

16 April 2020

Daniel McCracken-Hewson
General Manager, Adjudication
Australian Competition and Consumer Commission
By email: [REDACTED]

Dear Mr McCracken-Hewson,

RE: APPLICATION FOR AUTHORISATION – COVID-19 AIRLINE INDUSTRY IMPACT

I provide this submission in relation to the above application. Queensland Airports Limited (QAL) owns and operates Gold Coast, Townsville, Mount Isa and Longreach airports. We are an Australian-owned company and are committed to delivering for the communities where we operate. We welcomed more than 8.4 million passengers last calendar year connecting the Gold Coast, Townsville, Mount Isa and Longreach communities to the rest of the country and beyond. Further details of our business are set out in our website at <https://www.qldairports.com.au/>. It is in this context that we make this urgent submission.

Firstly, QAL strongly endorses the submission made by the Australian Airports Association (AAA) in relation to Virgin Australia's application for authorisation.

We confirm that QAL supports the application for authorisation with respect to collaborative conduct between Virgin and its competitors as that is likely to generate public benefits. However, QAL strongly opposes the application for authorisation with respect to the request to collectively negotiate with airports for the reasons explained in the AAA submission. We do not propose to repeat the substance of the AAA submission but will highlight matters specific to it.

1. Financial impact upon QAL

QAL, like all participants in the aviation sector including airlines, has experienced and continues to experience an unprecedented drop in demand due to the necessary travel restrictions. In fact, in the case of Gold Coast Airport, we currently have no RPT (regular public transport) flights whatsoever and we have closed our terminal. Our aerodrome remains open as is required under our Commonwealth lease, but the reality is that we have no RPT flights at all at this time. In relation to our other airports, visitation has also plummeted and revenue has been significantly negatively impacted in a matter of weeks. [REDACTED]

[REDACTED]

[REDACTED]

QAL is a significant contributor to the regions it operates in. About \$650,000 per annum is injected into community organisations, events and initiatives each year through QAL's corporate sponsorship program and our Community Benefit Fund. In Queensland and New South Wales, more than 80 groups benefit including the Gold Coast Marathon, Currumbin Wildlife Hospital, Gold Coast Eisteddfod, Townsville Running Festival and Mount Isa Rodeo. As a gateway to our regions, QAL is also a significant supporter of tourism and plays an active role in promoting our regions in Australia and overseas.

2. Authorisation for collective negotiations is not necessary

QAL has engaged with all of our tenants and operators in relation to the granting of concessions including fair and proportionate rental reductions where requested and agreed to be appropriate. This includes our airline partners, retailers and ground transport partners, whom are all suffering significant financial hardship along with QAL.

Furthermore, as noted in the 2019 Productivity Commission Report into the Economic Regulation of Airports, airports outside of the four gateway ports (Brisbane, Sydney, Melbourne and Perth) do not hold market power. In QAL's case, the market power in aeronautical negotiations with major airlines rests with the airline. Collective negotiations would only further strengthen the asymmetric nature of these discussions [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. This request for collective negotiations by airlines with individual airports is counter to the collaborative approach being sought by QAL and the airport sector more generally. Accordingly, QAL cannot see how there can be any benefit flowing from the collective negotiations when QAL is already engaged in negotiations with airlines on the exact same issues.

3. Uncertain scope of the conduct

Virgin has sought authorisation to undertake "*joint negotiations (including collective bargaining) with airports in relation to (but not limited to) infrastructure use and fee relief*". However, it is unclear exactly what the precise limits of what can be collectively negotiated. The conduct is defined in an

open-ended manner and without sufficient specificity to allow a proper analysis of the impacts of the conduct proposed. Accordingly, the ACCC should not grant authorisation without a precise understanding of what immunity is being given to Virgin and its competitors to undertake.

4. Time period of authorisation is excessive

Virgin seeks authorisation until June 2021. This is, in our respectful view, an excessive period to allow Virgin and its competitors to exchange competitively sensitive information, the consequences of which will likely last well beyond June 2021. Put simply, it is impossible for the airlines to “unknow” competitively sensitive information, once they know it and even though the authorisation period has elapsed.

The proposed authorisation of collective bargaining and exchange of competitively sensitive information could, in our reasonable opinion, impact the successful bi-lateral negotiations which have occurred to-date and which would reasonably be expected to continue occurring.

5. Unreasonably short period to respond

QAL understands that the ACCC is proposing to make a decision on Friday 17th of April. If this is the case, then QAL has not been provided a reasonable opportunity to comment upon the very material issues raised by this application and the potential prejudice that will be suffered by it if the application is successful. In such circumstances, it is QAL’s very strong view that it has been denied procedural fairness and natural justice. Accordingly, QAL requests that the ACCC allow QAL a reasonable opportunity to make a considered submission before the ACCC makes a decision in the request for urgent interim authorisation.

Please feel free to contact me if you would like clarification on anything detailed above.

Yours sincerely,



David Hedges
General Counsel & Company Secretary



cc. tessa.cramond@accc.gov.au