

Attention: The Registrar
Commerce Commission
PO Box 2351
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registrar@comcom.govt.nz

Dear Registrar

Re Submission in response to the Commerce Commission's Statement of Issues regarding Ngai Tahu Tourism's application to acquire KJet

We act for KJet and have been asked to make a submission on behalf of our client in relation to the Statement of Issues dated 19 October 2023 regarding Ngai Tahu Tourism's (NTT) application to acquire KJet's business operation.

Background:

KJet began operation in Tāhuna (Queenstown) in 1958 and was the world's first commercial jet boat operator. KJet has been offering its jet boat rides from the Main Town Pier since [insert]. KJet currently operates 8 boats and has the largest jet boat capacity in New Zealand. Accordingly, KJet has a deep understanding of the tourism sector here in Tāhuna (Queenstown) and the decision habits of incoming tourists.

Submission on "relevant market":

KJet supports NTT's submission that the relevant market for the purposes of assessing the application to acquire KJet's business is the market for the provision of retail adventure tourism activities in the Tāhuna (Queenstown) Lakes Region. In this regard, we comment as follows:

1. There is a high degree of demand-side substitutability as there are many other adventure tourism activities that are close substitutes for jet boating based on a tourist's spending ability and time constraints. For example, within a radius of approximately 200 meters of KJet's main operation on the main town pier there are an extensive number of other non-jet boat adventure tourism offerings which directly compete with the jet boating operation offered by KJet such as Paragliders, Hydro Attack, Million Dollar Cruise, Fishing Charters, the TSS Earnslaw Cruise operated by Real Journeys, the Spirit of Queenstown lake cruise, Segway trips, and various smaller water based activities such as paddle boating and kayaking. There are also various indoor thrill seeking activities such as Fear Factory and the Ice Bar which tout for the tourist dollar within a close walking distance from the main town pier
2. In addition, KJet sees its competitors as being more geographically spread than simply the main town pier market and views its competitors as being a far afield as Glenorchy, Cromwell, Wanaka, and Te Anau/Milford given the ease with which tourists can travel and the relatively short distances to those places. Whilst KJet acknowledges that it competes mainly with Shotover Jet and Real NZ in the jet boat tourism market, KJet sees that it also competes with numerous other adventure tourism operators for the tourist dollar such as Bungy, Shotover Canyon Swing, Ziptrek Eco Tours, NZONE Skydive, NZSki, iFLY indoor skydiving, rafting operators, helicopter and fixed-wing airplane adventures, Skyline luge and gondola, Skippers Canyon bus tours, Oxbow outdoor activities, Off-road adventure offerings, exclusive guided walking tours, and many others;

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3. When setting its prices, whilst KJet does monitor the prices of other jet boat offerings, KJet also monitors the prices for other tourism activities as set out above as KJet sees those other tourism activities as directly competing with it for the tourist dollar;
4. The proliferation of tourism offerings in the last 10 to 20 years has resulted in the emergence of a number of commission-collecting intermediaries/agents opening retail sites in Tāhuna (Queenstown), whereby a tourist can choose from a long list of activities (both adventure and general activities) and be guided by the agent to complete a booking. The main agent is Happy Travels which has 3 retail stores in Tāhuna (Queenstown) and actively touts its services to tourists. This reinforces the view that a tourist has a multitude of options when considering an activity to undertake and will generally make a decision based on that tourist's time constraints, budget and appetite for adventure;
5. KJet believes that customers could easily switch to alternative adventure tourism products, services and locations if KJet significantly increased its prices as it sees the adventure tourism market in Tāhuna (Queenstown) as being highly competitive and not confined simply to jet boat offerings. KJet feels it is constrained by all the major operators in the tourism market and is constantly assessing itself against same to remain competitive;
6. The Commission's view is that NTT and KJet are close competitors and impose competitive constraints on each other. KJet disagrees with this view. Shotover Jet offers a different, more "thrill seeking" activity than KJet's more scenic boat ride. Further, Shotover Jet does not operate from the main town pier and requires tourists to travel to its jetty in Arthurs Point to undertake the trip. Accordingly, KJet actually sees its closer competitor in the jet boating market as being the Real NZ jet boat ride which leaves from the main bay in Tāhuna (Queenstown). Further evidence of this is set out below;
7. There are now numerous new activities available to tourists to Tāhuna (Queenstown) such as cycle tours, winery tours, movie based tours (such as Lord of the Rings), walking tours, hiking adventures, golfing events, and salmon fishing (to name a few). Tāhuna (Queenstown) is no longer seen as just a place to come skiing in Winter and has now become an all-year vacation destination. The breadth of activities available to a tourist in Tāhuna (Queenstown) is extremely large and continues to grow as the Town bounces back rapidly from the Covid lockdown period; and
8. KJet also believes that the Commerce Commission should consider a wider geographic area than just Tāhuna (Queenstown) when looking at tourist spending habits and markets. This is because approximately 80% of international tourists arrive into New Zealand via Auckland, Wellington or Christchurch¹ and then filter South by various means (often driving). During that journey South they are enticed into numerous experiences and therefore often arrive into Queenstown towards the end of their time in New Zealand and accordingly at the end of their budget for experiences. They are then fairly cost conscious once in Queenstown. Accordingly, KJet feels that it competes with other jet boating experiences throughout New Zealand for the tourist dollar because it is trying to convince tourists to save their jet boat experience until they reach Tāhuna (Queenstown).

¹ Source: StatsNZ – Get the data for the month of Sept 2022

Main Competitor:

Notwithstanding the above view that KJet sees its market as wider than jet boating, KJet sees its main competitor in the jet boating market as being the jet boats operated by RealNZ. Since arriving into the market in 2010, the RealNZ boats have competed heavily with KJet. RealNZ's boats operate a very similar trip (both in terms of time and experience) to that of KJet and predominantly use the same area of the lake and river. Accordingly, KJet sees RealNZ's jet boat offering as being almost identical to that offered by KJet.

RealNZ has sought to compete against KJet on price numerous times throughout the years and we attach extracts from various KJet minutes and reports which detail those attempts. As you will see from the extracts, RealNZ's discounted pricings have always negatively affected KJet's revenue numbers and required KJet to take steps to adjust its prices to remain competitive.

RealNZ's jet boats and sale kiosk are located in the main Tāhuna (Queenstown) bay and are no more than 100metres from KJet's boats and kiosk. Both operations are highly visible to any tourist walking along the waterfront so directly compete against each other for attention.

It would appear to KJet that since the Covid restrictions were lifted, RealNZ has been focusing on its main core business being that of the TSS Earnslaw and the activities accessed via same at Walter Peak Station. RealNZ has been treating its jet boat business as a promotional add-on to its main activities and not promoting it as a stand-alone activity as much as it did before Covid. This would likely explain the Commission's statement that RealNZ's jet boats are operating well under the capacity limits and that RealNZ has lost market share.

KJet believes that a new owner of RealNZ's jet boating business will significantly increase the competitive power of that business. This is because a new owner is likely to focus solely on the jet boat operation and take advantage of the key positioning of the operation in the main Tāhuna (Queenstown) bay to compete against KJet and the other tourism operators near the bay. KJet sees that a new owner will bring a fresh approach to the running of that business and drive it to become a market competitor. This was certainly the case when a previous stand alone owner (Neville Kelly) owned this business and traded under "Thunder Jet" from 2010 to 2018. Accordingly, KJet believes that the RealNZ jet boat business will continue to be its main competitor going forward in the jet boating tourism sector.

Ngai Tahu's Application:

KJet and its advisers have extensively reviewed the application made by NTT to the Commerce Commission for clearance to acquire KJet's business.

KJet agrees with and endorses the statements made by NTT in relation to the industry overview at paras 33 – 37, the relevant markets at paras 47 – 59, the competitors of the parties as set out in paras 60 – 63, and the statements made about customers and competitors in paras 64 – 88.

Conclusion:

KJet's view is that it competes in the retail adventure tourism market and its competitors are far wider than just other jet boat operators. KJet believes that the Commerce Commission's view of the market being limited to offering tourist jet boating services is too narrow for the reasons set out above. KJet further believes that there are sufficient market competitors in the retail adventure tourism market to contain the merged entity from profitably raising prices or lowering the quality of its services. In any event, KJet sees its main competitor in the jet boating experience market in Tāhuna (Queenstown) as being the service offered by RealNZ rather than Shotover Jet.

On the basis of all of the above, KJet believes that the Commerce Commission should give clearance to the transaction.

Yours faithfully
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