



Virgin Australia Airlines Pty Ltd, Virgin Australia International Airlines Pty Ltd, and their related bodies corporate

and

**Qatar Airways Group Q.C.S.C. –
Application authorisation AA1000679
Interim authorisation decision
29 November 2024**

Decision

1. The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of the application for authorisation AA1000679, lodged by Virgin Australia Airlines Pty Ltd and Virgin Australia International Airlines Pty Ltd and their related bodies corporate, and Qatar Airways Group Q.C.S.C. (the **Applicants**) on 11 October 2024.
2. Interim authorisation is granted to enable the Applicants to engage in the following conduct:
 - (a) cooperation in relation to the deployment of capacity on routes between Australia and Doha including Virgin Australia commencing daily scheduled return services between Brisbane, Melbourne, Perth and Sydney and Doha (**New Services**)
 - (b) cooperation on network planning to facilitate schedule optimisation to maximise connections and enable the efficient use of capacity between the complementary networks of the Applicants, including joint decision making in relation to schedules, capacity and inventory management on flights between Australia and Doha and connecting services
 - (c) cooperation in relation to pricing, including joint pricing (including in relation to public and private fares, rebates, incentives and discounts) for passengers and agents in relation to codeshare services and the New Services
 - (d) the ability to jointly identify and decide who will, and how to, approach corporate/SME customers in Australia or with travel needs to or within Australia, including joint construction of tailored corporate offerings and discounts across domestic and international services
 - (e) cooperation in relation to sales, marketing, advertising, promotion and distribution strategies
 - (f) cooperation to maximise the earning and redemption opportunities for members of both loyalty programs and B2B partners, including reciprocal access to premium services for tiered frequent flyers and reciprocal access to lounges for eligible guests
 - (g) cooperation to enable a seamless and consistent level of service and product standards to customers including in relation to fare rules and conditions and

other passenger-related aspects of service such as ground services and lounge access

- (h) joint procurement to enable efficiencies and cost savings. This may include opportunities in relation to goods and services related to flight operations, pilot and crew training and engagement, engineering and maintenance, IT, ground handling, fuel, and facilities
 - (i) the ability to share information to the extent necessary to facilitate the matters referred to above and to explore opportunities for deeper cooperation. This may include developing new routes, and deeper cooperation on sustainability-related issues including the use of sustainable aviation fuel.
3. The Applicants submit that the New Services will comprise 28 weekly return services between Australia and Doha (which will be in addition to the international services already operated by Qatar Airways). The Applicants intend to commence these additional services from Sydney, Melbourne and Brisbane in June 2025, with Perth services to follow in November 2025.
 4. The ACCC grants interim authorisation in relation to Division 1 of Part IV of the *Competition and Consumer Act 2010* (Cth) (the **Act**), sections 45, 47 and 48 of the Act.
 5. Interim authorisation commences immediately and remains in place until it is revoked, the application for authorisation is withdrawn, or the date the ACCC's final determination comes into effect.

The application for authorisation

6. The Applicants are Virgin Australia Airlines Pty Ltd and Virgin Australia International Airlines Pty Ltd and their related bodies corporate, and Qatar Airways Group Q.C.S.C.
7. The Applicants seek authorisation for 5 years.

The authorisation process

8. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the Act. Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Interim authorisation

9. Section 91 of the Act allows the ACCC, where it considers it appropriate, to grant interim authorisation. This allows the parties to engage in the proposed conduct while the ACCC is considering the substantive application.
10. The Applicants requested interim authorisation on the basis that:
 - Virgin Australia intends to commence flying the New Services by June 2025, in time for the peak period of travel between Australia and Europe. These services will be operated using capacity wet leased from Qatar Airways.
 - The Applicants submit interim authorisation is necessary to ensure the resulting benefits are available to the public at a time that matches demand for these services. In order to achieve this, the Applicants submit it is essential that the Applicants are able to include flights in the published schedule for the IATA Northern Summer 2025 season. The Applicants expect to finalise their schedule

for the IATA Northern Summer Season by December 2024, with forward selling to commence by 31 December 2024.

- The Applicants submit passengers generally purchase long haul international flights well in advance and therefore, the Applicants require a minimum of 6 months before the launch of services to maximise marketing and sales opportunities and to ensure the initial flights are financially sustainable. Ahead of sale, additional lead time is necessary for planning discussions, marketing, and system alignment to achieve this timetable.
- The Applicants submit this is needed to ensure that the parties can make the services available for sale with the appropriate supporting operational, technical and commercial structures in place. The Applicants submit it is commercially important that the Applicants are able to commence flying the New Services at this time to:
 - allow it to better compete in the relevant markets;
 - offer services in time for the high-demand mid-June to mid-September peak travel periods, as well as for key events like the commencement of the 2025 British and Irish Lions (rugby) tour (for which Qatar Airways is the official airline partner), which will see 40,000+ spectators visiting Australia for 9 games over 6 weeks in late June to early August 2025;
 - take advantage of continuing pent-up demand for travel between Australia and the Middle East, Europe and Africa in the aftermath of the COVID-19 pandemic; and avoid potential detriment and financial strain caused by market seasonality, which may arise if the services are commenced during a 'low' season for travel between the relevant destinations.
- The Applicants submit that if Virgin Australia is required to delay the launch and forward selling of the New Services, it will lose the opportunity to make the most of these high seasonal demand windows to attract customers. If the Applicants cannot commence flying by June 2025, it would not be financially viable to launch the first flight until December 2025 to coincide with the high-demand mid-December to mid-January peak of 2025/2026. In this scenario, the effect would be that either consumers experience delays in not being able to access these valuable new services until later in the year, or otherwise the Applicants would suffer commercial detriment by launching new services at a time of low demand.

Consultation

11. The ACCC invited submissions from a range of potentially interested parties including airlines, members of the Board of Airline Representatives of Australia, airports, the Australian Federation of Travel Agents, the Consumers Federation of Australia, the Department of Infrastructure, Transport, Regional Development and Communications, the National Farmers' Federation and the Transport Workers Union of Australia.
12. Submissions from interested parties have generally been supportive of the application for authorisation, although a number of parties have been opposed to the application. Some interested parties have raised concerns that:
 - the proposed exclusivity arrangements will:
 - result in Virgin Australia terminating Virgin Australia's existing partnerships with some other airlines which will lead to higher fares, less flexibility on scheduling, and less loyalty rewards on affected routes; and

- reduce choice for Velocity frequent flyers travelling to, from or within the Middle East, Europe, and Africa to only Qatar Airways flights (if they want to maintain frequent flyer benefits)
 - the proposed wet lease arrangements, under which the New Services are proposed to utilise Qatar Airways capacity, outsource Australian career opportunities to foreign labour and allows Virgin Australia to circumvent Australian workforce laws and regulations as Qatari crew have lower pay and conditions.
13. In response to an information request from the ACCC, the Applicants clarified that they are not seeking authorisation in respect of the proposed exclusivity arrangements.
14. In their submission in response to interested parties, the Applicants submit that:
- The Proposed Conduct will provide Velocity members with more choice and a broader network of itineraries on which to earn and redeem points.
 - Velocity members will continue to be able to earn and redeem Velocity points on Singapore Airlines' operated services globally (including to and from Europe, the Middle East and Africa) – in other words, there will be no changes to Virgin Australia's loyalty arrangements with Singapore Airlines.
 - Virgin Australia will continue to codeshare with Singapore Airlines on services to Singapore and to destinations beyond, outside Europe, the Middle East and Africa. Virgin Australia submits that at the time the New Services go on sale, its codeshare agreement with Singapore Airlines will be amended to remove Europe, the Middle East and Africa as codeshare destinations.
 - Virgin Australia's arrangements with South African Airways and Virgin Atlantic will be unchanged.
 - Etihad Airways will cease to be a Velocity partner and, with or without the Proposed Conduct, Virgin Australia does not codeshare on Etihad Airways' services.
 - The Proposed Conduct will strengthen the attractiveness of Virgin Australia's existing services, increase feeder traffic and increase the potential for additional frequencies and new routes, all of which increase the job security of Virgin Australia's workforce and promote job growth.
 - Under the Proposed Conduct, the Applicants have committed to exploring opportunities to provide preferential direct entry pathway for Virgin Australia crew into Qatar Airways and to support Virgin Australia's return to long-haul international flying, including developing capability within the Virgin Australia workforce (including through utilising Qatar Airways training facilities).
15. The ACCC acknowledges concerns raised by interested parties and has not reached any concluded views about the application for authorisation. The ACCC will consider the above issues raised in submissions in the context of the substantive authorisation (noting that the Applicants have not sought authorisation for the proposed exclusivity arrangements).
16. Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the [ACCC's authorisations public register](#).

Reasons for decision

17. The ACCC accepts the Applicants' submissions in support of its request for interim authorisation in relation to the following:

- The Applicants intend to commence the New Services from June 2025, and that this necessitates a range of planning and approvals processes, including being able to include flights in the published schedule for the IATA Northern Summer 2025 season.
 - Passengers generally purchase long-haul international flights well in advance of their travel and that a reasonable lead time will enhance the financial viability of these initial services.
 - Commencement of the New Services from June 2025 is perceived by the Applicants to be commercially advantageous given seasonal timing factors, particular key events noted, and pent-up demand for travel between Australia and the Middle East, Europe and Africa in the aftermath of the COVID-19 pandemic.
18. The ACCC also notes the Applicants' submission that if it were unable to commence the New Services in June 2025, it would not be financially viable to launch the first flight until December 2025, coinciding with higher seasonal demand at that time.
19. In granting interim authorisation, the ACCC considers that:
- If authorisation is ultimately not granted, it is likely that the market would return to its current state in the short term, and the ACCC considers that the Applicants would not offer additional services between Qatar and Sydney, Melbourne, Brisbane and Perth as Qatar Airways' existing flights to Australia utilise all capacity into major ports under the bilateral air services agreement between Australia and Qatar.
 - Granting interim authorisation will allow the Applicants the lead time to undertake the necessary planning discussions, marketing, selling and system alignment to permit Virgin Australia to commence flying the New Services by June 2025 if authorisation was ultimately granted.
 - The Applicants have provided a court enforceable undertaking under section 87B of the Act committing to:
 - offering the New Services as being 'subject to regulatory approval', which will ensure consumers are made aware of the nature of the tickets they are purchasing
 - re-accommodating passengers who purchased tickets for the New Services during the period of interim authorisation onto existing Virgin Australia or Qatar Airways services at no extra cost, or alternatively offering full refunds, in the event that substantive authorisation is ultimately not granted
 - fully disclosing consumers' options at the time of ticket purchase, consistent with obligations under the Australian Consumer Law.

The ACCC considers these court enforceable undertakings will limit the harm to consumers if final authorisation is not granted or if other regulatory approval is not obtained.

- Although the ACCC has not reached any concluded views about the application for authorisation, the conduct to be authorised appears likely to result in public benefits in the form of enhanced products and services, including increased capacity between Sydney, Melbourne, Brisbane and Perth and Qatar.
- While the ACCC has not concluded its assessment of concerns raised by interested parties, the ACCC considers that there is unlikely to be enduring harm from the granting of interim authorisation in the event that authorisation on the substantive application is ultimately not granted.

Reconsideration of interim authorisation

20. The ACCC may review the interim authorisation at any time.
21. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.