

Mr Michael Bird
Executive Director
International Air Services Commission
GPO 630
Canberra
ACT
2601

Dear Mr Bird,

Review of code share arrangements between Qantas and South African Airways.

Further to my e-mail of 26 August 2010 regarding the extension of the Qantas/South African Airways (SAA) code share arrangement ("the arrangement"). I provide my submission objecting the proposed one year extension of the arrangement.

The announcement by Virgin Blue Holdings Limited, parent of Virgin Australia (VA) on 26 August 2010 that they would be terminating their service between Melbourne and Johannesburg from February 2011 has resulted in a significant change in the factors affecting the Australia-South Africa route.

The over riding reasons prevalent in the submissions received from Qantas and the ACCC and the explanation provided in your draft decision permitting the extension of the arrangement between Qantas and SAA was the additional competition and capacity on the Australia-South Africa route. The announcement by VA eliminates these factors critical in reaching your decision to permit further extension of the arrangement and in light of this I believe that the application by Qantas should be denied.

Qantas detailed multiple factors as to why the code share arrangement between themselves and SAA should be permitted to continue.

Qantas asserts that the continuation of the arrangement will maximise public benefit through the efficient use of capacity, however according to the paragraph 7.21 of your draft decision prior to V Australia's entry into the Australia South Africa route there was a chronic under capacity on the route with load factors in excess of 90% and this was reflected in higher fares being charged on the route that were certainly not for the public benefit.

Qantas have indicated that there has been a significant increase in capacity on the route since the previous determination in October 2008. This fact is not in dispute but the reasoning for the additional capacity should be examined. Firstly some of the capacity has been provided by V Australia (two out of fifteen weekly flights (13%)) and this is to be withdrawn. This loss is supposed to be offset by the introduction of an additional weekly flight by Qantas, provided that Qantas actually honour this commitment, but this will still mean a loss of one flight per week on the route. Secondly it is not beyond reason that Qantas and SAA introduced additional capacity so as to ensure that V Australia would be unable to generate adequate returns on the route and therefore fail to maintain the route, an event that has now occurred. It appears inconsistent that after years of stagnant capacity despite there being a significant shortage both Qantas and SAA decided to increase capacity significantly only after VA entered the route. In regard to this possibility it is also worth mentioning that SAA have previously been found guilty and fined in South Africa for abusing their market position and in the IASC draft decision paragraph 7.30 evidence is presented that Qantas appear to have deliberately targeted VA through price manipulation on the Melbourne-Johannesburg route.

Although Qantas and SAA have increased capacity on this route and Qantas have indicated that they will add an additional flight from September 2010 there is no obligation for either of them to maintain all of this capacity. Qantas also state that SAA are now using larger capacity Airbus A340-600 aircraft to service the route, but they fail to

mention that this capacity is also not committed and can be substituted with the smaller aircraft previously utilised on the route, which I believe will occur once economic conditions improve in Europe and North America. Qantas state that between themselves and SAA they have a combined market share of 69.0% (over 80% for direct routes) this is compared to Qantas's average market share on international routes of 20.2%. Clearly by this measure the Australia-South Africa route is almost a monopoly and once VA withdraw from this route this situation will worsen.

Qantas make statements regarding the GFC and the impact on its business and about the cost of oil impacting their business but these issues are irrelevant to the anti-competitive nature of the code share arrangement and in as the effects of the GFC fade business conditions will improve for Qantas and the cost of higher oil prices will be partly or completely offset by increased fares and fuel surcharges.

Qantas have pointed out developments in regard to the Qantas-SAA code share arrangement that appear to indicate that SAA is seeking to extend its services throughout Australia and to New Zealand using the services of Virgin Blue and Air New Zealand. Perhaps if SAA had not been restricted by its arrangement with Qantas they would have operated some of these routes directly themselves.

Qantas make mention of third country carrier competition, but the ACCC hold the view that this provides only limited competition. Qantas obscure the issue with reference to third country carriers' favourable geographic location regarding access to North and Central Africa, again a fact that is irrelevant to Qantas's application.

Qantas have indicated that airfares on the Australia South Africa route have fallen between 2008 and 2010 and that they have experienced a reduction in profitability on the route. While this may be partly due to the effects of the GFC it is more likely as a result of desperately needed competition being introduced after 2008 in the form of Virgin Australia and Qantas's statement amounts to an admission that competition on the route resulted in lower fares but still enabled them to make a profit, even in a difficult economic environment.

Despite the short time that has elapsed since VA's announcement Qantas fares from Melbourne to Johannesburg for the period from the end of February 2011 are \$597 more expensive than those available in February 2011 and increase to \$803 more expensive from April 2011, a 31% and 42% increase respectively. The cheapest fare available on Qantas from April 2011 is \$2,700 currently a similar fare with Qantas is \$1,491 and \$1,264 with VA. This means that by April 2011 Qantas will be charging more than double what VA charge now and I have no doubt that this situation will deteriorate if Qantas and SAA are permitted to continue with their arrangement.

Although Qantas has made some valid points in its submission the principle reasons for permitting the extension of the code share arrangement between Qantas and SAA was the introduction of direct competition and increased capacity. The announcement by V Australia that they would be withdrawing from the route means that any direct competition has been eliminated and there are no other airlines in either Australia or South Africa that would be able to fill the gap. In addition expected capacity has fallen from 17 flights per week with the possibility of up to 21 flights as week to 14 flights a week with a minimum obligation of 12 flights a week and the possibility of capacity being further reduced through the utilisation of smaller aircraft. Fares for the period after VA withdraw from the South Africa route have already increased beyond reason, a clear indication that Qantas intend to abuse the lack of competition on the route. Therefore I submit that the draft decision [2010] IASC 203 should be withdrawn and Qantas's application should be denied.

Yours sincerely,