

7 November 2024

Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

Via email: [exemptions@accc.gov.au](mailto:exemptions@accc.gov.au)

Dear ACCC

**RE: Virgin Australia and Qatar Airways – application for authorisation AA1000679**

The Australian Travel Industry Association (ATIA) welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) in relation to the application by Virgin Australia and Qatar Airways for authorisation AA1000679.

As the peak body for a broad array of Australian travel professionals, ATIA strives to promote and advocate for competition across the entire travel sector. Healthy competition is critical for the effective operation of markets so that businesses have the incentive to operate efficiently, price competitively and offer products valued by consumers. This in turn delivers benefits to the Australian community and economy through lower prices, innovation and improved product offerings.

ATIA does not oppose the authorisation, subject to conditions in relation to protection against collusion on pricing (further analysis and details in **Attachment A**).

Airfares between Australia and the Middle East to Europe and the UK have remained relatively expensive post-COVID, so encouraging capacity and competition on these routes are a key priority. Overall, the Proposed Conduct appears to deliver greater choice and connectivity, particularly as the Applicants do not operate any competing services on any direct or overlapping routes. ATIA accepts that Virgin Australia is not currently in a position to commence long haul international (LHI) services in competition with Qatar Airways and will not likely be during the 5-year authorisation period.

ATIA does have some concerns regarding the potential to lessen competition in relation to the areas of pricing and distribution strategies as detailed in section 3.1 of the application. We believe there is limited consumer benefit from allowing further consolidation of pricing or distribution strategies as it limits the competitive tension that can be created for corporate and leisure bookings.

We firmly believe that both parties should be able to advise the public price they have settled yet prevented from sharing intelligence on the creation of airfare prices and agent commissions. We have seen that where exemptions have been granted it has limited the ability for consumers and agents to generate market tension to drive increased value.

Yours sincerely

**Dean Long**  
Chief Executive Officer

## Attachment A – ATIA analysis

ATIA has focused our analysis on areas of competition impacting international air passenger services, the Australian domestic air transport services market, as well as competition as between airlines and travel agencies in relation to the sale of air tickets to consumers.<sup>1</sup>

ATIA's position is based on the following considerations:

### Supply of international air passenger transport services

The potential for public detriment is greatest in situations where the Proposed Conduct replaces rivalry between the Applicants with cooperation, and this potential is greatest on routes on which the Applicants operate overlapping services. The application relates to cooperation in relation to the deployment of capacity on routes between Australia and Doha. ATIA notes that the Applicants do not operate competing services on any direct or indirect overlapping routes.

ATIA also notes the Applicants' advice that there is unlikely to be any overlap in relation to the operation of any routes in the future. In particular, that Virgin Australia would not be able, or willing, to commence long haul international (LHI) services in competition with Qatar Airways, stating:

*Virgin Australia has not operated LHI services since early 2020. It does not have any widebody aircraft (which are needed to fly LHI services), nor does it have the resources, scale, infrastructure or marketing presence to operate LHI services in a financially prudent and commercially sustainable way on its own.*

ATIA accepts that Virgin Australia is not currently in a position to commence LHI services and is unlikely to during the period of the authorisation (five years), so there is a public benefit in the Proposed Conduct.

The Proposed Conduct is also stated to deliver greater choice, capacity and schedule flexibility from the addition of 28 new return flights between Australia and Doha every week. New services will increase the daily frequencies on many routes, and open up the choice of additional departure and arrival times. The application also notes there will be 107 new 1-stop itineraries with layovers of 4 hours of less to destinations throughout Europe, the Middle East and Africa made as result of the Proposed Conduct. This should improve connectivity, convenience and choice, resulting in benefits for both inbound and outbound travellers. Increased Australia-Doha frequencies should also mean more flexibility for customer re-accommodation in the event of a schedule disruption.

### Pricing and consumer detriment

Under current arrangements, Virgin Australia and Qatar Airways offer codeshare services pursuant to an authorised pricing arrangement whereby **Qatar Airways specifies the price at which Virgin Australia resupplies its services.**

Under the proposed arrangements, the Applicants propose to engage in 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. It would also permit cooperation in relation to distribution strategies and in procurement activities such as joint contracting for travel agent contracts.

This means that if approved, the Proposed Conduct would allow the Applicants to set prices amongst themselves and have strong coordination around distribution strategies which may lead to a decrease in competitive tension across some segments. These two airlines would be permitted to collude on distribution in a way that others in the industry cannot. Where pricing alignment occurs, it naturally leads to an increased market concentration. This concentration is detrimental, particularly in a market that is already heavily concentrated especially in the area of corporate travel.

Virgin and Qatar should be subject to the same market settings as travel agents for distribution purposes. There is significant consumer benefit from maintaining competition in this area is critical to limit further market concentration. ATIA believes that **both parties should be able to advise the**

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<sup>1</sup> See Australian Competition and Consumer Commission v Flight Centre Travel [2016] HCA 49, 14 December 2016.

**final public price they have settled, but they should be prevented from sharing intelligence on the creation of airfare prices and agent commissions.**

In relation to information sharing around matters relevant to agents such as incentives and distribution strategies, this is particularly important given the High Court's finding that airlines and travel agencies are in competition with one another in relation to the sale of air tickets to consumers.<sup>2</sup> Granting an authorisation which allows this level of collusion between the Applicants will negatively impact this element of competition.

The current application is in contrast to the recent authorisation AA1000653 granted to Virgin Australia and Air New Zealand, which specified that Air NZ specifies the public fares at which Virgin Australia may market and resupply the services, and that individual commercials cannot be shared, including information about commission rates and distribution strategies.

**Connectivity, convenience and supply of domestic air passenger transport services**

The Proposed Conduct will allow Qatar to sell Virgin Australia's domestic network in conjunction with their own international services to and from Australia. Due to the highly concentrated nature of the domestic market, the Proposed Conduct may lead to benefits in terms of increased domestic traffic and enhancing the appeal of Virgin Australia's domestic offers through increased connectivity, and thus enhancing their ability to compete.

**Corporate and SME customers**

The application seeks authorisation to cooperate 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.

The recent authorisation AA1000653 granted to Virgin Australia and Air New Zealand specified in relation to corporate and SME customers that the authorisation does not include discussion of commercial terms relating to Virgin Australia or Air New Zealand Agency Agreements or Travel Management Company partners. ATIA seeks a similar clarification from the Applicants and reserves the right to comment following the receipt of additional information.

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<sup>2</sup> See Australian Competition and Consumer Commission v Flight Centre Travel [\[2016\] HCA 49](#), 14 December 2016.