



Our ref: IASC 60232
Contact officer: Darrell Channing
Contact phone: 02 6243 4925

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Ms Marlene Tucker
Executive Director
International Air Services Commission
GPO Box 630
Canberra ACT 2601

Level 2,
23 Marcus Clarke Street
Canberra ACT 2601
GPO Box 3131
Canberra ACT 2601
tel: (02) 6243 1111
www.accc.gov.au

Via email: iasc@infrastructure.gov.au

Dear Ms Tucker

Re: Virgin Australia's Application for variation of determinations – Australia/Papua New Guinea (PNG) Route

I refer to your email of 20 August 2018 in which you outlined Virgin Australia's application to the IASC for renewal of determination [2013] IASC 112.

You have asked if the ACCC has any concerns about a free-sale code share arrangement between Virgin Australia and PNG Air.

I note that your request is *not* in the context of formal consultation under the *International Air Services Commission Act* (1992). Rather, you are seeking our input on an informal basis.

The application for renewal and variation

Determination [2013] IASC 112 allocates 900 seats of capacity in each direction on the PNG route. Under this arrangement, PNG Air will market the services operated by Virgin between Brisbane and Port Moresby.

Virgin Australia has also sought authorisation for the use of the capacity for the provision of code share services, on a free-sale basis, with PNG Air.

Previous assessments by the IASC

I note that the IASC has on several occasions considered the impact on competition of Virgin Australia (and under its former name, Pacific Blue Airlines) operating on the PNG route.

Most recently, in making Determination [2013] IASC 112, the IASC stated that:¹

The Commission does not have serious concerns that the continued use of the capacity on the PNG route by [Virgin Australia] in joint services with Airlines of PNG² may not be of benefit to the public.

¹ Determination [2013] IASC 112, paragraph 3.9.

² Now PNG Air.

And further, that:³

The Commission considers that to the extent continuation of the code share with Airlines of PNG helps maintain and expand Virgin Australia's presence on the route, it is positive for competition.

And finally, that:⁴

...the Commission considers it is not necessary to assess Virgin Australia's application to continue its code sharing arrangements with Airlines of PNG against the criteria set out in paragraph 5 of the Policy Statement or to consult the ACCC.

The IASC has consistently found that the arrangements with Virgin Australia will provide more travel choices for passengers and likely increase competition on the route and result in an increase in public benefits associated with air services between Australia and PNG.⁵

Virgin Australia's submission on Qantas' application to expand its codeshare with Air Niugini

On 2 March 2018, Virgin Australia made a submission to the IASC in relation to Qantas' application to expand its codeshare with Air Niugini. That submission contains information which may be relevant for the IASC to consider in its assessment of the Virgin Australia-PNG air arrangement on the Brisbane-Port Moresby route. In particular:

- Virgin Australia provided data from the Bureau of Infrastructure, Transport and Regional Economics showing that in 2017, Qantas and Air Niugini carried 87% of all passengers on the Brisbane-Port Moresby route, which was an increase from 81% carried in 2016. Virgin Australia carried the remainder of passengers on the route during these years.⁶
- Virgin Australia submitted that in 2017 its load factor and passengers carried decreased markedly.⁷
- Overall seat capacity and passengers on the Brisbane-Port Moresby route grew by 8% and 6% respectively between 2016 and 2017.
- Virgin Australia submitted that the codeshare arrangement between Qantas and Air Niugini had had a detrimental effect on the sustainability of its Brisbane-Port Moresby services. In February 2018, Virgin Australia reduced its services on the Brisbane-Port Moresby route from six frequencies per week to five.

General position re hard block / free sale

As noted above, the ACCC understands that the code share arrangement is to be free sale on the route identified in the application for renewal/variation.

³ Determination [2013] IASC 112, paragraphs 3.10.

⁴ Determination [2013] IASC 112, paragraphs 3.11.

⁵ For example, see Determination [2008] IASC 114, paragraph 3.2, Determination [2013] IASC 112, paragraphs 3.9-3.11, Determination [2014] IASC 108, paragraph 3.6 and Determination [2015] IASC 102, paragraph 3.5.

⁶ Virgin Australia submission to IASC, 2 March 2018, p.2.

⁷ In its letter to the IASC dated 14 March 2018, the ACCC noted that further investigation may be needed to better understand the extent to which this was caused by Virgin increasing yields and average fares on this route or whether the codeshare arrangement is conferring a significant competitive advantage to its rivals.

The ACCC's views on free sale versus hard block code share arrangements were set out in detail in its submission to the IASC on the application for variation lodged by Qantas in 2016.⁸

The ACCC remains of the view that, from a competition perspective, a hard block code share generally is preferable to a free sale code share since it maintains a greater degree of rivalry between the airlines.

However, while the free sale nature of the proposed code share may reduce competitive tension between Virgin and PNG Air, it is not clear to the ACCC that any material rivalry exists between the codeshare partners, particularly in the context where Qantas and Air Niugini have much higher market shares on routes between Australia and Papua New Guinea.

Conclusion

The ACCC considers that the code share arrangement between Virgin Australia and PNG Air is unlikely to lessen competition in the immediate term. In addition, while the ACCC considers a hard block arrangement preferable to free sale arrangement, it considers that in the circumstances, the application of a free sale arrangement is unlikely to remove any significant competitive rivalry. The ACCC therefore does not hold any significant concerns with the proposal.

Role of the ACCC

I note that any decision by the IASC to approve the code sharing arrangements between Virgin Australia and PNG Air does not provide any protection for the airlines under the *Competition and Consumer Act 2010* and does not prejudice any possible future consideration of code share operations by the ACCC.

I hope that this letter assists you in your consideration of the application from Virgin Australia. If you wish to discuss any aspect of this submission further, please do not hesitate to call Darrell Channing on 02 6243 4925.

Yours sincerely



David Jones
General Manager
Adjudication

⁸ Letter from the ACCC to the IASC dated 6 October 2016, pages 2 - 4.