



VIRGIN AUSTRALIA INTERNATIONAL AIRLINES PTY LTD
VIRGIN AUSTRALIA AIRLINES (SE ASIA) PTY LTD
PO Box 1034
Spring Hill QLD
Australia 4004
T +61 7 3295 3000

www.virginaustralia.com

22 January 2019

Ms Marlene Tucker
Executive Director
International Air Services Commission
PO Box 630
CANBERRA ACT 2601

Dear Ms Tucker */marlene*

Qantas Airways' application for variation – Hong Kong route

I refer to the application by Qantas Airways Limited (Qantas) for a variation of Determination [2015] IASC 115 (the Determination) to permit the utilisation of such capacity for code share services with Cathay Pacific Airways Limited (Cathay Pacific) on the Hong Kong route.

As the only other operator of flights between Australia and Hong Kong, Virgin Australia holds significant concerns the proposed variation of the Determination will result in an unnecessary expansion of both Qantas and Cathay Pacific's market power, to the detriment of the travelling public.

Qantas and Cathay Pacific currently dominate the Hong Kong route, holding a combined frequency share of 88% and a combined seat capacity share of 90%¹. In the 12 months ending October 2018, both airlines recorded passenger load factors exceeding 80% and together carried 92% of all passengers travelling between Australia and Hong Kong². Virgin Australia and Hong Kong Airlines carried the balance of passengers on the route, recording passenger load factors of 66% and 61% respectively during the period. Hong Kong Airlines withdrew from the Hong Kong route in October 2018, leaving Virgin Australia as the only other competitor in the market.

The application by Qantas is a transfer application as defined under section 4 of the *International Air Services Commission Act 1992 (Cth)* (the Act). For transfer applications, subsection 25(2) of the Act provides that the Commission must not make a decision varying the determination in a way that varies, or has the effect of varying an allocation of capacity, if the Commission is satisfied that the allocation, as so varied, would not be of benefit to the public. In assessing benefit to the public of a variation of an allocation of capacity, section 26 of the Act specifies that the Commission must apply the criteria outlined for that purpose in any policy statements made by the Minister.

Paragraph 18 of the International Air Services Commission Policy Statement 2018 (the Policy Statement) contains the criteria relevant to the assessment of whether a transfer application would not be of benefit to the public for the purpose of subsection 25(2) of the Act. Under this paragraph, the Commission is empowered to have regard to any of the additional criteria contained in paragraph 9 of the Policy Statement which it considers are relevant to a transfer application. These

¹ Northern Winter 2018-19 International Airlines Timetable Summary.

² Bureau of Infrastructure, Transport and Regional Economics, International Airline Activity, 12 months ending October 2018.



include matters concerning competition, tourism, trade, relevant information from Australian Government agencies, as well as any other matter or consideration that the Commission considers to be relevant.

On a route which is overwhelmingly dominated by two carriers, as is the case for Hong Kong, Virgin Australia anticipates that the Commission would consider it necessary to assess the additional criteria as part of conducting a comprehensive review of a transfer application, to determine if the proposed variation as whole would be of benefit to the public.

Qantas' application does not provide sufficient information to allow interested stakeholders, including Virgin Australia and the Australian Competition and Consumer Commission, to properly assess and comment on the potential impact of the expansion of its code share arrangement with Cathay Pacific. In particular, the application does not contain any information as to the basic scope of the proposed cooperation between the two carriers, such as:

- the city pairs served by Qantas on which Cathay Pacific will place its code;
- whether reciprocal code share services are in prospect, including on city pairs served by both carriers; and
- whether the code share arrangement will be of a free sale or hard-block nature.

Notwithstanding the paucity of information in Qantas' application, any strengthening of the cooperation with Cathay Pacific is likely to increase the market power that the two carriers individually and collectively hold on the Hong Kong route. This would inevitably diminish the competitive forces in the market and may lead to higher airfares and reduced choices for customers, with corresponding implications for Australian tourism and trade. These matters should be assessed transparently by the Commission, in accordance with the Act's object of enhancing the welfare of Australians by promoting economic efficiency through competition in the provision of international air services.

On its face, Virgin Australia objects to the application. If Qantas provides further information in support of its application, Virgin Australia would appreciate the opportunity to lodge a substantive submission with the Commission in response.

Should you have any further queries or wish to discuss this matter, please contact me on 02 8093 7114.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Lee-Anne Tomkins".

Lee-Anne Tomkins
Head of Government & International Relations

Cc: Mr Cameron McKean, Deputy General Manager, Australian Competition and Consumer Commission