



**Australian
Competition &
Consumer
Commission**

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Dear Ms Tucker

Qantas' applications to permit code sharing with Emirates on various routes

Thank you for your email of 12 February 2013 in which you sought the ACCC's comments on Qantas Airways Ltd's (Qantas) applications to permit code sharing with Emirates on routes between Australia and:

- United Kingdom
- Singapore
- Thailand
- France and
- the United Arab Emirates.

I note that you requested submissions by 22 February 2013 and I apologise for the lateness of this response. On 18 February 2013, the ACCC advised that we would not make a submission in relation to the United Kingdom, the United Arab Emirates and Singapore. Accordingly, this submission focuses on the current applications regarding Thailand and France.

The ACCC's consideration of the Qantas/Emirates alliance

Qantas and Emirates lodged applications for authorisation A91332-A91333 on 7 September 2012. Following public consultation on the applications, the ACCC issued a Draft Determination on 20 December 2012 (the Draft Determination). The views expressed in this letter reflect the views of the ACCC in its Draft Determination. The ACCC is yet to make a final decision regarding these applications for authorisation, with public consultation still continuing on the analysis and conclusions in the Draft Determination.

The ACCC's evaluation of the alliance in the Draft Determination is in accordance with the relevant net public benefit tests contained in the *Competition and Consumer Act 2010*. While there is some variation in the language of the tests, in broad terms, the

ACCC is required to identify and assess the likely public benefits and detriments, including those constituted by any lessening of competition and weigh the two. In its assessment of the public detriments of the alliance as a whole, which incorporates the code share arrangements relevant to the IASC's consideration, the ACCC has assessed the likely effect on competition of the alliance in geographical regions where the applicants offer overlapping services, including Australia-Thailand and Australia-Europe.

International air passenger travel services between Australia and Thailand

The ACCC notes from the Register of Available Capacity¹ that there is currently no 'capacity available for use under third party code share', which may, in certain circumstances, limit the potential of a competitive response by Australian designated carriers should the alliance have a detrimental impact on competition on routes between Australia and Thailand.

The ACCC understands from previous IASC decisions² that Qantas has permission to operate the third party code share services that are under consideration in this decision. Virgin Australia has permission to operate seven weekly third party code share services in each direction.

In its Draft Determination, the ACCC assessed the impact of the alliance on the Sydney-Bangkok route on which the parties overlap. On the Sydney-Bangkok route, the alliance reduces the number of independently determined price/service offerings from three to two (i.e. the alliance, on one hand, and Thai Airways, on the other).

The ACCC formed the view that Thai Airways is the key competitive constraint on the alliance on this route. Since Thai Airways is the main alternative to the alliance on this route, the ACCC considered whether it is likely that any competitive response by Thai Airways will not be sufficient to make a unilateral reduction or limitation of capacity unprofitable for the alliance.

The ACCC accepted in the Draft Determination that the re-design of Qantas' Asian network is likely to incentivise it to compete strongly with Thai Airways. In this regard, the ACCC noted Qantas' publicly stated commitment to increase its weekly dedicated capacity to Bangkok by at least 26%.

In addition, any reduction or limitation of capacity will affect the alliance's ability to compete for passengers travelling beyond Bangkok to other points in Asia or to the UK/Europe. The figures set out in the ACCC's draft determination suggest that these passengers are likely to be a significant proportion of total travellers on the route, with 1,114,000 seats flown Sydney-Bangkok in the year ended 30 June 2012, compared to the 1,363,000 passengers travelling Australia-Thailand over the same period. The ACCC considered that competition for these passengers will constrain the alliance in setting capacity on the Sydney-Bangkok route.

For these reasons, the ACCC formed the preliminary view that the alliance is unlikely to significantly increase the ability and incentive of Qantas and Emirates to unilaterally reduce or limit growth in capacity on routes between Australia and Thailand. The ACCC's preliminary conclusion was that the alliance is unlikely to result in material

¹ Available at www.infrastructure.gov.au

² Available at www.iasc.gov.au

public detriment through its effect on competition on international air passenger transport services between Australia and Thailand.

International air passenger travel services between Australia and France

The ACCC notes from the Register of Available Capacity that there is currently 'no capacity available' for the designated airlines of Australia for route 1 (ie mainland France). As noted above in relation to services between Australia and Thailand this may, in certain circumstances, limit the potential of a competitive response by Australian designated carriers should the alliance have a detrimental impact on competition on routes between Australia and France.

The ACCC understands from previous IASC decisions that Qantas has permission to operate 250 one way seats per day (on average annual basis - currently permitted to be provided jointly with Air France and British Airways) that are under consideration in this decision. Virgin Australia has permission to operate 150 one way seats per day (on an average annual basis – currently permitted to be provided jointly with Etihad Airways and Singapore Airlines).

In its Draft Determination, the ACCC considered that while the alliance will reduce the number of competitive offerings on the relevant routes by one, a range of options exist for Australian consumers to travel to Europe via various mid points. In looking at Paris as an example, the ACCC noted that there were nine competing carriers operating Sydney-Paris services, with additional options available using code share services (such as the Qantas and Virgin Australia services).

In addition, the ACCC noted in its Draft Determination that, in the future without the alliance, there is likely to be limited competition between the applicants, 'with Qantas operating only Sydney/Melbourne-Dubai-London Heathrow. The future without would involve Qantas requiring code share or interline partners to provide services London/Dubai-Europe meaning there is limited overlap between the carriers and a time disadvantage for using any future Qantas service via London.'

These factors led the ACCC to the preliminary conclusion that the alliance is unlikely to result in material public detriments through its effect on competition on international air passenger transport services between Australia and the Europe, which includes the route under consideration by the IASC.

A copy of this letter has been placed on the ACCC's public register entry regarding its consideration of applications for authorisation A91332-A91333 lodged by Qantas and Emirates.

The ACCC would be happy to provide the IASC with further information regarding its assessment of the alliance, or to provide any further assistance that the IASC would find helpful.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Shane Chisholm on (02) 6243 1036.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long horizontal line.

Dr Richard Chadwick
Acting Executive General Manager
Mergers and Adjudication Group