

23 January 2024

Ms Jasmina ACKAR
Director
International Air Services Commission
GPO Box 630
CANBERRA ACT 2602

Via email: Jasmina.Ackar@infrastructure.gov.au

Dear Ms Ackar,

APPLICATION FOR CAPACITY – INDONESIA ROUTE

I refer to Qantas Airways Limited's (**QAN**) and Virgin Australia's (**VOZ**) cross applications for allocation of additional seats for the Indonesia route. Set out below is my submission in relation to these two applications.

In summary my submission is that the International Air Services Commission (**IASC**) should approve VOZ's application in preference to QAN's and, in the alternative, if the IASC is minded to prefer QAN's application it should be for a period of no longer than two years and on the basis that this is a closed end determination addressing the presumption in favour of renewing a determination for the following reasons:

Competition

The Minister's Policy Statement (**the Statement**) at paragraph 6(2) required the IASC to promote economic efficiency through competition.....by fostering and encouraging and supporting competition in the provision of international air services by Australian carriers.

QAN's share as a percentage of seats to and from Indonesia for the period October 23 to September 24 was 48.7%¹. The grant of additional capacity would give QAN over 50% of the market which entrenches QAN's dominance of this market. Such dominance is not good for competition nor is it good for consumers either in the short or long term. It denies VOX the ability to build scale to effectively compete against QAN. It does not foster an environment in which Australian carriers, viz; VOX and QAN, can effectively compete against each other which is contrary to paragraph 9(d) of the Statement. QAN has not addressed this issue in its application or supplementary submission.

The IASC should be mindful that VOX has emerged from Administration having had to make substantial changes to its business model including reduction in international services. VOX is now adequately capitalised and is reintroducing international services. VOX's forecast growth in international services is relevant to QAN's application.

¹ QAN Additional Information 8 January 2024.

If QAN's application is granted, it in effect, by reason of paragraph 8(2)(a) of the Act receives this additional capacity effectively on a permanent basis. 8(2)(a) provides QAN with a presumption of renewal in favour of it and shifts the onus to another airlines which wishes to challenge this right to argue that the grant is no longer in the public benefit.

Having regard to QAN's dominance of this market conferring such a benefit does not foster an environment of competition.

It may well be that VOX is able to continue to re-enter the market for international air services including Indonesia. However, if this capacity is awarded to QAN as VOX is rebuilding its capacity it denies VOX this future opportunity. An alternative is to grant QAN a time limited increase in capacity with the caveat that there is no presumption of renewal. However, the Act does not appear to allow such an outcome.

Reasonable Capacity

QAN's Additional Information (**AI**) states that it will commence services from May 2024 using Airbus A321LR (**A321**). It refers throughout AI to the characteristics of A321 in support of Section 9 Statement criteria.

As at the time of this submission Qantas did not list this aircraft on its Fleet page of its website <https://www.qantas.com/au/en/about-us/our-company/fleet.html>

That is at the time of making their submission QAN had no A321 operational in either its or Jetstar's fleet. Less than three months' prior to its application, QAN issued a press release on 24 August 2023 titled "Qantas orders more aircraft for international fleet". Qantas said in that press release:

"Jetstar's 18 Airbus A321LRs are on track to enter the fleet by the end of calendar year 2024 (emphasis mine), with a further 20 A321LRs and A321XLRs set to be delivered by calendar year 2029."

<https://www.qantas.com/agencyconnect/au/en/agency-news/agency-news-august-23/qantas-orders-more-aircraft-for-international-fleet.html>

QAN's statement in the AI is at odds with the dates for A321 delivery in its press release.

Further confusion arises about delivery dates of the A321. Journalist Julie Miller reported in The SMH on 22 August 2023 following a flight to Bali provided by Jetstar:

"By the end of 2024, Jetstar plans to replace the current Dreamliners with new Airbus A321neo aircraft on its Bali route, which will not have a business class offering".

The IASC should require QAN to clarify this and provide firm dates and evidence, including timelines for seeking and receiving approvals, on when the A321 will be operational for this route.

If IASC is minded to grant QAN's application it should be condition upon operating the A321s.

I note that Jetstar has failed in the past to obtain approvals to land in Denpasar.

<https://www.theguardian.com/world/2022/dec/28/jetstar-flight-to-bali-forced-to-make-u-turn-after-last-minute-plane-swap-miscommunication>

Section 9 Criteria

QAN claim that "Jetstar has been democratising travel for 19 years". This may be their assessment, however, this was not QAN's reason for introducing a low cost carrier. Rather it was in response to competition for Virgin Australia. QAN's former CEO was quoted in Simply Flying on the reasons for Jetstar:

"Virgin Australia was a hybrid model at one stage when Brett Godfrey ran it, and it was a pretty successful airline for that decade, and it made a lot of money," said Mr Joyce.

"We've always said that when competition challenges Qantas, it raises its game.

"When Virgin first started in the market, we were challenged by that, and it forced us to create Jetstar, which we did in 2004.

<https://simpleflying.com/virgin-australia-forced-qantas-jetstar/>

If anything the then Virgin Australia was responsible for democratising Australian travel. Its entry forced QAN to offer lower fares, something which until then it did not offer and would not have done unless faced with competition post collapse of Ansett.

Ironically, it was in June 2017 that the former Jetstar CEO and now current VOX CEO who appears to have first made the remarkable claim that Jetstar had democratised air travel

"In Australia and throughout Asia, Jetstar has helped democratise air travel – delivering massive economic benefits along the way."

<https://newsroom.jetstar.com/jetstar-group-ceo-jayne-hrdlicka-speaks-at-amcham-in-melbourne/>

The IASC should place no weight at all on this unsupportable claim.

QAN claim that "based upon average fare data, Jetstar's fares are significantly lower than its competitors. They provide no evidence to support this bald claim. The IASC should require QAN to substantiate their claim. One notes QAN's qualification that it is average fare data. This qualification in itself, should also enliven a further request for data.

Using Webjet to search for economy airfares for Melbourne to Denpasar return on the following dates Jetstar's airfares are not significantly lower than Virgin's. If anything they are marginally cheaper which does not suggest that additional capacity allocated to Jetstar will place further downward pressure on airfares as QAN claim

In all cases Jetstar's cheapest flight, that is the starter flight which has no checked luggage is cheaper but once luggage is booked this is not the case.

Virgin's checked in luggage allowance is 23kg for these fares while the higher Jetstar fare has 3kg less luggage at 20kg.

Leg and date	Jetstar	Virgin	Remarks
Mel – Dps 4/6/24	Dep 6.25 am \$404 or \$451 Dep 5.40pm \$324 or \$371	Dep 10.20am \$418 Dep 5.30pm \$342	Higher Jetstar fare with check in luggage
Dps – Mel 13/6/24	Dep 2.55pm \$441 or \$488 Dep 11.10pm \$321 or \$368	Dep 3.50pm \$427 or \$484 Dep 11pm \$369	Higher Jetstar fare with check in luggage

I note that at the time of search Virgin were offering fares on sale.

It would appear that if one wants checked in luggage Virgin represents better value for money.

It would also appear that under Jetstar's fare rules, the cheapest fare known as the starter fare does not have an option to purchase an inflight meal and requires pre-booking whereas no Virgin fare has this limitation. I also note that when booking the Jetstar Starter fare there is no pop-up warning passengers about this prohibition, which isn't very democratic.

<https://www.jetstar.com/au/en/help/articles/in-flight-meal-deal-terms-and-conditions>

In the Impact upon the cost of airfares section argue that their fare structure:

- Provides great choice – which it does between carryon only and checked luggage;
-
- Stimulate more demand – QAN provides no evidence to support this argument;
- Drive efficiencies at airports to support customer service functions – again QAN provides no evidence to support this. It is it is hard to understand how it is possible their fare structure can drive airport efficiencies to support customer functions and what this would look like. It is a nonsense statement.

QAN also refer to Jetstar's "Price Beat Guarantee" which they claim "underlines the airline's commitment to offering passengers the lowest possible internet fares". This is not the case as a guarantee is highly conditional applying to only one of six airfares offered by Jetstar. The Jetstar comparable airfare must be:

- *an Economy Starter fare, direct and one-way. We won't price beat our other fares - Economy Starter Plus, Economy Starter Max, Flex, Business Class and Business Class Max fares.*

If Jetstar was serious about its commitment it would offer this guarantee on all fares.

QAN also state that lounge facilities are included in some Jetstar fares. It should be noted that this is not relevant to its application as the service for which they seek approval has no business class. So there is no lounge access for passengers on this route.

Product Differentiation

QAN have made submissions on product differentiation (Section 9c of the Statement). A number of this warrant comment.

QAN identify the features of the A321, which they assert "significantly enhance" customer inflight experience including larger overhead storage lockers and in-flight digital streaming.

Whilst larger lockers are useful, Jetstar is not proposing to increase the carry-on luggage limits. Jetstar will use this additional capacity, as European airlines have to sell additional carry-on luggage entitlements. Similarly, the in-flight digital streaming comes at a cost to passengers. It is not free.

It is hard to understand how these two revenue raising opportunities significantly enhance customer experience. To the contrary, they enhance Jetstar's bottom line.

Stimulation of Innovation

QAN refer to JetStar's Fare Credit noting that CarTrawler reported that in 2023 it was one of eight new ideas by airlines over the globe.

What QAN have omitted to mention is that Jetstar has a commercial relationship with CarTrawler. This is not an independent, arms' length assessment and should be treated as such. Interestingly, at least three of the other airlines featured as innovators also have commercial relationships with CarTrawler. This assessment is worthless by reason of the conflict arising from the commercial relationship.

Whilst QAN seeks to portray this as an innovation in the context of customers, the title of the report reveals whom this "innovation" benefits. The title is "Airline Revenue Innovations".

In terms of the Fare Credit itself, it should be noted that the credit has a very short life – only three months. This is not disclosed to consumers when offered and is, as

one unfortunately expects, buried in the T&Cs. Given that Jetstar is primarily a leisure airline one would have to question how a consumer in receipt of the 90 day Fare Credit would be able to take additional leave to use this credit.

QAN refer to Club Jetstar as providing additional value. They assert that it has saved members \$32m in 2023. I note that the 365,000 members² paid a total of \$20m in membership fees for the same period. QAN have not provided details of how this sum was calculated. The IASC should request QAN to substantiate this.

I note that one of the benefits is early access to flight sales. What is not clear is if savings through early access have been counted toward the \$32m. If this is the case, this is not really a saving as the public generally have access to these flight sales sometime after Club Jetstar members.

Conclusion

It is for the reasons above that the IASC should deny QAN's application and grant VOX's. QAN's submission make assertions that are not supported by any evidence and in many cases are selective and omit important qualifications.

Yours sincerely

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² QAN Additional Information 8 January 2024.