



**Australian
Competition &
Consumer
Commission**

Contact Officer: Richard Chadwick
Contact Number: (02) 6243 1132

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

24 June 2013

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

By email: marlene.tucker@infrastructure.gov.au

Dear Ms Tucker

International Air Services Commission (IASC) review of applications for capacity allocation – France – Route 3 (New Caledonia)

Thank you for the correspondence from your office dated 4 June 2013 seeking the Australian Competition and Consumer Commission's (ACCC) views on the applications by Pacific Air Express (PAE) and Pionair Australia trading as Skyforce Aviation Pty Ltd (Pionair) for the allocation of freight capacity on the New Caledonia route.

As you know, the ACCC has considered a number of applications for authorisation of arrangements between airlines under the *Competition and Consumer Act 2010* (Cth) (the Act). In considering applications for authorisation the ACCC is required to assess the public benefits and public detriments (including anti-competitive effects) of the arrangements..

The ACCC understands that under paragraph 5 of the IASC Act 1992 Policy Statement, the IASC is required to have regard to the benefits to the public of each application and give pre-eminent consideration to the competition benefits of each application.¹

The ACCC does not have a view as to which of the two applications being considered by the IASC offers the greatest competition benefits. However, the ACCC notes that an obvious difference between the two applications is that Pionair intends to enter the route on a standalone basis while PAE intends to enter into a hard block code share arrangement with Air Caledonie International (Aircalin), which already operates air passenger and cargo services on the route.

¹ Paragraph 5.2, *International Air Services Commission Act 1992*, International Air Services Policy Statement (No 5) (**Policy Statement**).

All else equal, new entry by a party who is independent of the two incumbents may be expected to confer greater competition benefits than entry by a party who enters into a hard block code share arrangement with one of the incumbents. However, in practice, all else may not be equal.

The ACCC submits that, aside from the different entry models (standalone or codeshare) it is important that the IASC has regard to other factors that may materially impact the nature and/or extent of competition benefits conferred by each application. For example, in the current matter, the IASC may also wish to have regard to any differences between the applications in terms of:

- The operating costs and capacities of the aircraft each applicant intends to use to operate dedicated cargo services on the New Caledonia route. This will directly impact each applicant's incremental costs and, hence, their ability and incentive to engage in price-based competition with rival cargo service providers on the route;
- The sustainability of each applicant's service model, having regard to the thinness of the route, projected future demand for air cargo services on the route and each applicant's past track record of service delivery;
- The types of freight that each applicant is capable of handling (e.g. over-sized or heavy items, dangerous goods);
- On ground presence and capabilities at each end of the route (e.g. loading, unloading, storage) as well as the value added services that each applicant proposes to offer in addition to the carriage of cargo (e.g. packing services, land transportation services, tracking notifications, loyalty programs);
- How soon each applicant will be in a position commence services and generate public benefits; and/or
- The potential for spillover competition benefits on other routes. These may arise where an applicant intends to use its allocation of capacity on the New Caledonia route to offer services between Australia or New Caledonia and a third country and would not otherwise offer such services.

I hope that this is of some assistance to you in your consideration of the applications. If you wish to discuss any aspect of this submission further, please do not hesitate to call me on 02 6243 1132.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication