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24 January 2024

Jasmina Ackar
Director
International Air Services Commission
CANBERRA ACT 2601

By email: jasmina.ackar@infrastructure.gov.au

Dear Ms Ackar

Re: Allocation of capacity to and from Indonesia

I refer to your emails of 19 December 2023 and 12 January 2024 inviting the Australian Competition and Consumer Commission (ACCC) to provide comment on the International Air Services Commission's (IASC) decision on competing applications for capacity to and from Indonesia. We thank the IASC for the opportunity to provide our views.

The ACCC's role in aviation

As you would be aware, the ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The ACCC's primary responsibilities are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the Competition and Consumer Act 2010 (CCA), regulate national infrastructure and undertake market studies.

In fulfilling these responsibilities, the ACCC will on occasion have the need to consider a matter related to the aviation industry. Of greatest relevance to the work of the IASC is the ACCC's assessment of applications from airlines seeking authorisation that would enable them to coordinate behaviour. For example, the ACCC may authorise two airlines coordinating behaviour on an international route where the public benefit was considered to outweigh any harm to competition.

The ACCC also has a number of specific functions in relation to the aviation industry. These functions include:

- monitoring and reporting on domestic air passenger services under Part VIIA of the CCA
- monitoring and reporting on Brisbane, Melbourne, Perth and Sydney airports under Part VIIA of the CCA and Part 8 of the Airports Act 1996
- the assessment of price notifications by Airservices Australia and Sydney Airport (regional services) under Part VIIA of the CCA.

The applications for capacity

The ACCC understands that the IASC received an application from Qantas on 17 November 2023 requesting the allocation of 2,320 seats of capacity to enable its wholly-owned subsidiary Jetstar to launch services between Australian and Indonesia in both May and August 2024. The proposed services would be Cairns-Melbourne-Denpasar and Adelaide-Perth-Denpasar.

On 12 December 2023 the IASC received an application from Virgin Australia for an allocation of 2,464 seats per week on the Indonesian route. Virgin Australia wishes to provide services connecting Adelaide-Perth-Denpasar and Gold Coast-Perth-Denpasar.

The ACCC understands that:

- in circumstances where the IASC receives more than one application for allocation of available capacity, the IASC must make the allocation that the IASC is satisfied would be of the greatest benefit to the public¹; and
- the International Air Services Policy Statement 2018 (Policy Statement) states that, in assessing the benefit to the public, the IASC is to have regard to whether the applicant is reasonably capable of using the allocated capacity, as well as other criteria it considers to be relevant, including criteria associated with competition and tourism and trade.²

Comments relating to the competition criteria

In order to assist the IASC with its assessment of competing applications, the ACCC provides the following observations with respect to the competition criteria set out in section 9 of the Policy Statement and competition principles more generally. These observations are based on information provided to the IASC by the applicants in support of their application, including the calculations of each carrier's share of capacity under each of the proposals – the ACCC has not undertaken further investigations.

The comments below are primarily based on a scenario in which the IASC chooses one proposal in its entirety. The ACCC is happy to discuss further if the IASC was minded to determine a combination of capacity between the two applicants.

Fostering a competitive environment and the distribution of capacity

Item (a) of the competition criteria refers to the desirability of fostering an environment in which Australian carriers can effectively compete. Relatedly, item (b) refers to the number of carriers operating on the route and the distribution of capacity among Australian carriers.

The ACCC considers that the proposal from Virgin Australia would appear to be more conducive to fostering a competitive environment, and a broader distribution of capacity, than the proposal from Qantas. A broader distribution of capacity is likely to promote a greater degree of competition between carriers providing services between Australia and Indonesia than a situation where a single carrier supplies a high proportion of the available capacity.

An additional allocation of capacity to Jetstar would increase the level of concentration of capacity amongst the Australian providers of services on the route. As set out in the Qantas

¹ Section 7(2)(b), *International Air Services Commission Act 1992* (Cth)

² Section 13(2)(b), *International Air Services Commission Policy Statement 2018*

submission³, Jetstar operated the largest number of seats between Australia and Indonesia during the year ending September 2023 with 43.4%. The Qantas Group combined—comprising both Jetstar and Qantas—operated 54.8% of seats on the route. In contrast, Virgin Australia operated 14.7% of seats during this time.

Analysis of the specific origins and destinations that each airline proposes to service with their respective proposals also appears to suggest that the Virgin Australia proposal would be more conducive to competition.

This is most evident regarding connections between Perth and Denpasar. At present, Jetstar is the only Australian-based carrier flying between Perth with Denpasar, which it does through approximately 3-daily services. The Qantas proposal would further solidify Jetstar's dominance on this route with a further 5 flights per week. In contrast, the Virgin Australia proposal would introduce Australian-based competition between the two destinations with a meaningful 14 flights per week.

Both sets of proposals would result in the provision of additional services between Adelaide and Denpasar, as both airlines already fly between these locations. The additional 5 flights per week proposed by Jetstar would extend its dominance of the route, with the airline operating 2-daily flights and accounting for 69% of the Australian capacity in 2023. In contrast, the 7 flights per week proposed by Virgin Australia would reduce this level of concentration and promote competition.

The Qantas proposal would result in Jetstar providing an extra 7 services per week between Denpasar and both Cairns and Melbourne. These services would extend Jetstar's dominance on both routes. Jetstar currently provides 3 flights per week between Denpasar and Cairns and accounts for 100% of Australian capacity. Jetstar currently provides 72% of Australian capacity between Denpasar and Melbourne.

While the primary impact of the IASC's decision on this matter will naturally relate to the supply of international air services, it may also have consequences for competition in domestic air services. In recent years the ACCC has expressed concerns about the level of competition in domestic air services whereby the Qantas Group has generally accounted for approximately 60% of passengers and a higher proportion of industry profits.⁴

The proposal from Virgin Australia would result in the airline becoming a new competitor to Jetstar on the Gold Coast-Perth route. In its June 2023 report on domestic air services, the ACCC reported that the Gold Coast-Perth route was by far the least recovered from the COVID-19 pandemic of the 22 routes connecting larger cities, with a little over 50% of the passengers in April 2023 compared to April 2019.⁵ This was despite Gold Coast and Perth figuring prominently amongst routes that had recovered the strongest.

Further, the ability of an airline to offer international services can drive demand for airline loyalty programs, which in turn can improve the competitive position of an airline on domestic routes. Virgin Australia's proposal would result in the airline's first international service in Western Australia after the pandemic. In its submission, Virgin Australia said that this would support the competitiveness of its domestic services and Velocity frequent flyer program compared to the Qantas Group.⁶

³ [Qantas letter to IASC providing additional information](#), 8 January 2024

⁴ ACCC, [Airline competition in Australia – June 2023 report](#), June 2023, page 23.

⁵ *Ibid*, page 15.

⁶ [Virgin Australia letter to IASC providing additional information](#), 8 January 2024

The likely impact on consumers including airfares and customer choice

Item (c) of the competition criteria refers to the likely impact on consumers of the proposed allocation of capacity, including with respect to airfares, customer choice, product differentiation, innovation and frequency of service.

In the aviation sector, like the broader economy, competition generally leads to better outcomes for consumers. When faced with the threat of losing customers to rival firms, companies have greater incentive to respond to consumer needs with respect to their product design, prices and customer service. It can drive innovation in new services and more efficient ways of operating.

As set out above, it appears that Virgin Australia's proposal would be more conducive to competition. In particular, this proposal would introduce Australian competition between Perth and Denpasar, as well as reduce Jetstar's dominance on services between Adelaide and Denpasar. It would also introduce competition for domestic connections between Gold Coast and Perth.

The ACCC anticipates that this new competition would likely result in better outcomes for passengers through lower prices and improved services.

Passengers wishing to fly between the relevant destinations are also likely to benefit from greater choice under the Virgin Australia proposal. While many passengers may prefer the Jetstar product offering with a focus on low airfares, others may prefer the Virgin Australia product offering including business class and Economy X seats, or otherwise be attracted to Virgin Australia because of membership with the Velocity frequent flyer program. Virgin Australia's proposal would result in more people having a choice between these product offerings.

People wishing to fly between the Gold Coast and Perth would also likely benefit from additional direct services. The ACCC notes the submission to this process from Queensland Airports Limited which describes the Gold Coast-Perth route as being 'historically underserved'.⁷ It said that while 280,000 passengers per annum travel between Perth and the Gold Coast/Northern New South Wales catchment, in 2022 only 11% of this volume was on the direct Jetstar service. In contrast, 74% of the passenger volume instead travelled on direct services to or from Brisbane.

Relevant decisions by the ACCC in relation to the route

Item (f) of the competition criteria relates to any determinations, decisions or notifications made by the ACCC, or any determination made by the Australian Competition Tribunal, in relation to an Australian carrier using capacity on the route.

The ACCC notes the following two decisions although they do not appear to be directly relevant to this matter.

On 11 February 2022, the ACCC decided to grant re-authorisation to enable Singapore Airlines Limited and Deutsche Lufthansa AG to coordinate on the provision of scheduled air passenger services on routes between 34 countries in Europe (the Lufthansa Home Markets) and 7 countries in Asia/Oceania (the Singapore Home Markets) pursuant to a Joint

⁷ [Queensland Airports Limited letter to the IASC](#), 12 January 2024.

Venture Framework Agreement. The Singapore Home Markets include Singapore, Australia, Indonesia and Malaysia.⁸

On 19 April 2023 the ACCC granted re-authorisation to Qantas Airways Ltd and Jetstar Airways Pty Ltd for the continued coordination of two Jetstar Asian-based joint ventures and, in certain circumstances, between Jetstar Japan and Japan Airlines.⁹ Jetstar Asia provides services between Singapore and Bali (Denpasar).

I hope this submission assists you in your consideration of the applications for capacity from Qantas and Virgin Australia.

If you wish to discuss any aspect of this submission further, please do not hesitate to call David Cranston on (03) 9290 1971.

Yours sincerely



Katie Young
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Infrastructure and Transport - Access and Pricing

⁸ <https://www.accc.gov.au/system/files/public-registers/documents/Final%20Determination%20-%202011.02.22%20-%20PR%20-%20AA1000580%20Singapore%20Lufthansa.pdf>

⁹ ACCC, ACCC re-authorises coordination between Jetstar's Asian brands, media release, 19 April 2023.