

The application repeatedly emphasises that “The Proposed Conduct does not result in any competitive detriment”. Taking the Applicants at their word, this would mean that the proposed exclusivities on page 9 of the application are redundant since they would not provide any competitive advantage to Qatar Airways vis-à-vis its international competitors nor Virgin Australia vis-à-vis its domestic competitors (i.e. Qantas Group). Deriving no competitive benefit from these exclusivities, the applicants should therefore have no issue with the ACCC only approving an alliance provided it does not include the following restriction (or something similar):

“Qatar Airways will become Virgin Australia’s exclusive interline, codeshare and loyalty partner headquartered in the Middle East or Türkiye (excluding interline for passenger re-accommodation purposes). Virgin Australia will not codeshare on the international flights of other airlines to, from or within the Middle East, Europe, and Africa, and will not acquire or supply any loyalty point accrual services or high value guest services, e.g. benefits such as lounge access provided to Gold members and above, with any airline headquartered in Africa or Europe.”

The justification for exclusivity is made even weaker by the wet-lease arrangement that’s central to the partnership. With Qatar Airways seemingly reserving the flexibility to redeploy the proposed capacity to other parts of its network (in contrast to the more limited flexibility that Virgin Australia would have if it were operating these Doha connections on its own aircraft) it’s hard to identify the additional financial risk that exclusivity might otherwise be designed to offset. Indeed Qatar’s previous application for 21 additional services is further evidence of their appetite to operate these services with or without exclusivity.

What might require the exclusivity for Qatar Airways is to be able to justify the amount they are paying to Virgin Australia’s current owners for a 25% stake in the carrier.

In this context it is worth recognising that while Australia does have highly deregulated policy settings, it does maintain cabotage restrictions to the benefit of domestic operators that help to underpin the financial sustainability of domestic services. Perhaps the fundamental policy question implicit in this authorisation is whether that benefit should extend to Australian carriers being able to auction off preferential access to their protected networks to overseas carriers as this transaction proposes to do? The long run implications of policymakers endorsing this will be to see Australia’s domestic duopoly grafted into international markets via exclusive alliances.

As to be expected, this would hit regional communities hardest given the reliance on domestic transfers, regional Australians will become captive to international duopolistic alliances. But major cities with direct international services will not escape unharmed and can expect muted competition from other foreign carriers who can’t market competitive domestic connections.

The application makes the point that “Authorisation will allow the Applicants to better compete against dominant carriers, prompting a competitive response across various markets” as a negative risk for not approving the alliance. This argument is not without merit. If the ACCC is inclined to attach weight to it in reaching its decision, then it should consider aligning the expiration that of Qantas/Emirates alliance in September 2028 so as to allow industry and the public access this benefit in the short term, while creating the long term flexibility to for policy makers to consider and adopt settings that might better serve the national interest. But it should do so without permitting the proposed exclusivities in the light of both the risks they pose to competition and the decision by Applicants to discount the benefits they may derive from it.