



AIR CHINA/AIR NEW ZEALAND ALLIANCE APPLICATION: FINAL ADVICE AND CABINET PAPER

Reason for this briefing	We seek your agreement to authorise the alliance between Air China and Air New Zealand until 31 March 2021. We have also attached a Cabinet paper, advising your Cabinet colleagues of your decision.
Action required	Agree to sign the attached Cabinet paper.
Deadline	Thursday 20 August 2015
Reason for Deadline	This is the deadline for lodging papers with the Cabinet Office for consideration at the Cabinet Economic Growth and Infrastructure Committee meeting on 26 August 2015

Contact for telephone discussion (if required)

Name	Position	Telephone		First Contact
		Direct Line	After Hours	
Sam Ponniah	Adviser			✓
Sonya van de Geer	Principal Adviser			
Glen-Marie Burns	Manager, Aviation & Security			

MINISTER'S COMMENTS:

Date:	18 August 2015	Briefing Number:	OC03329
Attention:	Hon Simon Bridges (Minister of Transport)	Security level:	In-Confidence

Minister of Transport's office actions

- | | | |
|----------------------------------------------|------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> <i>Noted</i> | <input type="checkbox"/> <i>Seen</i> | <input type="checkbox"/> <i>Approved</i> |
| <input type="checkbox"/> <i>Needs change</i> | <input type="checkbox"/> <i>Referred to</i> | <input type="checkbox"/> <i>Overtaken by events</i> |
| <input type="checkbox"/> <i>Withdrawn</i> | <input type="checkbox"/> <i>Not seen by Minister</i> | |

Purpose of report

1. This briefing provides you with our final advice on the application by Air New Zealand and Air China (the applicants) for authorisation of a strategic alliance (the alliance). We have also attached our more detailed analysis of the application at Appendix 1.
2. We have attached a Cabinet paper to the Cabinet Economic Growth and Infrastructure Committee, which notes your decision (Appendix 2 refers).

Background

3. As you are aware, Air New Zealand and Air China have applied for authorisation of a strategic alliance. Under the proposed alliance, the applicants intend to code-share¹, coordinate capacity and pricing, and share their revenues on direct services between New Zealand and China. This includes Air New Zealand's current daily service between Auckland and Shanghai and a proposed new daily service by Air China between Auckland and Beijing.
4. The applicants intend to code-share and coordinate pricing, but not share revenue, on domestic services in New Zealand and China that connect to an international service between both countries.
5. The applicants have indicated they are seeking authorisation until 31 March 2021, a period of approximately 5 years and 4 months from when the Auckland-Beijing service commences. This term coincides with the end of the peak scheduling period in 2020/21.

We recently advised you that our preliminary recommendation was to authorise the alliance

6. We recently provided you with a summary of our analysis of the alliance, including a preliminary recommendation that you should authorise the alliance until 31 March 2021. We could not provide you with a final recommendation as we had yet to receive two implementing agreements for the alliance. These were:
 - 6.1. A revenue share agreement that sets out how the applicants intend to divide the revenue they earn on alliance services between New Zealand and China (Auckland-Shanghai and Auckland-Beijing). We needed to assess the revenue share agreement to ensure it did not shift our assessment of the likely impact of the alliance.
 - 6.2. A code-share agreement that sets out the details of how the applicants will cooperate in offering services to passengers who have purchased tickets through the other airline. We needed to assess the code-share agreement to ensure it met statutory criteria in the Civil Aviation Act 1990 (the Act) to be capable of authorisation.
7. We have now received and assessed these two implementing agreements and are in a position to provide you with a final recommendation.

We have not identified any statutory issues with the agreements

8. We have assessed both the code-share and revenue share agreements and concluded that these, along with the main alliance agreement, are capable of authorisation under the Act. However, as we have previously advised you, you are not obliged to authorise an alliance solely because it meets the statutory criteria in the Act. Your decision can take into account any factors you consider are likely to impact on the public interest.

¹ Code-sharing allows airlines to sell seats on each other's flights and agree on how schedules and fares are set.

19. We remain confident that this term will mitigate any risk that the applicants will engage in anti-competitive behaviour while providing them with sufficient time and confidence to invest in integrating and expanding their operations.

An early decision would provide the applicants with sufficient sales lead-in time for the new Auckland-Beijing service

20. The airlines have requested that a decision be made on or around 24 August 2015 in order to enable a sufficient sales lead in period
. This timeframe is around 5 months from the date you received the application and would be slightly shorter than previous alliance decisions that have normally been made 6 months after receiving the application.
21. We do not consider it feasible to meet the applicants' preferred timeframe, particularly given they were only recently able to provide us with the alliance implementing agreements to enable us to finalise our advice.
22. However, since our recommendation is that you authorise the alliance, we consider it to be in the public interest to ensure a decision can be made as soon as possible. An early decision would provide the applicants with sufficient time and certainty to successfully market the new Auckland-Beijing service.
23. We consider that the earliest possible date to announce your decision is the week of 31 August 2015. This would provide sufficient time for you to take a paper to the Cabinet Economic Growth and Infrastructure Committee on 26 August and for Cabinet to note your decision on 31 August.

We have prepared a noting paper for you to take to the Cabinet Economic Growth and Infrastructure Committee

24. We have attached a draft Cabinet paper at Appendix 2 for your consideration. We consulted Treasury, the Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment and the Department for Prime Minister and Cabinet on the content of the Cabinet paper.
25. We are proposing that you lodge the attached Cabinet paper with the Cabinet Office for consideration at the Cabinet Economic Growth and Infrastructure Committee meeting on 26 August 2015.
26. We will provide you a final briefing for your signature once Cabinet has considered the paper. This will be the instrument through which you authorise the alliance.
27. We will also provide your office with a draft media statement, announcing your decision.

Recommendations

28. The recommendation is that you:

- | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| (a) | agree to sign the attached Cabinet paper, which notes your intention to authorise the alliance between Air China and Air New Zealand until 31 March 2021 | Yes/No |
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Sam Ponniah
Adviser

Glen-Marie Burns
Manager, Aviation & Security

MINISTER'S SIGNATURE:

DATE:

**APPENDIX 1 – DETAILED ANALYSIS OF THE
APPLICATION BY AIR NEW ZEALAND AND
AIR CHINA FOR AUTHORISATION OF A
STRATEGIC ALLIANCE**

**APPENDIX 2 – CABINET PAPER:
AUTHORISATION OF A STRATEGIC
ALLIANCE BETWEEN AIR CHINA AND AIR
NEW ZEALAND**