14 October 2016

Ms Marlene Tucker
Executive Director
International Air Services Commission
GPO Box 630
Canberra ACT 2601

Dear Ms Tucker,

Proposed code share arrangements between Qantas and Air Niugini

On 30 September 2016, Virgin Australia provided comments in relation to Qantas' supplementary application regarding the proposed code sharing arrangements with Air Niugini between Australia and Papua New Guinea (PNG). The Virgin Australia submission mischaracterises a number of important points.

The Australia–PNG market has unique characteristics which have guided the decisions of the Commission since it considered the code share arrangements between Qantas and Air Niugini in 2002. The Commission is aware of the circumstances surrounding Qantas' decision to cease its own services at that time and to maintain its presence via code share arrangements with Air Niugini. The Commission has continuously approved these arrangements since that time and in doing so has confirmed that public benefit has derived from the code share. Similar analysis underpins the Commission's approval of Pacific Blue Australia's code share with Airlines of Papua New Guinea in 2008.

Determinations by the Commission over fourteen years have been made under the overarching mandate for code sharing contained in the Agreement between Australia and Papua New Guinea relating to air services. The code share arrangements set out in the Agreement reflect the intention of both Governments that code share services be permitted. It is our understanding at no time in any of its Determinations has the Commission ever dealt with an application by ignoring the intent of an Air Services Treaty or Arrangement.

Ignoring the desire of both Governments in this case by denying the code share application would contradict previous Determinations of the Commission and the general principle successfully applied by the Commission of accommodating both the intent of the Treaties and the intent of the Minister's Policy Statement. Virgin Australia in its submission also references earlier Decisions of the Commission in respect of South Africa and Japan. The circumstances of both these Decisions are sufficiently remote from those currently being experienced in the PNG market for them not to form precedent and should not be part of the Commission's consideration.

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The presence of Qantas on the Brisbane–Port Moresby route is demonstrably in the public interest. Qantas' decision to enter this route is not dependent on the code share arrangements and stands on its own merit. The proposed code share arrangement of itself does not add additional capacity but simply allows the capacity to be used more efficiently.

The principle of using code share arrangements to improve efficiency within the constraints of the bilateral system is universal and can be found in hundreds of markets in multiple jurisdictions around the world. Virgin Australia acknowledges that code sharing, be it free sale or hard block, delivers public benefit in the form of lower tariffs, increased choice and frequency of service and product innovation. Taken together, the entry of Qantas to the route and the improved consumer benefits derived from the proposed code share arrangements outweigh concerns Virgin Australia may have about having to face new competition.

Hard block arrangements have operated for a number of years on routes between Australia and PNG. This has led to market distortions and is no longer appropriate. Services between Australia and PNG do not attract an even distribution of demand across the whole week and lack depth in product (limited tourism, leisure travel, VFR and instinctive travel decisions), meaning that mandated compulsory hard block conditions require the purchase by one code share partner of capacity it simply cannot use. The distorting effect of hard block code sharing would be alleviated by the introduction of free sale arrangements. Virgin Australia concedes the challenges created by hard block arrangements in its submission.

The Commission has previously accepted Air Niugini's potential vulnerability absent a code share relationship with an Australian partner airline. Air Niugini in its submission to the Commission again strongly makes this same point. Virgin Australia has challenged a number of Air Niugini's claims. In our view, there is little or no comparison between the structural challenges faced by Air Niugini and those faced by Virgin Australia in a simply more competitive market. We believe this is a material consideration and the Commission may wish to consult more broadly on this matter, including with Air Niugini itself.

Qantas believes it is important that code sharing be permitted on the Cairns–Port Moresby route. The absence of regulatory approval for code share arrangements when Qantas and Air Niugini operated independently on the route was a contributing factor in our subsequent withdrawal from the route. All of the benefits generated by code sharing, as previously outlined, would be available under the proposed arrangements.

Virgin Australia has included in its submission a Confidential Attachment which purports to reflect views of certain members of the business community. The Attachment should be made available to Qantas in order for us to access and comment if necessary. If that is not possible, the Attachment must be withdrawn and should not form any part of the Commission's deliberations.

Finally, we believe the imposition of commercially restrictive and administratively burdensome conditions in these circumstances would not be necessary. In Qantas' view, the application of conditions has contributed to the market distortions on the route and are not appropriate.

Yours sincerely,

Tony Wheelens
Executive Manager, International and Industry Affairs