

20 November 2024

Mr Tony Hilton
Director – Competition Exemptions
Mergers, Exemptions and Digital
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

[By email: exemptions@acc.gov.au](mailto:exemptions@acc.gov.au)

Dear Mr Hilton

RE: Submission - Virgin Australia and Qatar Airways Application AA1000679-1

The Flight Attendants' Association of Australia, Australia's largest union exclusively representing the industrial interests of cabin crew, welcomes the opportunity to raise our serious concerns about Virgin Australia Pty Limited and Qatar Airways' application.

In doing so, we note that it is our view that Qatar Airways is using what we might colloquially call a "backdoor approach" to gain access to additional capacity in and out of Australia that has previously been denied based on national interest.

The Hon Katherine King, the Minister for Transport, stated in Parliament on 9 August 2023

*"The Government has determined that agreeing to the Qatar Civil Aviation Authority's request for additional services is not in our national interest, and **we will always consider the need to ensure that there are long-term, well-paid, secure jobs by Australians in the aviation sector** when we are making these decisions".*

(emphasis added)

The FAAA could not agree more with the Minister's comments and decision. While Virgin Australia's press release touts the potential economic benefits of the proposed deal, particularly for Australian tourism, it fails to contemplate the genuine risk to Australian Cabin crew and Pilot Jobs if such arrangements are agreed to without significant restrictions.

It is the view of the FAAA that the proposed wet lease arrangement is, as previously mentioned, a backdoor approach to getting additional capacity for Qatar Airways using an already 100% overseas-owned Australian Airline and, in doing so, exploiting the bilateral entitlements of an Australian Airline to access additional capacity with no benefit to Australian jobs.

Unlike Qantas's arrangement with Finnair, which involved some A330 arrangements, Virgin's Australian-based crew will not operate the additional flights that Qatar will operate, with Qatar Airways' pilots, cabin crew, and aircraft instead being utilised.

The Qantas Finnair Arrangement was contracted around a fixed period of wet lease, then reverting to a Dry Lease arrangement from 2025, where Qantas' Australian Cabin Crew and Aircraft would then operate the Finnair Aircraft as a Qantas Flight.

For clarity, the FAAA is not seeking to unreasonably restrict part ownership of Virgin Australia by Qatar Airways. Our goal is a competitive, thriving, and sustainable aviation sector that serves the interests of our members and the wider public.

Accordingly, the FAAA would be supportive of an arrangement where, after an agreed-upon period, Qatar aircraft would be operated by Virgin Cabin Crew and Pilots, as we have done with Qantas. In other words, the FAAA would support a Dry Lease arrangement, as this would protect Australian jobs. Any alternative arrangement undermines this principle and would thus be unacceptable to the FAAA as it would just result in Qatar Airways, a carrier owned by a foreign government, having increased access to the Australian market with no benefit to Australian jobs.

To put it mildly, Qatar's labour law framework affords workers significantly fewer and weaker protections. Within this environment, Qatar Airways operates with different work rules, rest provisions, and industrial and work health and safety instruments. The very real concern of the FAAA is that if the Government, ACCC, and FIRB agree to the Virgin Australia / Qatar Airways proposal without safeguards, this may expose Cabin Crew at Qantas to a significant risk of job losses if Qantas are compelled to reduce their costs by entering similar arrangements with their overseas partners such as Emirates. The FAAA is also concerned about Qatar's history of labour and human rights violations and what this may mean for crew in such an arrangement.

Whilst the FAAA and Qantas have had some significant industrial differences, Qantas has agreed to support our Regulated Labour Hire Arrangement Order applications in their domestic operation. This will lead to significant increases in pay and allowances for their cabin crew, placing their cost base much higher from a payroll perspective than Virgin Australia and significantly higher than Qatar Airways. As an airline owned by the Qatari government, Qatar Airways has unlimited access to funds and are not bound by domestic Australian labour laws. Australian airlines will not be able to compete with such a model.

Similarly, for their international crew, Qantas has agreed to enterprise agreement variations that increase their cost base by about 30% for international flight attendants due to the industrial leverage provided to the FAAA from the Labor Government's *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth).

In addition, to Qantas' ownership structure is restricted by the *Qantas Sales Act 1992* (Cth), which was introduced in 1992 to protect the national interest. Currently, strict limits on foreign ownership of the airline have been imposed, including:

- Any single foreign investor is limited to a 25% stake in Qantas.
- Foreign airlines can hold no more than 35% of Qantas shares in total.
- Total foreign ownership of Qantas is capped at 49%.

Similar foreign ownership restrictions do not constrain Virgin. Before its collapse and purchase by Bain Capital, some 64% of Virgin Australia was held by its three partner airlines alone: Air New Zealand had a 24.5% stake, with Etihad Airways holding 19.9% and Singapore Airlines at 19.8%. (Adding a further 7.4% cornerstone stake held by Sir Richard Branson's Virgin Group, Virgin Australia's total foreign ownership stood at just over 71%).

Following its Administration, Virgin Australia was purchased by Bain Capital, making it a 100% foreign-owned airline. The acquisition of 25% of the Bain Capital-owned airline will still leave Virgin Australia with 100% foreign ownership. Qantas has significant restrictions on raising the same capital that Virgin can raise through the significant injection from - owned Qatar Airways.

The FAAA is concerned that Bain Capital are only interested in the IPO they are intending to file. The funding from Qatar Airlines will only assist in this. The arrangement is not in the public interest – it is geared towards Bain Capital intention to file for an IPO. If the arrangement was in the public interest, Virgin would be dry leasing the aircraft using Australian crew.

There is already speculation that Virgin and Qatar will use the arrangement to explore the sixth, seventh, eighth, and ninth freedoms that go beyond what is contained in the 1944 Convention on International Civil Aviation (the Chicago Convention), which endorsed the concept of the officially recognised five “Freedoms of the Air.”

The FAAA urges the ACCC to carefully consider the potential implications of this proposal, particularly the wet-leasing proposal. This arrangement is of deep concern because it will provide Qatar access to routes and flights, exploiting bilateral arrangements enjoyed by Australian carriers, as previously mentioned, without benefiting Virgin's Australian employees and potentially damaging the national carrier and its employees.

Thank you



Teri O'Toole, Federal Secretary
Flight Attendants' Association of Australia
Email: 

