SUBMISSIONS OF ORIGIN PACIFIC AIRWAYS LIMITED ("ORIGIN PACIFIC') TO THE COMMERCE COMMISSION ON THE APPLICATIONS BY AIR NEW ZEALAND LIMITED ("AIR NEW ZEALAND") AND QANTAS LIMITED ("QANTAS") UNDER SECTIONS 58 AND 67 OF THE COMMERCE ACT 1996 ("THE APPLICATION").

PRELIMINARY COMMENT

1 Origin Pacific is the single party most affected by the proposals **(proposals)** as set out in the Application. It is the only other significant airline competitor in New Zealand. It operates in the provincial and tourist markets and, in a limited way, on the main trunk route (Christchurch/Wellington).

2 As well as eliminating competition between Qantas and Air New Zealand on the international and main trunk routes, the proposed alliance will have major impact on air services, particularly in what has been categorised as the provincial and tourist markets.

3 If the proposed alliance was to proceed then meaningful and sustainable competition on regional and tourist routes will be severely prejudiced through the overwhelming dominance of Air New Zealand and Qantas, with the prospect of major detriment to those regions and localities and to carriers such as Origin Pacific.

4 The Application does not address these issues in any adequate way, let alone provide a basis for justifying such consequences.

INEQUALITY OF RESOURCES AND SHORTNESS OF TIMEFRAME

5 Both Air New Zealand and Qantas are major commercial entities. Air New Zealand is "one of New Zealand's largest companies" (Application Schedule 1) and is substantially owned by the New Zealand Government. Qantas is "one of Australia's 30 largest companies" (Application Schedule 2). Together Air New Zealand and Qantas have essentially unlimited financial and management resources to support the Application.

6 Origin Pacific has no option but to respond to the Application. It does not however have the Air New Zealand and Qantas resources. It also still has a business to run.

7 Origin Pacific suggests that other interested parties will have similar resource difficulties. It looks to the Commission to make its own vigorous investigation and analysis. The Application is of huge importance to New Zealand. It is essential that it be subjected to a full and comprehensive examination

8 The Application was released to the public on 18 December 2002. It clearly took many months and considerable resources to prepare and includes a 227 page (public version) economic analysis by the Network Economic Consulting Group **(NECG)**. The Christmas holiday period followed. Yet interested parties are required to lodge their submissions by 14 February 2003.

9 The timeframe is made more difficult in that Origin Pacific (through the Commission) is still awaiting more information on key aspects of the proposals and as yet has only been able to have a preliminary meeting with Commission staff.

10 These submissions should therefore be regarded as initial submissions and, as arranged, Origin Pacific will make further comment and provide further material to the Commission as the matter progresses.

MATTERS CANVASSED

11 The submissions below comprise the following:

- Origin Pacific's business
    - Background and outline
    - Origin Pacific's relationship with Qantas
    - Consequence of proposals on Origin Pacific's relationship with Qantas
    - Origin Pacific's business aims

- Implications of the proposals from Origin Pacific's perspective
  - New Zealand airline markets
  - Main trunk
  - Tourist market
  - Provincial/regional markets

- Other Issues
  - Exercise of market power
  - Anti-competitive and predatory conduct
  - Concerns as to the workings of the proposed alliance and what constraints it will be under
  - Other barriers
  - Counterfactual
  - Star Alliance/One World implications
  - Fluidity in the airline business
  - The regulatory regime

ORIGIN PACIFIC'S BUSINESS

▪ Background and outline

12 Origin Pacific was formed in 1997 by Robert Inglis and Nicki Smith. They have had extensive experience in operating provincial airline services in New Zealand since commencing an initial Motueka/Nelson/Wellington service with a Piper Aztec aircraft in 1983. In 1988 they sold a half share in their business known as Air Nelson to Air New Zealand and subsequently developed this into a nation wide provincial airline service, which eventually became part of Air New Zealand Link. In 1995 they sold their remaining half share to Air New Zealand.

13 Origin Pacific is privately owned with no airline or other outside interest. Robert Inglis and Nicki Smith are the majority shareholders with nearly 90% of the shares. Employees or associates of the company hold the other shares. Robert Inglis is the Managing Director.

14 The company commenced operations in 1997 as a charter airline with four 19 seat Jetstream 31 aircraft and slowly developed into scheduled passenger services. This was initially on new routes from Nelson not serviced by other airlines (e.g. Nelson-Palmerston North) and slowly expanded onto other routes as funds and resources permitted. This slow expansion quickened in 2001 following the collapse of Tasman Pacific Airways Ltd **(Tasman Pacific)** and the commencement of a code share agreement with Qantas.

15. Origin Pacific is based at Nelson. It flies scheduled passenger services to 14 destinations (Auckland Hamilton Tauranga Rotorua Napier New Plymouth Palmerston North Wellington Blenheim Nelson Christchurch Queenstown Dunedin Invercargill). It operates a fleet of 18 aircraft comprising 3 Jetstream 31 (19 seat), 3 Jetstream 32 (19 seat), 3 Metroliner (19 seat), 5 Jetstream 41 (29 seat), 2 Dash 8 100 (40 seat), and 2 ATR (64 seat). Apart from three Jetstream 31 aircraft (owned by associates) these are all leased. Five of them (3 Jetstream 32 and 2 Dash 8 100) are ex Tasman Pacific aircraft. Two other ex Tasman Pacific aircraft (Dash 8 300 – 50 seat) were used temporarily to commence the Qantas code share services prior to the leasing of the ATRs.

16. Origin Pacific still operates its charter services. It also operates an airfreight business with two of the Metroliner aircraft dedicated to this. Like its passenger services it has developed the freight business slowly and cautiously as opportunities offered. It has a 50% associated shareholding in Horizon Air Support Ltd in Nelson, which supplies maintenance services to some of its aircraft. It outsources other maintenance work. It operates its own internet and call centre booking services as well as selling through travel agents. Including contracted pilots it currently employs over 400 people.

17. Origin Pacific's business has been a slow and cautious development based on the extensive experience and expertise of Robert Inglis in the New Zealand airline market and particularly the provincial market since 1983. Expansion took place only as financial and management resources permitted, and the barriers to entry and expansion that confronted the company could be worked through as best they could.

18. The major expansion in services to the current level , and the commencement of the Qantas code share in 2001, followed the collapse of Tasman Pacific that year. Prior to this Origin Pacific operated up to 8 aircraft, including freight services, employed 90 people, and flew services to 8 destinations. It was a more limited business.

- **Origin Pacific's relationship with Qantas**

19. Origin Pacific has an important and growing alliance relationship with Qantas. It commenced in July 2001, initially in respect of Origin Pacific's Dash 8 300 aircraft on the Christchurch-Wellington, Christchurch-Rotorua and Christchurch-Queenstown routes. The agreement has since extended to other aircraft and to some of the major provincial routes. It now operates on agreed routes in respect of all of Origin Pacific's larger aircraft (ATR Dash 8 100 and Jetstream 41 aircraft) and includes services to Auckland Hamilton Rotorua Palmerston North Wellington Nelson Christchurch Dunedin Queenstown and Invercargill. It focuses on key destinations in New Zealand not directly serviced by Qantas.

20. The benefits for Origin Pacific in this are substantial, providing for additional revenue streams from Qantas passengers on code share routes.

21. The agreement has provided benefits for Qantas and the New Zealand public in ensuring services for its customers and feed for its own services following the collapse of Tasman Pacific, in particular enabling connections from its international service to key New Zealand destinations. As part of this Origin Pacific aligns its services with Qantas' main trunk and international timetables.

22. The Qantas relationship has also assisted Origin Pacific to make the step from a smaller provincial airline flying 19 seat aircraft to its present position with larger aircraft and expanded routes. The move to larger aircraft has been a major part of this. Origin Pacific initially leased the ex Tasman Pacific Dash 8 300 aircraft specifically for the purposes of the initial code sharing routes. It similarly leased the ex Tasman Pacific Dash 8 100 aircraft. It moved into the provincial 30 seat market in the autumn of 2002 leasing five Jetstream 41 aircraft from Canada following extensive code sharing discussions and agreements with Qantas. It leased its two ATR aircraft from Germany in 2002 (replacing the ex Tasman Pacific Dash 8 300s) again following discussions and agreements with Qantas.

- **Consequence of proposals on Origin Pacific's relationship with Qantas**

23. The Application is unclear on this topic. There are inferences from the Application and the NECG report that Origin Pacific's code share agreement may continue (Application page 100 and NECG report page 119). The applicable parts of the Strategic Alliance Agreement that are publicly available are vague and inconclusive. On the basis of the Application as it stands and is understood, Origin Pacific could not rely on a continuation of the code share or other arrangements on a long-term basis.

- **Origin Pacific's business aims**

24. Origin Pacific set up business as an independent airline. It is privately owned. No other airline or outside party has an interest in it. It has established its own brand. Its aims are, and have always been, to promote and grow its own independent airline business. As part of this it will work with any other airline or body that could provide mutual benefits.

25. The Qantas code share agreement was entered into pursuant to these aims. It assisted Origin Pacific to take a major expansion opportunity following the collapse of Tasman Pacific. Origin Pacific's aims remain unchanged. The Qantas code share is not a forever commitment. But it is a very important present requirement.

26. The Application and NECG report refer to reported comments by Mr Inglis suggesting a lesser benefit to Origin Pacific from the Qantas relationship – e.g. see Application page 81. These are selective references and not a correct reflection of either his or Origin Pacific's views. Mr Inglis has always emphasised Origin Pacific's independence. This was heightened following the Tasman Pacific collapse where Tasman Pacific was marketed and seen as a Qantas airline. As already said, the Qantas relationship is not necessarily forever. But it is important now and has been a key factor in Origin Pacific's growth to date.

27. Of key relevance is that Air New Zealand operates on virtually all of Origin Pacific's regional and tourist routes. For reasons referred to below, the existence of a competitor to Air New Zealand on the main trunk and relevant international routes is of critical importance to Origin Pacific's position (and the position of any other future competitor of significance). The proposals remove that competition.

IMPLICATIONS OF THE PROPOSALS FROM ORIGIN PACIFIC'S PERSPECTIVE

- **New Zealand airline markets**

28. Our comments at this stage are on the basis of the three airline markets previously categorised by the Commission – the main trunk, provincial, and tourist. (We do not in this submission address detailed arguments about market definition or the continued appropriateness of the Commission's earlier categorisations). Origin Pacific's business operates in all three of such markets. Origin Pacific also notes the cross-over impact on all of these markets arising from what would be overwhelming dominance of the Air New Zealand/Qantas proposed alliance, if it proceeds, over total air travel within, and to and from, New Zealand.

- **Main trunk**

29. This comprises the city pair routes Auckland-Wellington-Christchurch with the main route Auckland-Wellington. Origin Pacific operates on the lesser Christchurch-Wellington route under the Qantas code share agreement. The barriers to entry on these routes are higher than for the provincial routes. In particular, the aircraft required are larger and the expenses involved are greater. Any successful entrant would require substantial capital.

30. Qantas and Air New Zealand are two principal airlines, each strongly branded, heavily promoted and competing on service standards, frequency and pricing. Under the proposed alliance they will operate in tandem and be able to use their dual brand positioning to exercise the market advantages that accrue with an estimated 90%+ of the total domestic traffic and an estimated 75% of all inbound and outbound international traffic.

31. Origin Pacific rejects totally the argument in the Application that its own presence and ability to expand on the main trunk routes can minimise the anti-competitive detriment of the Application (see Application pages 78 & subs). It is highly unlikely to be able to successfully resist a two brand alliance entity exercising the market advantages that go with those market shares.

- **Tourist market**

32. The traditional 'tourist' market comprises essentially the Rotorua and Queenstown routes. While similar to the main trunk market in some respects (e.g. size of aircraft required) it differs in that a greater number of the passengers are from overseas. This emphasises the need for overseas feeder traffic from an international airline and the importance of effective connectivity (including time-tabling and actual arrival/departure times).

33. Regional routes are also very important for tourism in those regions. The implications the proposals have for the regions also apply very much to the wider tourist sector. We comment on these in more detail in the next section.

- **Provincial/Regional markets**

34. A better name for the provincial market is the regional market. This is more accepted in the industry and better reflects the importance now placed on New Zealand's regional development.

35. Origin Pacific has had huge support from the regions in developing its regional services. This has included numerous requests to commence services and positive encouragement and assistance in meeting obstacles and getting the services established. An example is the general support from local bodies and regional airports which Origin Pacific has received in obtaining suitable airport facilities as compared with the difficulties faced in particular at Auckland, Wellington and Christchurch airports. This regional support has been particularly noticeable in areas where Air New Zealand was the sole operator and was able to set its own prices and services. Origin Pacific has no doubt that the competition it has brought to the regional market has been very much to the regions' benefit.

36. The full service regional market has traditionally operated with a mixture of 19 seat and larger aircraft. While 19 seat aircraft are less costly and have some major advantages in developing routes or in routes with less demand they are now becoming less competitive. This follows new and proposed Civil Aviation Authority requirements (passenger weight limits/new equipment requirements). Larger aircraft are more competitive but also more costly. Origin Pacific expanded into 30 seat aircraft following the Qantas code share agreement. It also flies larger aircraft on some limited provincial routes, under the Qantas code share agreement.

37. If the Qantas code share was terminated, and in the absence of any other international airline partner, Origin Pacific faces issues in continuing the extent of its 30 seat plus aircraft to the regions. This is not just a matter affecting Origin Pacific. It would apply to any other competitors in the provincial market.

38. Origin Pacific believes that approval of the Application will result in major prejudice to ongoing competitive services in the regions and on tourist routes, with substantial detriment in these markets, including to Origin Pacific. This is because of the overwhelming market power the proposed alliance will have in the markets in which it will be operating. We comment more specifically on this as follows:

- The existence of competitive air services to the regions is of key importance, economically and socially, to the regions themselves and the country as a whole. So are tourist routes, to those localities and New Zealand generally.

- Sustainable regional development and the encouragement of tourism is a matter of high national interest and core governmental policy.

- The proposals as currently framed would severely prejudice the prospect of competition on a sustainable basis on regional and tourist routes. This would have major impact, including through:

  - prejudicing the viability of businesses and the retention of existing businesses in the regions, the sourcing and distributing of product ,and the ability and willingness of personnel to conduct business from those areas, or travel to other parts of New Zealand or overseas from those areas

  - increasing obstacles to new investment in the regions and reducing the diversification of business from main centres

  - reducing tourism and leisure opportunities

  - reducing the ability of individuals to access other centres

- diminishing confidence in central government's regional development strategies and the ability of central government to assist the position of the regions

39. The effect on competition generally, and on the position of Origin Pacific as Air New Zealand's only major competitor on these regional and tourist routes would result from factors including:

- the transfer to the Air New Zealand /Qantas proposed alliance of feeder traffic (both domestically and internationally) currently obtained by Origin Pacific from Qantas

- the fact of having the same single but two brand main trunk entity (i.e. the Air New Zealand /Qantas JOA) also operating on the regional routes meaning major opportunity for exercise of market power including through practices such as:

- use of substantial economic dominance on domestic, trans-tasman and other routes, and the vastly superior capital position of Air New Zealand and Qantas to cross subsidise and engage in anti-competitive practices including:

- adding seat capacity and flight frequency to deny competitor's realistic or achievable break-even load factors

- adding new aircraft types

- dropping prices to below cost levels both on regional routes themselves and for add-ons to travellers flying to and from main trunk and international routes

- failing to raise prices on regional routes to reflect cost increases when other regional operators will have to

- offering code shares on all QF/NZ flights reciprocally (both domestic and international), biasing travellers away from Origin Pacific or other competitors

- offering airpoints or equivalent at generous accrual/redemption rates to secure business traffic through the ability to redeem the points on a world-wide network

- massive sponsorship/group deals using the enormous cash resources of the proposed alliance added to a much larger number of otherwise unfilled seats.

- bias in travel distribution services

40. Origin Pacific's position as a major competitor on the regional routes would be further prejudiced through

- the financial impact of the loss of relationship with an international/main trunk carrier

- the loss of relationship with a major trunk player (Qantas) to counter actions of Air New Zealand as a main trunk operator with regional operations

- moreover, that player (Qantas) forming an alliance with that competing main trunk/regional operator (Air New Zealand).

41. The impact of the proposals would not just be on Origin Pacific as the only major competitor on these routes. They also would apply to any other regional carrier who wished to operate on these markets. Origin Pacific does not believe there will be any new airlines offering a full provincial service. Its own position is unique being based on the experience, expertise, dedication and commitment of its founders. Its growth has been slow and cautious as resources and opportunities have allowed requiring patience and commitment which it believes are unlikely to be repeated. Origin Pacific also believes there is unlikely to be any full start up competitors. Ansett and Tasman Pacific failed. Cityjet failed. It does not know of any other potential entrants. If there were the huge market power of the proposed alliance would almost certainly dissuade them. The rewards are not sufficient to face this difficulty.

42. Origin Pacific totally rejects the argument that its ability to continue in the regional market negates the anti-competitive nature of the Application.

43. In addition, the complete dominance of main trunk routes by the Air New Zealand/Qantas joint operating proposed alliance will further increase the barriers to entry or expansion by Origin Pacific on main trunk services given the advantages of scale, scope, capital and

incumbent response Air New Zealand/Qantas would have. Entry to the main trunk by another carrier such as a VBA would further exacerbate the difficulties faced by Origin Pacific in so operating. This means that Origin Pacific would not be able to offset, by expansion on to the main trunk routes the detriments it will suffer in the regional routes from the proposed alliance if it proceeded.

44. These concerns are not fanciful. They can be recognised as manifestations of the exercise of market power the proposed alliance would produce. Origin Pacific's position to date has been affected by market practices of Air New Zealand. Anti-competitive practices are a well documented concern in relation to various alliances overseas; and there is no reason to believe that New Zealand would not be faced with the same concerns if the alliance proceeded as proposed.

45. Even if the viability or other benefits of a main trunk/trans-tasman/national carrier did necessitate or justify the proposed alliance and the removal of competition between those parties on main trunk and trans- tasman routes (and Origin Pacific does not believe the proposals are so necessitated or justified), those requirements or justifications do not also require or justify competition on regional or tourist routes being so prejudiced.

46. There is nothing in the Application or in NECG's report submitting that loss of competition in these provincial/regional/tourist markets is either required for the proposed alliance to work effectively, or justifiable in terms of detriment/benefits.

47. Indeed, the attention given in the Application and NECG report to the prejudicial impacts of the Application on Origin Pacific is perfunctory, and the attention given to the impact on regional economies and communities is nil. The NECG report does acknowledge that the proposals will have some impact on Origin Pacific (page 118 and subs), however both the Application and the NECG report simply assume that Origin Pacific will continue as a competitor in the provincial market and that this is enough to ease any anti-competitive detriment of the proposed alliance in this market. This totally ignores reality, both for provincial and tourist routes.

48. Nor is there anything in the Application (including in the undertakings proposed to date) to show that these detriments to competition can be offset. Whether these detriments could be offset by measures such as capacity limitations, transparency of information, non-discriminatory access, complaint resolution mechanisms, periodic reviews of any

authorisations granted, code-share mechanisms and other specific anti–predatory measures, (some of which have already been raised by the applicants but not in respect of the provincial/tourist markets) remains to be assessed.

OTHER ISSUES

49. While this submission does not set out to provide a full critique of the NECG report or the Application itself, we raise the following further issues at this stage.

- **Exercise of market power**

50. Approval of the Application in its present form will create a huge market power in the proposed alliance which will in itself be a major barrier to entry and expansion in all New Zealand markets. This will be compounded by the potential the proposed alliance will have for anti-competitive behaviour against other participants, current and future in these markets.

- **Anti-competitive and predatory conduct**

51. Predatory behaviour is a general term which covers a wide range of anti competitive actions, various of which are referred to in these submissions.

52. Predatory behaviour can cripple a smaller airline or put it out of business by denying it break even load factors and revenue. It will also dissuade or prevent new entrants. Various types of predatory behaviour are not sanctioned by law and certain remedies exist under the Commerce Act. However these are difficult to enforce. First the airline pricing systems are complex requiring considerable analysis of alleged predatory pricing, for example, before a valid claim can be established. This requires time and resources, which the smaller airline trying to run its business does not have. Secondly the smaller airline does not have the resources to take action itself and is totally reliant on the Commission to make its claim.

53. Predatory pricing on a new entrant or competitor's routes is the most commonly referred to form of predatory behaviour. This is commonly accompanied by flooding these routes

with excess capacity, discount fares, new services, and heavy advertising. The impact of this on smaller or new airlines is huge.

54. A further form of predatory behaviour can be cross subsidisation. Both Air New Zealand and Qantas operate in several markets. The pricing details that they disclose for each market are minimal. Air New Zealand is widely understood to subsidise its provincial market costs from its main trunk revenue.

55. The existence and opportunity for predatory practices in the airline industry, including with alliances, is well documented overseas. Origin Pacific does not consider New Zealand has been immune from such behaviour in the past, and the market power exercisable by the proposed alliance, if it proceeds, will increase the prospect of it occurring in the future.

56. Origin Pacific has had to deal with behaviour from Air New Zealand which it believes has been anti-competitive and predatory. Other competitors to Air New Zealand have made similar complaints. Further, Qantas' competitors have complained about predatory behaviour by Qantas. This includes complaints by Air New Zealand (e.g. press reports, Dominion October 12, 2001, and March 2, 2002).

- **Concerns as to the workings of the proposed alliance and what constraints it will be under**

57. Also of concern is the lack of detail on the Application and the material accompanying it as to just how the proposed alliance will work in practice, particularly operationally. There is frequent reference to 'co-ordination", for example in respect of scheduling and pricing but nothing in the public materials as to just how such co-ordination will apply to matters such as capacity on the affected routes, frequency, aircraft type, timetabling and pricing.

58. It is important for those affected to have this information so the impact of the proposals can be further assessed.

59. It is also very important for the Commission and persons affected to have this information as the Commerce Act authorisation process provides various 'safe harbours' from enforcement action for certain practices which would otherwise constitute actionable breaches if those practices have not been authorised. Seeking authorisation for an agreement providing for "co-ordination" of such important matters as capacity and pricing

gives rise to the issue of just what the Commission would be giving immunity to if it approved the Application. To authorise the Application as proposed could be giving the parties a blank cheque for dumping, cross subsidisation or other anti-competitive or predatory conduct and be depriving those affected of effective recourse.

60. It is critical that market participants such as Origin Pacific both know what will be involved and what constraints (if any) it is proposed the alliance partners would be under. In Origin Pacific's view the Application and JOA are in too general terms to be considered for authorisation.

- **Other Barriers**

61. A major capital investment is required to successfully enter the main trunk market. This is a barrier to entry to a small operator and limits the potential competitors to major players. Other potential difficulties (terminal space/aircraft parking gates/sales systems/etc) will be barriers to a small operator and may be also for major players. Suitable terminal space in particular may be a major difficulty.

62. The same position will apply to the tourist market with the additional requirement of overseas feed. This will be a major barrier to entry to any operator without this source of revenue, particularly as this traffic is often off-peak. The proposed alliance will effectively control the inbound and outbound markets with a likely excess of 80% of the passengers on the Tasman and 100% of the American traffic (including a significant slice of the European business over LAX), and will exert control over the travel itineraries of these passengers

63. The barriers in the provincial market relate to the scale of service to be provided. There are minimal barriers to entry to the small point to point operator providing limited services in a local area. At the other end of the scale there are major capital and associated requirements to enter or expand into a full service operation. These include the ability to obtain and service the necessary capital and the need to obtain passenger support and feed from a main trunk and international operator. A major difficulty for a smaller airline is also the ability to successfully manage a high turnover and low margin business against powerful competition, heavy promotion of established brands, and any predatory conduct. The failures of Ansett, Tasman Pacific and Cityjet show the difficulties.

64. In summary, Origin Pacific believes that, contrary to the Application, the barriers to entry and expansion remain high in all relevant markets and will be increased if the Application as proposed was to be authorised.

- **Counterfactual**

65. Origin Pacific also questions the confidence which can be placed in the Application's counterfactual, in particular in relation to:

    - Whether a 'war of attrition' is the most likely, or best scenario for the counterfactual; and even if it was would Qantas be the party most likely to succeed in the New Zealand environment. Would Qantas be willing to enter into such a "war" on New Zealand domestic routes having regard to the likely cost of doing so? Note the NECG report (page 11) states " Air New Zealand now has a strong and committed shareholder in the New Zealand Government. It also has the advantage of a loyal customer base, a deep knowledge of and presence in domestic New Zealand, and greater connectivity, particularly at Auckland, than could readily be obtained by a competitor." This does not suggest an easy path for Qantas. It would seem far more likely that they would eventually co-exist. Rather than "cosy duopoly" as the Application describes, a better description may be a "tacit live and let live environment"?

    - How appropriate is the view that Air New Zealand has no future as an international airline without Qantas? Even if Qantas was Air New Zealand's only opportunity now (and Origin Pacific cannot know one way or the other on that) there may well be other potential alliances in the future. To suggest that Air New Zealand has no future as an international airline without Qantas appears fanciful, and requires a very certain view of the future, which Origin Pacific questions. The scope of Air New Zealand's international business may change – but this is a natural requirement with progress regardless of other circumstances.

    - Qantas' past history has been to show little direct interest in the New Zealand market. It has dominated the Australian market. It makes its play here at a time when Air New Zealand is perceived to be vulnerable. The Application provides little indication as to what level of overall resource Qantas is willing or proposing to inject into the proposed alliance. One real issue is whether the limitations Air New Zealand is having placed on its activities under the proposed alliance (and the consequential benefits Qantas is receiving through Air New Zealand being under such restrictions, particularly in the Australian market) are outweighed by the benefits Air New Zealand and the New Zealand economy will receive under the proposals.

- **Star Alliance/One World implications**

66. New Zealand benefits from currently having a member of each of the One World and Star Alliance syndicates operating in New Zealand. Under the Application it seems accepted that one of these will go. Which one and where is the benefit in this? From a tourism perspective alone, are there not major advantages in having passenger streams from both alliances?

- **Fluidity in the airline business**

67. Nothing stays the same in the airline business. The Application appears very heavily based on the presently perceived economics and situation of the industry. These will change. The Application (public version) is silent as to the circumstances in which the proposed alliance could be terminated; and the Commission is being asked to authorise for an indefinite term an application which may well under-deliver on claimed benefits, and have very major detriments, to the New Zealand markets and economy. An issue must be, if the proposed alliance did proceed, can it ever effectively be reversed so as to restore Air New Zealand's viability on its own? This is particularly if, under the proposed alliance, Air New Zealand is to be excluded from, or restricted, in the Australian or other overseas markets as a brand, when at the same time the Qantas brand will have become substantially entrenched in New Zealand.

- **The regulatory regime**

68. New Zealand has a very largely deregulated airline system. The competitive market that this has produced has been widely accepted as a major improvement over the former regulated structure. Origin Pacific would like to support the deregulated system and the competitive market. But this can only continue with fair competition. The substantial government ownership of Air New Zealand already is a factor driving decisions about its future. This is compounded by the opportunities for anti-competitive conduct that the proposed alliance if authorised would present. If the Application is approved in its present form, the future of all airline competition in New Zealand is at risk. It is not simply a matter of allowing the proposed alliance between Air New Zealand and Qantas; if the proposed alliance did proceed there is a "sea change" in the whole New Zealand aviation regime. This raises the issue whether, if approved simpliciter as submitted, the existing competition regime applicable would be sufficient to deal with the new environment we will all be in.

ORIGIN PACIFIC CONTACT

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