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Qantas Airways Limited (Qantas) and Emirates Application to the New Zealand Minister of Transport pursuant to Part IX of the Civil Aviation Act 1990 for Authorisation of a Master Coordination Agreement dated 10 September 2012

1. The Minister of Transport (MOT) has invited submissions in respect of the Applicants' request for authorisation of the Master Coordination Agreement (the **Agreement**). Air New Zealand (**Air NZ**) makes this submission, and has also submitted on the Applicants' parallel application to the ACCC.

Air New Zealand's Position on Alliances Generally

2. As a general proposition, Air NZ supports alliances between air carriers. Alliances are strategically important to New Zealand, and will be increasingly important in the development of Air NZ's own international network and in the accessibility of long haul destinations to and from New Zealand. Air NZ therefore understands the basis on which the Applicants are seeking to establish this proposed alliance.

3. As Air NZ and Virgin Australia (Virgin) submitted to the MOT in 2010 in respect of their Australasian Airline Alliance[1], there has been an increasing trend towards consolidation in the international aviation industry in a bid by airlines to be more efficient, particularly in the face of rising costs. Alliances generally increase competitive intensity by improving distribution, market access and providing domestic connections in non-source markets.

4. As there are significant limitations on the ability of international airlines to merge, in particular because of bilateral ownership and control restrictions, airline cooperation most often takes the form of alliances.

[1] See Air NZ and Virgin's Application to the MOT for Authorisation of the Air NZ and Virgin Blue Australasian Airline Alliance dated 10 May 2010 para 2.4.

Geographic Scope of the Proposed Alliance and Market Analysis

5. The proposed integrated alliance clearly has Qantas' long-haul survival at its core[2]. As such, the long-haul routes ex Australia make sense in terms of the geographic scope of the proposal. The rationale for including the Tasman within the scope of the proposal is less clear cut. Air NZ estimates that only 25%[3] of traffic on the Applicants' trans-Tasman services is to or from markets beyond Australia. Further, the focus of the Applicants' public statements since their submission has been on the difficulties encountered on their long haul network ex Australia. For example, Alan Joyce, Qantas CEO, in his address to the National Press Club dated 9 October 2012 did not once refer to the Tasman market.

6. Air NZ questions whether inclusion of the Tasman in the geographic scope of the alliance is necessary or even appropriate. In particular, Air NZ has the following concerns:

   a. Is coordination required on trans-Tasman routes to achieve the consumer benefits claimed in that market?

   b. What is the role Jetstar has in the proposal and whether the purported benefits exist in relation to Jetstar?

      - Jetstar operates 21.6% of the Applicants' trans-Tasman capacity, which is 31.1% of the combined Qantas group Tasman capacity.
      - It is not clear from the proposal what the relationship between Emirates and Jetstar will be. How will customer benefits will be delivered as a result of capacity and price coordination between Emirates and Jetstar?
      - The Jetstar business model does not 'fit' well with the proposal. The application focuses on premium/high yield traffic with reference to a "seamless premium global air services operation". Jetstar is not focused on premium/high yield traffic and the Jetstar model does not naturally lend itself to connectivity or a seamless global operation;

   c. Would approval of the proposal diminish the already weak incentives on Emirates to carry traffic from the Middle East or Europe to New Zealand as opposed to 7th freedom Australia-New Zealand traffic?

      - Australia-New Zealand traffic currently accounts for an estimated 70%[4] of Emirates' Tasman traffic notwithstanding the underlying capacity principles in the UAE NZ Air Services Agreement are squarely aimed at building Middle East-New Zealand traffic.
      - Emirates is not incentivised currently, or under the Alliance, to grow long haul traffic. Greater revenue can be earned by carrying passengers point to point on individual sectors, rather than on long haul through fares. The following tables show the lead in fares currently available on the Applicants' services

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2 See the submission at page 13, section 3.2, para 2, where the Applicants state that "for many years Qantas International has been in terminal decline and has been supported by other profitable Qantas's businesses (QF Domestic, QFF and Jetstar) ...".

3 PaxIS Plus FY12

4 PaxIS Plus FY12

for travel from Auckland to London, and the lead in sector fares for the same journey.

Qantas

	NZD
AKL-SYD	440.00
SYD-SIN	776.99
SIN-LHR	1965.30
TOTAL	**3182.29**
AKL-LHR	**2430.00**

Emirates

	NZD
AKL-SYD	414.00
SYD-DXB	2081.23
DXB-LHR	981.33
TOTAL	**3476.56**
AKL-LHR	**2399.00**

Flexibility of the Scope of the Proposed Alliance

7. Air NZ opposes the open ended nature of the application. It would be unprecedented for the MOT to approve an alliance that includes 'yet to be defined' activities or future expansion of existing activities.

8. Air NZ also considers that the Minister is not capable of making a decision pursuant to s.88 of the CAA where an agreement is so open ended.

9. Inappropriately vague components of the proposal include.

   a. at p.18, section 4, second paragraph the Applicants propose that "the exact scope of the proposed conduct may change" and that "the applicants may commence code sharing on Jetstar"

   b. at p.18, table 4, the Applicants refer to routes such as "Australia to any destination", and "Australia to Dubai (including any intermediary point)"

   c. at p.18, table 5 the applicants refer to routes such as "Dubai to any point in Australia (including via any intermediary point)" and "Dubai to any destination via Australia".

Capacity Commitment / Capacity Conditions

10. The Applicants have proposed a capacity commitment for their Tasman operations. This mirrors the capacity conditions proposed to the ACCC. Capacity conditions have been used as an appropriate response to an uncertain balance of benefits and detriments. However, in the longer term, minimum capacity conditions covering all of the major players in the market could distort markets and even act as a barrier to entry. Where benefits are proven, markets operate best through competitive forces.

Comments on statements in the Application

11. Air NZ makes the following comments on specific statements included in the application:

   a. P.24, section 6.4, 2nd para - the Applicants state that Emirates offers limited constraint on Qantas group on the Tasman and that there is limited price competition between them. However, Qantas stated in its meeting with the ACCC on 27 October 2010 in respect of the Air NZ / Virgin Alliance that

"Emirates operates as a constraint at a fare level and adds a significant amount of capacity to some trans-Tasman routes. It is an attractive alternative for leisure passengers and those business passengers who have the flexibility to take advantage of Emirates' schedule".

b. P.28, section 6.7, 7th para - the Applicants state the Proposed Conduct will result in the Applicants having a 39.6% share of total passengers on the Tasman. Passenger share can easily change over a short time and hence capacity is a more appropriate measure of market power. As per the table below, the proposed alliance would hold 45.8% of Tasman capacity, with the Air NZ/Virgin Alliance on 50.1%.

		FY12
NZ	Air New Zealand	34.9%
DJ	Virgin Australia	15.2%
AR	Aerolineas Argentinas	0.9%
CI	China Airlines	1.2%
EK	Emirates	14.0%
JQ	Jetstar	9.9%
LA	LAN Airlines	2.0%
QF	Qantas Airways	21.9%
Total	Total	**100.0%**

NZ+DJ	Virgin / Air NZ Alliance	50.1%
QF+JQ	Qantas Group	31.8%
QF+JQ+EK	Proposed Qantas/Emirates	45.8%

Source: BITRE: International Airlines operated flights and seats; Data to June 2012

Notes: Financial year is July 1 - June 30
Air New Zealand (NZ) data excludes flying to Norfolk Island (NLK)
Aerolineas Argentinas (AR) ceased operating on the Sydney-Auckland route on 2 July 2012.

c. P.31 section 6.9, point (g) – the Applicants state that overlap between Qantas and Emirates appears on only four of the 22 trans-Tasman routes. This may be so but those four routes constitute 65.1% of the total Tasman capacity.

d. P.11, section 2.3(b) - Qantas appears to be exiting its integrated alliance with BA as a result of the proposed alliance with Emirates. BA has an extensive network which Qantas and BA made much of in the various applications to the ACCC (and presumably the MOT). This has important implications for the appropriate reference point to measure the claimed benefits of the proposed Agreement against the BA alliance.

e. P.25, section 6.5, para 7 – as a participant of the Star Alliance Corporate, Meetings and Conventions Plus suite of products, Air NZ would like to highlight that the level of coordination that can be achieved is not equivalent to the proposed conduct of the Applicants and should be assessed with that in mind. The MOT will be familiar with these products, but in summary, the participants of these products submit a coordinated discount through a lead carrier and Star. The fares themselves are not coordinated, and there is no coordinated discussion on routes and network connectivity other than normal bilateral arrangements between carriers under their specific codeshare arrangements, and there is no sharing of revenue. Each participant is free to compete against the other members if it chooses and it is not obliged to participate in the Star bidding process.

Impact on the Cargo Market

12. According to the Application, at Annexure I, the Applicants currently have a 44% combined share of the trans Tasman market. With access to each others capacity the proposed alliance is likely to target the premium long-haul markets given they offer good connectivity on these services. Targeting premium long-haul traffic may lead to the reduction in available capacity for trans-Tasman cargo which tends to fly at very low margins. This could lead to capacity constraints on the trans-Tasman services with consequent impacts on both Australian and New Zealand exporters.

Further engagement

13. Air NZ is happy to provide any information or discuss any of these issues further with the Ministry as it conducts its assessment.

Yours sincerely

John Whittaker
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