and deceptive conduct** and can result in injunctions, fines, orders for disclosure against parties in breach with no statutory defence available.

A subsidiary carrier of Air New Zealand, Freedom Air, has been prosecuted and fined on two occasions within the last few years for misleading advertising and predatory trading activity.

Predatory trading in the airline industry revolves around the use of **unsustainable airfares** that would cause a carrier to become insolvent if not financial backed by a parent company. Such trading below operating costs has historically occurred in Australia and New Zealand with the parent companies of the Virgin Group, Qantas and Air New Zealand involved. Predatory trading has caused the failures of a significant number of airlines in the **SAM** market including, Compass I & II, Impulse Airlines, Ansett Airlines of Australia and subsidiaries, Kiwi Air International and Cityjet.

We advance to the Commission that the proposed regulatory arrangement confirming the **Code Share Arrangement** is likely to remove both carriers legal compliance responsibilities under the **Fair Trading Act 1986**. Without this protection the probability of Jumpjet® gaining investment necessary to fully capitalise the company reduces substantially.

(d) Intellectual Property Theft: Police Report

During August 2005 we noticed a developing marketing technique being gradually introduced on the Web Site of Freedom Air International, a subsidiary carrier of Air New Zealand. The technique was virtually identical to a proposed Jumpjet® marketing concept developed in confidence and embedded into a **Power Point** presentation. The slide presentation forms part of a document trail designed to pass timed project knowledge onto a serious Investor and is delivered in a **Marketing Briefing** conference presentation.

Jumpjet® Company Directors offered to sign Affidavits to the effect that confidential information had not been released by them during the development period of the concept.

Advice was sought from a **Corporate Investigator** who warned of the possibilities of covert phone tapping and email filtering by agents of a major carrier. A decision was made to test the security of our airline business development to determine integrity in view of the unlikely nature of such predatory activity.

This was achieved by the creation of a "**Smoker**" launch date for Jumpjet Airlines Limited® identifying a planned formal launch on the **1st of May 2006**. The date was chosen purposely in early 2006 as no serious airline conferencing or controversy was due to occur during the month of May 2006.

The internal misinformation plan was circulated to known recipients and a letter was forwarded to confirm the incorrect nature of presentations that would be dispatched to them via the Internet and contained in planned dismissive phone calls. Included in the process was a "**credible**" professional document **("Fast Track to Capitalisation")** drafted to appeal to the materialistic. The document identified large amounts of capital and significant aircraft purchasing within a short time to establish a large **SAM** network by the end of 2006!!! Numerous professional Flyers were also produced and circulated identifying competitive airfare deals.

In New Zealand, two days prior to the **1st of May 2006** (29th of April 2006) Air New Zealand publicly launched the **Code Share** deal application and propagated high impact reports of huge losses and over capacity on the Trans Tasman market. A tactic that would have discredited a "**factual**" Jumpjet® launch in a predatory sense two days later.

In our view, rather than confirm the entitled security of private and confidential company development by Directors and Associates, the reverse has occurred The option of using legal discovery in these circumstances remains under future consideration.

In relation to the presumption of **Intellectual Property Theft,** a formal **Police Report** was presented to the **Wellington Police** and a complaint lodged with the New Zealand **Commerce Commission**. The Police declared the problem a civil matter and the Commerce Commission is unable to investigate as such acts are criminal and not sheltered under the Commerce and Fair Trading acts.

We submit the **Certified Police Report** in attachments *(Attachment 2 – Certified Police Report: Intellectual Property Theft)* on the basis that the circumstantial evidence presented raises doubts as to the self-elevation of both Qantas and Air New Zealand to the level of "**high integrity**" that they would have the Commission believe and accept.

(DISCLAIMER: Directors of Jumpjet Holdings Limited accept no public or private liability concerning the facts presented. No accusations are declared within this confidential summary of events due to insufficient evidence available at this time)

3. Competition: Major Cities

(a) Major Routes

Since **April 2004** Qantas, Air New Zealand and their subsidiary carriers have significantly increased the number of Trans Tasman sectors flown to the major city destinations of Melbourne, Sydney, Brisbane, Christchurch, Wellington and Auckland.

The carrier's choice to increase capacity in the market has been strategic in nature and has resulted in increased passenger uplift as the market has grown significantly. The only independent carriers remaining that have been trading in the market since that time are Aerolineas Argentinas, Garuda, Emirates and Royal Brunei. The Virgin/Patrick subsidiary, Pacific Blue does compete, but Air New Zealand maintains a close marketing agreement with **Virgin Atlantic** that identifies possible planned market share **sacrifice** to Pacific Blue in the event of a successful **Code Share Arrangement**.

In summary, within the last 24 months Qantas and Air New Zealand parent and subsidiary companies, on Trans Tasman route structures, have themselves **increased capacity** by approximately 66 sectors per week or 14.5%. Estimated passenger uplift has been increased by 12,075 passengers per week or 21.5%, based on 65% Load Factors using Internet Flight Schedules. * *(Jumpjet® uses estimated passenger uplift numbers rather than seats in the market, plus an assumed Load Factor of 65% for rational market assessment outcomes)*

Thus, **seat capacity** in the total Trans Tasman market has been increased by an estimated 460,000 seats per annum based on 135 seats per sector. Thus, Qantas, Air New Zealand, subsidiaries and code sharing alliance partners combined have achieved these figures.

* *(See Table 1 - Market Analysis-Trans Tasman 2004 & Table 2 - Market Analysis-Trans Tasman 2006)*

(b) Fifth Freedom Carriers

In 2004, Fifth Freedom Carriers operating between the major city destinations of Melbourne, Sydney, Brisbane, Christchurch and Auckland numbered nine (9) in total. These airlines operated from the cities airports and uplifted an estimated 6,000 passengers per week on 70 sectors.

In 2006, the number of competing Fifth Freedom airlines has dropped to four (4) and the estimated uplift figures have risen to 10,400 per week on similar numbers of sectors. Larger aircraft have been introduced increasing capacity in the market.

* The competing independent Fifth Freedom Carriers are: -

- Aerolineas Argentinas – 4 Sectors Per Week. Route Structure: Auckland – Sydney – Auckland. Estimated Passenger Uplift: 680. **Estimated Market Share: 1.0%**

- Emirates – 56 Sectors Per Week. Route Structure: Auckland – Brisbane – Auckland; Auckland – Sydney – Auckland; Auckland – Melbourne – Auckland and Christchurch – Sydney – Christchurch. Estimated Passenger Uplift: 8,162. **Estimated Market Share: 9.5%**

- Garuda – 4 Sectors Per Week. Route Structure: Auckland – Brisbane – Auckland. Estimated Passenger Uplift: 760. **Estimated Market Share: 1.0%**

- Royal Brunei – 6 Sectors Per Week. Route Structure: Auckland – Brisbane – Auckland. Estimated Passenger Uplift: 798. **Estimated Market Share: 1.0%**

- **Total Fifth Freedom Market Share = 12.5%**

* Estimated Market Share for the remaining groups is: -

- Air New Zealand and Subsidiaries: 44.0%

- Qantas and Subsidiaries: 36.0%

- Virgin/Toll (Pacific Blue): 7.5%

** (See Table 1 - Market Analysis-Trans Tasman 2004 & Table 2 - Market Analysis-Trans Tasman 2006)*

(c) Existing Code Share Agreements

The following Trans Tasman carriers have code share marketing agreements with **Air New Zealand**: -

- Thai International – Star Alliance
- Singapore Airlines – Star Alliance

The following Trans Tasman carrier has a code share marketing agreement with **Qantas**: -

- Lan Chile - One World Alliance (Plus a passive domestic NZ connection arrangement with Air New Zealand)

4. Capacity Increase: 2004 to 2006

(a) Qantas and Air New Zealand Strategies

In 2004 Qantas, Air New Zealand and subsidiaries held approximately **90%** of the Trans Tasman (SAM) market, the companies were in a situation that called for changes due to the failure of the merger application. Virgin/Patrick had entered the market with the Pacific Blue airline and Fifth Freedom carriers totalled some nine (9). The carriers were increasing their presence in the market through market entry relaxations by regulatory authorities.

One of the strategies acted upon was to terminate the jobs of almost a 1,000 staff on both sides of the Tasman with engineering staff cancellations prominent. An analogy that cannot be avoided is that there will always be implications as a result of decisions made by parliaments. In aviation these implications are seldom understood by politicians moving to make seemingly popular decisions.

Any experienced technical staff loss that results in those affected moving into the international job market and migrating to other countries will have ill flow on effects. Jet airline aviation is moving at a rapid pace in the developing countries of Asia, India and China and shortages of technical manpower are predicted by analysts.

Both Qantas and Air New Zealand restructured their companies and were successful in driving down costs to some extent. But due to the increased competition from Emirates they have lost an additional **10%** of the existing SAM market. The current effects of shrewd increased competition have not been dramatic as both groups have improved their passenger uplift statistics in a high capacity environment. Obviously, following two record financial period results the groups see that increasing competition from Emirates will progressively weaken their share of the SAM. A market vital to the financial health of resident SAM airlines.

We accept that the long-term viability of both national carriers is in the best interests of both Australia and New Zealand and raise the analogy contained in other submissions to both the Australian Competition and Consumer Commission and the New Zealand Commerce Commission. The analogy being that the Single Aviation Market (SAM) is a regional international market and is vital for our own aviation economic development and national interest.

(b) Changing Status: Subsidiaries

In the last five years Qantas has developed four airlines - Jet Connect, Australian Airlines, JetStar Asia and JetStar. The power of the Asian market can be comprehended by the fact that Australian Airlines failed, JetStar Asia has had to merge and receive two capital injections and is still likely to be unsuccessful. In Asia, in the same period, 22 new start up airlines have emerged – most are still operating.

The one successful start-up remaining, **JetStar**, has been enormously successful for Qantas and has been largely responsible for protecting the Qantas domestic market share in Australia as well as provide a business model in which to launch new long haul international services. We believe that the company has been able to reduce expenditure by the use of Qantas Parent Company's ground staff in an unallocated accounting sense. However in reality, Australia remains locked into a duopoly status that will ultimately be detrimental to the air travelling public without new domestic entrants.

Concerning the Trans Tasman, **JetStar** has introduced 56 sector services between Christchurch and the Gold Coast, Brisbane, Sydney and Melbourne. Whilst, Qantas Parent has withdrawn services to prevent route duplication.

Due to the improved cost reduced remodelling of the Air New Zealand Parent model, many of the routes allocated to budget subsidiary, **Freedom Air**, have been transferred back to the parent company with substantial success. The Freedom Air fleet and sectors have been reduced in that 28 Sectors are now operated by the company from regional and international New Zealand Airports to tourist/holiday destinations.

The Qantas and Air New Zealand subsidiaries, **JetStar, Jet Connect and Freedom Air,** function as strategic arms of the parent companies and the likely strategies and effects of future fleet usage should be collectively analysed.

The Virgin/Patrick/Toll subsidiary, Pacific Blue, has reduced services across the Tasman due to the arrival of JetStar in Christchurch and the high impact of cheaper full services operated by Air New Zealand. In the context of available research, deduction and confidentiality, we believe that this airline is now incurring strong competitive pressure on most of its routes across the Tasman. Including Wellington.

5. EMIRATES: SAM MARKET IMPLICATIONS

(a) Globalisation: Future Consequences

It is pertinent to include an extract from a previous submission to the New Zealand Commerce Commission concerning **Global Positioning** by large and monetary powerful International Airline Groups. (Often referred to as Capacity Dumping)

56. *"A more relaxed regulatory environment has eventuated in Australia and New Zealand for the purposes of encouraging more competition from international operators. However, strategic planning by overseas long haul airlines or airline groups with global ambitions may exhibit more interest in global positioning. Or intensifying their own companies or subsidiaries rather than the provision of long term regional services in the interests of parochial economic development."* - **Draft Determination Response – Proposed Qantas and Air New Merger (2003)**

Any future drive for an open skies policy that eventuates from Governments or bureaucracies moving to fulfil an ideological agenda will deliver consequences and implications that will progressively weaken the integrity of the **Single Aviation**

Market between Australia and New Zealand. The recent downsizing of Qantas and Air New Zealand and reduction in earning power is but a taste of the future in an uncontrolled international aviation market or SAM.

The following submission extract, from the **Draft Determination Response – Proposed Qantas and Air New Merger (2003),** challenges the strategy of a global open skies ideological path. The ultimate consequences in a worst-case scenario are used in the extract to describe future implications of global open skies in the SAM. Any variant policy will create proportional implications. The paragraphs below question the national interest of such a policy: -

13. *A major factor concerning the Ansett Australia collapse was the effect of predatory commercialism being levelled against the company. Under a global open skies policy such commercialism becomes Scenario One as many of the 1,400 significant airlines of the aviation world maintain budgetary and monetary power that equals that of quite a number of small nations. In this scenario, predatory commercialism introduced into the industry by a global carrier would render the Ansett type collapse – Mild.*

14. *It is conceivable that the current bi-Government pressure in support of the infringed merger between Qantas and Air New Zealand has its origin in the recognition that a global open skies policy could substantially damage either national carrier in a Scenario One competitive environment.*

15. *An evaluation of a failure of Qantas under Scenario One type commercialism has alarming consequences. For example, Qantas unmerged employs 35,000 and considering the Ansett collapse experience of a 2.5 to 1 multiplier, the total job loss would be approximately 90,000. The Qantas/Air New Zealand merged figure raises the total job loss to some 110,000. Or by population comparison - equal to the city of Hobart, in Tasmania, or Porirua, Upper Hutt and sections of the Kapiti Coast in the Wellington Region. {Figures are approximate}*

16. *Based on the Ansett collapse experience, a merged failure could produce in excess of 7.0 million creditors by comparison and the possible bankruptcy of 13 airlines. Plus an unknown number of commercial failures.*

Jumpjet® supports the concerns of Qantas and Air New Zealand in relation to the deterioration in the size of the SAM market by foreign carriers **"capacity dumping"** or **"positioning for maximum revenue gain."** We consider the SAM Market as a virtual extension of domestic markets and therefore should be given the same status as **Cabotage** grants the industry in domestic New Zealand and Australia.

From our perspective in a purely competitive sense, since the closing of the original merger proposal between Qantas and Air New Zealand, the arrival of Emirates has prevented predatory activity by the Virgin/Patrick/Toll Group against the national carrier Air New Zealand. It critically restructured following the collapse of Ansett Airlines of Australia and its subsidiaries and encountered serious structuring problems. Pacific Blue was positioned to deliver maximum impact against Air New

Zealand and gain a significant share of the New Zealand market by a possible defensive marketing agreement. The acquisition of Air New Zealand by the New Zealand Government preserved a virtual Essential Service and was in the national interest at the time.

(b) Emirates: Structure & Planning

The Emirates carrier is fully owned by the Government of Dubai, United Arab Emirates (UAE) and the country harbours the fifth largest natural gas reserves in the world and just under 10% of the proven oil reserves. The GDP growth is currently some six times that of Australia and New Zealand.

The new Head of State is **Sheikh Khalifa bin Zayed al-Nahjan** who assumed office in 2004 following the death of his father. The fresh political approach is to "reduce the country's dependence on oil and natural gas reserves" and the Emirates Airline is seen as one of the key vehicles to achieve these political ambitions. Research challenges the need for such extreme intensity relating to this approach.

Capital to advance this cause is a priority and readily available through the lucrative earnings of oil and gas exportation. The airline is elitist and funds at this level. For example in New Zealand the sponsorship is aimed at advertising through the New Zealand national team for the next **Americas Cup** Yacht Race. In Australia the **Melbourne Cup** has been sponsored to gain support and association at high society and political levels.

Whilst not large by global standards, at this time, the carrier has some **95 Wide Bodied** aircraft on order including 43 A380-800's. This represents a massive increase in seat capacity and together with the B777 and A340's ordered the overall capacity will be equal to the total existing seat capacity of many global airlines.

{Logic Question: ***What effect would a global open skies policy have on the Single Aviation Market with Emirates free to undertake unlimited services into the SAM?****}*

(c) Emirates: Subsidisation?

The UAE **Oil Reserves** are just under 100 billion barrels with new offshore fields being discovered and new structures being developed in existing fields. In the last decade proven reserves have doubled. In essence, the country is not in a critical economic state of rapid depletion of economic well-being. The UAE Government obviously politically portrays this strategy to increase Emirates market share of international aviation markets.

The UAE's current OPEC production quota of crude oil production, as of May 2006, is 2.50 million bbl/d (912.5 million bbl/year) and it is producing at full capacity. Existing reserves gives the oil-producing nation some 107 years of supply.

The country has five refineries consisting of; Ruwais (Owned by the Abu Dhabi National Oil Company - ADNOC), Umm al-Nar, Jebal Ali, Fujairah and the Sharjah Oil

Refining Company. At least one, the largest, produces fuel oil and unleaded gasoline for export to Japan and Asia.

This largest refinery, Ruwais, has undergone an expansion by an Italian Engineering firm and now produces 420,000 bbl/d of fuel oil and unleaded gasoline. It is more than likely that Arab politics in power in the UAE would use national refineries to **subsidise** fuel and gain advantage for the country's fully owned Government airline. The airline being an entity that operates in a world under siege because of the record high cost of aviation fuel. Such reasoning is in addition to an ambitious policy of rapid global growth thrust upon Emirates Airline. *{Reference: UAE Energy Data - Oil & Gas June 2006)*

Thus the question becomes: -

{Logic Question: ***Would Emirate Airlines accept subsidised fuel for its dramatic growth plans that require substantial seat and aircraft capacity to achieve superior status in the highly competitive global aviation industry?****}*

The second observation concerning subsidisation is the ability to factor cost savings into an airline operation by considering network costs. In this case, the use of third world low cost labour to subsidise operations in high cost first world regions is entirely possible. In our regions case, the **Single Aviation Market.**

Emirate Airlines operates into some 70 city destinations worldwide and the majority are cities within third world or developing countries **(60%)**. In these countries labour costs are radically lower than in first world countries due to wide differences in living standards. With the real time network accounting computer packages that are available today, costs can be readily dispersed over an entire route network in airline operations modus operandi.

It is likely that subsidised labour costs are dramatically reducing Emirates overall direct and indirect operating costs.

Thus the question becomes: -

{Logic Question: ***Can the larger Single Aviation Market airlines effectively compete against third or developing world carriers in our regional international SAM?****}*

In conclusion, it is reasonable to state that Emirate Airlines is subsidising and using a strategy that incorrectly portrays a need to develop the carrier in haste because of critical economic needs. The evidence confirms a lack of credibility on the part of the airline and its owners.

(d) Economic Contribution

The need for competition to and from the SAM Market is not challenged, nor are the reasons for new competition. Rationale, in favour, varies from consumer considerations to political and trade needs for Australia and New Zealand.

However, we put it to the Commission that regional international carriers can generate a more significant quantity of economic activity for the region and within the SAM community than a visiting global carrier. Plus an original resident SAM carrier can present sound new competition for the market given the opportunity to do so through proper funding support.

The Jumpjet® Base Concept concentrates the flow of expenses and profit into SAM businesses , initially, in Wellington and later other cities. Thus, the Wellington Region and other city regions will benefit from monetary input and turnover following a Jumpjet® entry.

Global carriers **"Capital Ship"** ticket revenue and profits away from the SAM to their country of origin. Emirates contributes to high-level sponsorship in order to foster global positioning ambitions but contributes little else in terms of SAM regional economic development.

In the short period since Emirates arrival, the UAE Government airline has secured almost **10%** of the available market and expansion will continue to erode the viability of this base market that should be reserved as a foundation for original SAM airline groups.

At this time, the case for bilateral review of Emirate's operation in the SAM Market is sound and further expansion of the carrier should be rejected for the foreseeable future. The line of reasoning is, simply, **the national interest.**

6. Jumpjet Status

(a) Deal Structuring

From mid 2005 to early 2006 Directors worked with KPMG Corporate Finance for a six month period to review Target Financials and upgrade Jumpjet® modelling of deal structures. Independent assistance from the School of Economics at Victoria University, Wellington assisted to arrive at financial modelling that would appeal to the Investment industry.

Thus, two Investment Vehicles have been produced with significant projected returns favourable to Investor interest. The launch vehicle provides for the high-risk nature of a Start-Up company and venture. Whilst the second vehicle encompasses an asset (Aircraft) purchase and is able to secure the capital involved reducing risk and cost of debt content.

Unfortunately, during the course of conferencing with KPMG a "conflict of interest" was discovered and further negotiations to assist in the airline capitalisation were concluded. KPMG has a multimillion-dollar per annum Audit and Non-Audit Agreement with Qantas in Australia and the **Chairman** of Qantas is a past senior executive of two specialist divisions of KPMG.

Jumpjet® is an independent company and is the Trade Mark of Jumpjet Airlines Limited® that is owned by Jumpjet Holdings Limited. Both companies are registered with the New Zealand Companies Office and have only Australian and New Zealand citizen shareholders. The independence of the airline is vital for the introduction of a business model with significant differences to existing airlines. Such that there are no excesses within the modelling, greater employee gains for loyalty, services and group performance. Also, innovative marketing techniques involve greater interactivity with the consumer with resulting benefits for airline and consumer.

Accepted Pre Money Value for the company is **$NZD 2.7 M** based on developed sweat equity , intellectual property and goodwill and the company is investment ready.

(b) Timing: Market Entry

In terms of technical preparation the company is well arranged for the pre-launch stage. There is an ideal launch date based on key accounting factors. However, once the operational aspects have been satisfied considering market state the ability to launch is governed by adequate investment. At this point we have not yet been able to secure contracted investment agreements.

The company is actively sourcing for another Director able to further assist in capitalising the airline for a formal launch. Launch planning continues.

Undoubtedly, the arrival of the Virgin/Patrick/Toll Pacific Blue into the Wellington market has delayed Jumpjet® launch planning. We accept that such activity is embedded into the psyche of alliance and competing strategies in this industry. Such competition does not threaten the Jumpjet® model or its ability to compete but hinders Investor confidence.

{Authors Note: The predatory nature of the Virgin business modis operandi will again be demonstrated in the US as Virgin America is poised to render some 250,000 jobs lost as many of the US carriers have not yet completed vital restructuring and will become casualties}

At this point, the high cost of fuel and receding economic growth in the SAM and with the full effects yet to reach the tourism industry, launch timing comes under pressure. The Trans Tasman market has weathered recession in the past and experienced reducing growth to zero for one year since 1990. However, it is appropriate to reason that enduring high fuel costs will impact on holiday travel significantly and the short-term future will see a distinct downturn in Trans Tasman air travel.

(c) Qantas and Air New Zealand Code Share: Effects

We put it to the Commission that the perceived advantages to Qantas and Air New Zealand of a Code Share Arrangement will be short lived if current globalisation regulatory attitudes continue to prevail within the SAM region. The Code Share Arrangement would enable the carriers a temporary gain in profits due to capacity reduction, decreased services, possibly higher airfare income and operational cost saving but market share will continue to be lost at the current rate.

Given the opportunity, Emirates in the absence of bilateral controls, will continue its current rate of expansion backed by a financially powerful Government owner that is, likely, subsidising global operations and expansion.

Also, the Virgin/Patrick/Toll airline Pacific Blue does not possess any national interest aims or ideals and will also opportunistically expand under a blanket of less competition from existing carriers in the market. This attitude will continue, regardless of a quasi alliance agreement gifting increased market share to Pacific Blue to reduce its competitive effect against them.

(d) Conclusion

In conclusion, the Code Share Arrangement applied for by Qantas and Air New Zealand is nothing more that a deferral of the original behavioural planning in relation to marketing and alliance policies that accompanied the 2003 Merger Application.

With reference to Emirates, it is relevant to note that the competitive behaviour of the other three remaining Fifth Freedom carriers is unchanged in a historic sense. Their approach is customary in the spirit of free competition and as guests in the market. These airlines pose no threat to the viability of the SAM. Notwithstanding, our belief is that this market is merely an extension of domestic markets and should be subject to **Cabotage** category considerations.

Assuming our claims are accurate in relation to Intellectual Property and coincidences that occurred just prior to the Jumpjet® **"Official Launch"** date of the 1st of May, such predatory activity is unwarranted. Jumpjet® is not a threat to the viability of the SAM or the national interest in Australia or New Zealand and should be treated with due respect from a company development point of view. Any assistance that the Commission could render would be greatly appreciated.

Jumpjet Airlines Limited® provides a feasible alternative to the theory of Fifth Freedom occupancy and expansion in the SAM and the model is in a position to offer the consumer fair competition and additional choice in a market that is essentially ours.

ATTACHMENTS

i. Attachment 1 - Executive Summary and FAQ
ii. Attachment 2 - Certified Police Report: Intellectual Property Theft
iii. Attachment 2A - Certified Police Report: Cabin
iv. Attachment 2B- Certified Police Report: Preference Seating
v. Attachment 2C - Certified Police Report: Freedom Air (Graphics)
vi. (Hard Copy & CD Disk by Fast Post)

TABLES

1. Table 1 - Market Analysis-Trans Tasman 2004
2. Table 2 - Market Analysis-Trans Tasman 2006

Date: 8th June 2006

Jumpjet Airlines Limited **Attachment 2**

Trans Tasman Scheduled Passenger Uplift - Weekly

Sectors and Seat Capacity **Fifth Freedom Airlines**

Airline	Ports	Sectors (Return)	Seat Capacity	Aircraft Type	Cabin Seating
Emirates	AKL-BNE	14	6,846	A380	489
		14	6,846		
China Airlines	AKL-BNE	6	1 842	A330-300	307
		6	1,842		
LAN Airlines	AKL-BNE			787-8	247
Market Totals		**20**	**8,688**		
Emirates	AKL-SYD	14	6,846	A380	489
		14	6,846		
China Airlines	AKL-SYD	6	1,842	A330-300	307
		6	1,842		
LAN Airlines	AKL-SYD	14	3,458	787-8	247
		14	3,458		
Market Totals		**34**	**12,146**		
Emirates	AKL-MEL	14	6,846	A380	489
		14	6,846		
China Airlines	AKL-MEL			A330-300	307
LAN Airlines	AKL-MEL			787-8	247
Market Totals		**14**	**6,846**		
Emirates	CHC-BNE			B777-300ER	354
China Airlines	CHC-BNE			A330-300	307
LAN Airlines	CHC-BNE			787-8	247
Market Totals					
Emirates	CHC-SYD	13	4,602	B777-300ER	354
		13	4,602		
China Airlines	CHC-SYD	6	1,842	A330-300	307
		6	1,842		
LAN Airlines	CHC-SYD			787-8	247
Market Totals		**19**	**6,444**		
Emirates	CHC-MEL			B777-300ER	354
China Airlines	CHC-MEL			A330-300	307
LAN Airlines	CHC-MEL			787-8	247
Market Totals					

	Sectors	Seats
Emirates	**55**	**25,140**
China Airlines	**18**	**5,526**
LAN Airlines	**14**	**3,458**
Market Total - Fifth Freedom	**87**	**34,124**

*(Note 1: Emirates has acquired **19.21%** of the medium-haul Trans Tasman Market using high density aircraft. Predicted predatory expansion continues)*

*(Note 2: Fifth Freedom airlines have acquired **26.08%** of the medium-haul Trans Tasman Market collectively using high density aircraft. Predicted predatory expansion continues)*

(Reference: Emirates, China Airlines and LAN Airlines Online Winter Flight Schedules)

TOTAL SEATS OPERATED on INTERNATIONAL SCHEDULED SERVICES - 2014

Attachment 3

Airport	Airlines	No: of Seats	% Share of Market
Adelaide	Australian	168,412	12.5%
	Air New Zealand	95,947	7.1%
	Foreign Airlines	1,079,073	80.4%
Brisbane	Australian	2,580,838	37.8%
	Air New Zealand	499,854	7.4%
	Foreign Airlines	3,705,887	54.8%
Cairns	Australian	465,444	57.0%
	Air New Zealand	55,190	6.8%
	Foreign Airlines	296,656	36.2%
Darwin	Australian	335,823	59.0%
	Air New Zealand	0	0.0%
	Foreign Airlines	233,336	41.0%
Gold Coast	Australian	593,383	51.4%
	Air New Zealand	124,638	10.8%
	Foreign Airlines	434,919	37.8%
Melbourne	Australian	3,162,670	30.3%
	Air New Zealand	742,601	7.1%
	Foreign Airlines	6,571,831	62.6%
Norfolk Island	Australian	0	0.0%
	Air New Zealand	17,530	100.0%
	Foreign Airlines	0	0.0%
Perth	Australian	1,050,904	18.5%
	Air New Zealand	226,890	4.0%
	Foreign Airlines	4,424,702	77.5%
Sunshine Coast	Australian	0	0.0%
	Air New Zealand	10,737	100.0%
	Foreign Airlines	0	0.0%
Sydney	Australian	6,428,021	35.9%
	Air New Zealand	1,209,105	6.7%
	Foreign Airlines	10,282,652	57.4%
	Totals:	**44,797,043**	**100.0%**

 # The Percentage of Market Share for Australian and Foreign Airlines appears below: -

Market Share Foreign Airlines	60.3%
Market Share Australian Airlines	**33.0%**
Market Share Air New Zealand	6.7%
	100.0%

 # Totals include foreign airline multi-airport freedoms and this identifies sector passengers against sector revenue.

Australian Airlines	2
Foreign Airlines	26
Air New Zealand	1
Total Airlines	29

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(Reference: Department of Infrastructure and Regional Development)