



Statement of Issues

18 August 2022

Qantas Airways Limited – proposed acquisition of Alliance Aviation Services Ltd

Purpose

1. Qantas Airways Limited (**Qantas**) proposes to acquire the remaining shares in Alliance Aviation Services Ltd (**Alliance**) that it does not already own. Qantas acquired its current 19.9% interest in Alliance on 1 February 2019.
2. This Statement of Issues:
 - provides the Australian Competition and Consumer Commission's (**ACCC**) preliminary views on competition issues arising from the proposed acquisition,
 - identifies areas of further inquiry, and
 - invites interested parties to submit comments and information to assist our assessment of the issues.
3. Statements of Issues do not refer to confidential information provided by the parties or other market participants and therefore may not fully articulate the ACCC's preliminary position.

Overview of ACCC's preliminary views

4. The legal test which the ACCC applies in considering the proposed acquisition is set out in section 50 of the *Competition and Consumer Act 2010* (the **CCA**). In general terms, section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.
5. The ACCC divides its preliminary views into three categories, 'issues of concern', 'issues that may raise concerns' and 'issues unlikely to raise concerns'. In this Statement of Issues there are 2 "issues of concern" and 1 "issue that may raise concerns".

6. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition for the supply of air transport services to corporate customers to and from regional and remote resource locations in Queensland and/or Western Australia by:
 - removing Alliance as a close competitor to Qantas, and
 - raising barriers to entry and expansion of rival suppliers by removing Alliance as a major supplier of aircraft wet-leasing services¹ in Australia.
7. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition for the supply of regular public transport (RPT) services on the Brisbane-Moranbah route by removing a close competitor to Qantas.
8. The ACCC's preliminary view is that the proposed acquisition may also substantially lessen competition for the supply of RPT services in various regional areas or routes by removing Alliance as a supplier of aircraft wet-leasing services. This includes the Brisbane-Emerald, Brisbane-Mt Isa, Brisbane-Alice Springs, Brisbane-Rockhampton, Brisbane-Newcastle, Brisbane-Gladstone routes by ending the wet-leasing services supplied to Virgin (**Virgin wet-lease routes**), or other routes that, without the proposed acquisition, competitors to Qantas would have contested with aircraft wet-leased from Alliance.

Making a submission

9. The ACCC invites submissions from interested parties on the issues identified above.
10. Interested parties should provide submissions by 5pm on 1 September 2022. Responses may be emailed to mergers@acc.gov.au with the title: *Submission re: Qantas proposed acquisition of Alliance - attention Sam Campbell / Elizabeth Elias*. If you would like to discuss the matter with ACCC staff or have any questions about this Statement of Issues, please contact Sam on 03 9290 1870 or Elizabeth on 02 6243 1104.
11. The ACCC anticipates making a final decision on 17 November 2022, however, this timeline can change. To keep up with possible timing changes and to find relevant documents, interested parties should visit the Mergers Register on the ACCC's website at www.accc.gov.au/publicregisters/mergers-registers/public-informal-merger-reviews.

Confidentiality of submissions

12. The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the CCA. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard.

¹ A wet-lease generally involves the supply of the aircraft, crew, insurance, maintenance and engineering services.

Therefore, please identify any confidential information that is provided to the ACCC. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

About ACCC ‘Statements of Issues’

13. A Statement of Issues is not a final decision about a proposed acquisition. A Statement of Issues outlines the ACCC’s preliminary views and identifies further lines of inquiry.
14. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, shareholders and other stakeholders) to ascertain and consider the primary issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

The parties

Qantas

15. Qantas is an Australian airline which operates RPT services across all Australian states and territories, as well as charter services predominantly in Western Australia and Queensland. It has the largest fleet of aircraft in Australia, featuring a range of aircraft suitable for air transport services to and from regional and remote resource locations.
16. Qantas is listed on the Australian Securities Exchange (ASX:QAN). Its subsidiaries include Jetstar (which operates domestic and international flights), QantasLink (a regional airline), and Network Aviation (a charter services and regional airline based in WA).

Alliance

17. Alliance is an aviation services company specialising in the provision of charter services to corporate customers, mainly resource customers requiring the transport of “fly-in fly-out” (FIFO) workers. Its fleet is predominantly medium-sized aircraft with 60-160 seats.
18. Alliance leases aircraft to other airlines and is the major supplier of wet-leased medium-sized aircraft in Australia. Alliance also supplies other associated aviation services including the sale and leasing of spare parts and replacement engines, plus inhouse maintenance and engineering services.
19. Alliance currently supplies aircraft to Virgin for the Virgin wet-lease routes and 14 aircraft to Qantas² under wet-lease arrangements, and 2 aircraft to Airnorth under a dry lease³ arrangement.

² Qantas recently exercised options in respect of 4 aircraft, which will take its total to 18.

³ A dry lease generally involves the supply of the aircraft without operation, crew, insurance, maintenance and engineering services.

20. Alliance has recently acquired another 16 E-190 aircraft but they are not in service yet.
21. Alliance is listed on Australian Securities Exchange (ASX:AQZ).

Areas of overlap

22. Qantas and Alliance directly overlap in the supply of:
 - a. air transport services for corporate customers, predominantly for resource customers in WA and Queensland requiring the transport of FIFO workers, and
 - b. RPT services between Brisbane-Moranbah.
23. Alliance also leases aircraft to Virgin that Virgin uses to compete with Qantas on the Virgin wet-lease routes.

Other industry participants

24. Virgin Australia operates an extensive network of domestic and some international services from its main hub at Brisbane Airport. Virgin Australia Regional Airlines (**VARA**) is Virgin's regional brand and is based in Perth. Its fleet is mostly medium and larger sized aircraft.
25. Virgin and Alliance have a Charter Alliance Agreement (**CAA**) which provides for the joint tender and supply of services to new corporate customers, principally for FIFO employees. The ACCC granted authorisation for the CAA in 2017.⁴
26. There are also several smaller regional airlines that operate charter flights and/or RPT services in the relevant regions:
 - Cobham, Skippers Aviation and Airnorth are all present in Western Australia,
 - Rex, an NSW-based airline with mostly smaller aircraft, which announced on 15 July 2022 its acquisition of National Jet Express, being Cobham's regional services arm, and
 - Pionair and Hevilift are present in Queensland.

Industry background

27. Resource companies typically have worksites in remote or regional locations, with workforces that need to be flown to and from these worksites at specific times. These customers include some of the largest mining companies in Australia.

⁴ On 27 May 2022, Virgin and Alliance applied to the ACCC for an extension of the authorisation for 5 years. On 8 June 2022, the ACCC granted interim authorisation for the CAA. Further information about the ACCC's review of the authorisation application is available on the ACCC's [authorisations public register](#).

28. To meet their operational requirements, resource customers need reliable and regular services, with aircraft of the right capacity to efficiently transport their workers. Many of the destination airports also have smaller aerodrome runways that can only accommodate smaller aircraft.
29. The air transport services acquired by these customers vary depending on the requirements of each customer and are satisfied by different types of services including closed charter⁵, open charter⁶, RPT or a combination. Customers may utilise RPT services if there is an RPT service to the customer's worksite, its schedule meets the operational needs of the customer, and seats are readily available.
30. Airlines use a range of service models to provide air transport services to resource customers. This includes aircraft owned and crewed by the airline, and wet or dry leasing of aircraft from other airlines to provide the services. Typically, small and medium-sized aircraft are used to service resource customers due to aerodrome runway requirements, route length and aircraft economics.

Issue of concern: reduction in competition for air transport services to regional and remote locations

31. The ACCC's preliminary view is that the proposed acquisition is likely to substantially lessen competition for the supply of air transport services to corporate customers to regional and remote resource locations in Queensland and/or Western Australia.

Loss of competition

32. The ACCC has received strong concerns from market participants that Qantas and Alliance are close competitors for the supply of air transport services to corporate customers to regional and remote resource locations in Queensland and Western Australia.
33. The ACCC is concerned that the proposed acquisition will have the following negative impacts on competition:
 - a. lead to significant concentration and the removal of Alliance as a strong competitive constraint on Qantas in an already concentrated industry, with Qantas and Alliance being two of the top three operators in regional and remote Queensland and Western Australia. Relevantly, Qantas and Alliance own more than half of all medium-sized aircraft with around 60 to 160 seats in Australia. For smaller aircraft, which are also used to service these locations, Qantas and Alliance both have significant fleets;
 - b. leave limited alternatives to Qantas for resource customers. Market participants consider that smaller alternative suppliers, such as Cobham, Skippers and Pionair are currently unable to offer a similar service to Qantas or Alliance as their fleets are considerably smaller and/or face

⁵ Dedicated charter services involving the use of the whole aircraft.

⁶ The purchase of a block of seats on an RPT service.

capacity constraints in servicing larger customers or higher volumes of customers;

- c. market participants also consider that these suppliers would have to undertake significant investment in aircraft and staff for many years to be able to provide a comparable service to those currently provided by Qantas, Alliance and Virgin.
34. The ACCC considers there are significant barriers to entry and expansion, including:
 - access to appropriately crewed and maintained aircraft,
 - access to limited airport facilities and infrastructure,
 - strategic and operational risks, including the need to enter at sufficient scale, and
 - regulatory requirements.
 35. Further, the proposed acquisition will likely increase barriers to entry and expansion by removing Alliance as a major supplier of aircraft wet-leasing services in Australia. Qantas has stated it will not continue Alliance's current leasing arrangements with rival airlines post-acquisition.
 36. Given the significant barriers above, the ACCC does not consider that the loss of competition arising from the proposed acquisition is likely to be replaced by the timely entry of new players or the expansion of existing providers.
 37. The ACCC also considers that customers have limited or no countervailing power. Although some resource customers are large and well resourced, market feedback has been that it would be very unlikely that a customer would sponsor new entry due to the significant risks associated with commencing or underwriting aviation operations.

The ACCC invites comments from market participants on its preliminary views about the loss of competition for the supply air transport services to remote or regional resource locations. In particular, market participants may wish to comment on:

- the extent to which resource customers consider other existing suppliers, such as Airnorth, Skippers, Rex/Cobham, are likely to become a viable option if the proposed acquisition proceeded
- whether resource customers are likely to sponsor a new entrant or an existing competitor's fleet expansion if prices increased or service levels decreased, noting how much prices or service levels would have to change for this to occur
- the extent to which resource customers currently serviced by 60-160 seat aircraft can be serviced instead by smaller or larger aircraft, and what any alternative arrangements are likely to look like
- resource customers' experiences in using RPT services to transport FIFO workers, and when such RPT services are suitable and when they are not

- the strategic risks associated with new entry or expansion given the current industry structure, and what impact, if any, the proposed acquisition has on these risks
- the current lead times to securing aircraft like those currently operated by Alliance
- how quickly pilots and other key staff can be secured and/or trained to operate regional charter services and RPT services, noting lead times, cost (including what proportion is sunk) and any other factors
- the ease or difficulty for a new entrant airline to secure access to airport terminal infrastructure and departure/arrival slots, in particular at Perth and Brisbane Airports
- Alliance's likely plans for aircraft wet and dry leasing absent the acquisition
- the extent to which the removal of Alliance as a supplier of aircraft wet-leasing services will reduce the competitiveness of Qantas' competitors in the future
- the availability of other viable alternative aircraft wet-leasing services to Alliance
- the cost difference and difference in risk between an airline entering a wet or dry lease versus acquiring and operating aircraft itself.

Issue of concern: increased prices/decreased service levels for RPT services on Brisbane-Moranbah route

38. Qantas and Alliance are currently the only suppliers of RPT services on the Brisbane-Moranbah route. The ACCC considers the proposed acquisition is likely to result in higher fares or reduced quality of services by creating a monopoly in RPT services on this route.
39. The ACCC has received concerns that there are constraints on accessing airport infrastructure at Moranbah Airport, which may make it difficult for other airlines to enter the route.
40. The removal of Alliance as a supplier of aircraft wet-leasing services also reduces the possibility of new entry and expansion on the Brisbane to Moranbah route.

The ACCC invites comments from market participants on its preliminary views about the loss of competition on the Brisbane-Moranbah route. In particular, market participants may wish to comment on the likelihood of another airline supplying either charter or RPT services on Brisbane-Moranbah route if the proposed acquisition proceeded, and any difficulties such an airline may face in providing services on that route.

Issue that may raise concerns: reduction of competition for RPT services by removing Alliance’s wet-leasing services

41. Alliance is an important supplier of wet-leased medium-sized aircraft (and to a lesser extent dry-leases) to other airlines. It currently wet-leases 14 such aircraft to Qantas⁷, and 4 to Virgin. It will soon put a further 13 aircraft into operation, some which will be wet-leased to Qantas, and some or all which absent the proposed acquisition may have been offered for wet lease to other airlines.
42. Wet-leasing services reduce the barriers to entry and expansion for airlines, as they reduce the lead time, capital costs and strategic and operational risks involved in expanding capacity. Therefore, the removal of Alliance as a supplier of wet-leasing services may significantly increase barriers to supply RPT services in various regional areas or routes.
43. Qantas has stated that subject to contractual requirements, it will not continue Alliance’s current wet and dry leasing arrangements with rival airlines post-acquisition. The proposed acquisition will therefore affect competitor airlines who lease Alliance’s aircraft or could have leased those aircraft in future to service a range of regional routes, including the Virgin wet-lease routes.
44. For example, with the proposed acquisition, Virgin is likely to face higher operating costs on the Virgin wet-lease routes, where it competes against Qantas. The ACCC is investigating the extent to which Virgin will have to either increase prices to continue to operate on these routes or exit them.
45. In the future, Alliance’s wet-leased aircraft, including those currently under lease to Qantas, may have been available for Qantas’ competitors to deliver various air transport services in competition with Qantas.
46. The ACCC continues to investigate the competition effects of the removal of Alliance’s wet-leasing services.

The ACCC invites comments from market participants on its preliminary views about the impact of the proposed acquisition on air services in regional areas. In particular market participants may wish to comment on:

- which regional RPT routes or types of regional RPT routes are most suitably serviced by E-190s or F-100s
- the impact of the removal of Alliance as a supplier of aircraft leasing services on the ability of current lessees, Virgin and Airnorth, to operate their services
- absent the proposed acquisition, the extent to which other airlines may have been able to rely on Alliance’s wet leasing services to deliver RPT services
- the extent to which other airlines could have competed with Qantas and Virgin to wet lease the aircraft that Alliance currently wet leases to them.

⁷ This will increase to 18 even if the proposed acquisition does not proceed.