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Submission in response to Commerce Commission's draft determination on application by Air NZ and Qantas

The Consumers' Institute supports the preliminary view reached by the Commission in its draft determination that the proposed alliance should not be authorised.

Counterfactual

We think the Commission is right in adopting a very different counterfactual from the "war of attrition" scenario which was argued for in the original application.

As will be obvious from our submission of 13 February, we believe the counterfactual envisaged by the Commission (involving less aggressive competition and less entry) is far more realistic than the applicant's suggested counterfactual.

Applicants' undertakings

There is nothing in the undertakings provided by the applicants that could be taken as mitigating the serious detriment identified by the Commission as flowing from any authorisation.

The undertakings are very limited in terms of the timeframes during which they will be effective, and seem inconsequential in the context of the arrangement as a whole (especially the context of detriments estimated by the Commission as in the region of up to \$500 million).

The undertakings relate to the trans-Tasman market. They do nothing to address the concerns of submitters and of the Commission that domestic markets would be severely and adversely affected by any authorisation.

The undertakings do not in any way change the opinion of the application which we expressed in our submission of 13 February.

Recent developments

While there have been developments in respect of the trans-Tasman link (the announcements by Emirate Airlines and Virgin that they may be entering the market), we don't think it can be said that they could in any substantial way lessen the detrimental effects identified by various submitters and by the Commission.

Those detrimental effects are not limited to the trans-Tasman market but include the crucial domestic market, as well as other international markets.

The positive impact of new entry remains to be seen. In our view, any such impact would be lessened by the granting of a monopoly in the form of authorisation of the proposed alliance.

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