Glossary[1]

ACCC	Australian Competition and Consumer Commission.
Air New Zealand	Air New Zealand Limited, a company incorporated under the laws of New Zealand, having its registered office at Level 19, Quay Tower, 29 Customs Street West, Auckland, New Zealand (AK/104799).
Air Services Agreement	An agreement (usually but not necessarily of treaty status) between governments regulating international air services to and from their territories.
Air Services Arrangements (ASAs)	A set of arrangements between governments regulating the operation of international air services between two countries to and from their territories. These arrangements usually comprise an Air Services Agreement and any Memoranda of Understanding. See Schedule 3(b) for a more comprehensive explanation.
Alliance	An agreement between airlines to co-operate. *See* **Marketing Alliance** and **Integrated Alliance**.
Available Seat Kilometres (ASKs)	The number of seats made available for sale multiplied by the distance (in kilometres) flown – used as a measure of capacity.
Available Tonne Kilometres (ATKs)	The number of tonnes of capacity available for the carriage of revenue load (passengers and cargo) multiplied by the distance flown (in kilometres).
Beyond Rights	The right of a carrier from one country to fly to another country then beyond to a third country picking up passengers in that second country (a form of Fifth Freedom rights).
Bilateral	An Air Services Arrangement between two countries. See Schedule 3(b) for a more comprehensive explanation.
Blocked Space	A type of Codesharing arrangement under which the Marketing Carrier is

[1] This glossary is based on the glossary in the Productivity Commission International Air Services – Inquiry Report No. 2 11 September 1998

Agreement	guaranteed a fixed number of seats on a flight.
Breakeven Load Factor	The load factor required to equate total traffic revenue with operating cost.
Cabotage	Provision of commercial domestic air services and carriage of domestic traffic within a country. (*See* **Eighth Freedom**)
Capacity Allocation	The allocation of capacity entitlements to individual airlines to fly services available under ASAs.
City Pair	An air route between two cities.
City Designation	The designation of air services to particular cities, or a choice of cities specified under an ASA.
Codesharing	The performance of a flight and sale/carriage of traffic on that flight under the designator codes of the operating carrier and one or more Marketing Carriers. For example the operation of a service by Air New Zealand which corners the 'NZ' and 'QF' codes and is sold as an Air New Zealand and Qantas service.
Commission	The New Zealand Commerce Commission.
Computer Reservation System (CRS)	Airlines' internal computerised reservation system which provides information to subscribers (often travel agents) on airline schedules, fares and seat availability e.g. for Air New Zealand – Carina. See Schedule 3(e) for a more comprehensive explanation.
Consolidator (Consol)	Organisation which combines airfares (often as part of, for example, a package holiday) on a wholesale basis to retail agents.
Cost per ASK	Cost divided by the number of ASKs (Available Seat Kilometres) flown – measure of unit cost.
Dead Load	Non-passenger load. Rate paid by Cargo for cargo capacity.
Dedicated Freight Aircraft	An aircraft set up to transport freight only.

Department of Transportation	*See* **US DOT**	
Direct Flight	A flight (may involve intermediate stops), with no change of aircraft.	
Dry Lease	Aircraft only lease, i.e. without any crew.	
Economies of Network Size	A fall in average unit costs as the number of routes increases.	
Economies Of Traffic Density	A fall in average unit costs as the number of passengers travelling on a particular route(s) increases.	
Filed/Published Fare	retail fares established and published by airlines in CRSs and by other means and available for sale to the public.	
Flag Carrier	A country's national airline.	
Freedoms Of The Air	Types of international aviation rights established under ASAs. See Schedule 3(a) for a more comprehensive explanation.	
	First Freedom	The right to fly across another state without landing.
	Second Freedom	The right to land in another state for non-traffic purposes, (e.g. refuelling, mechanical requirement) but not for the purpose of uplifting passengers or discharging traffic.
	Third Freedom	The right to off load revenue traffic (e.g. passengers, mail and freight) in a foreign country originating from the carrier's home country. E.g. Air New Zealand's Auckland – Papeete (Tahiti) service.
	Fourth Freedom	The right to take on in another state revenue traffic destined for the carrier's home country. E.g. Air New Zealand's Papeete – Auckland service.

Fifth Freedom	The right to fly from a carrier's home country to a foreign country, and pick up revenue traffic and deposit it in another foreign country. E.g. the Auckland – Sydney leg of Thai Airways' Bangkok – Auckland – Sydney.
Sixth Freedom	The right to carry traffic between two foreign countries via the airline's home country provided the aircraft touches down in the airline's home country. E.g. Air New Zealand's carriage of Australia – USA traffic on its Sydney – Auckland – Los Angeles service.
Seventh Freedom	The right to carry traffic on flights that originate in a foreign country and terminate in another foreign country (without a requirement that the aircraft touches down in its home country). E.g. Air New Zealand's Sydney – Los Angeles service.
Eighth Freedom	The right for an airline to carry domestic traffic between points in a foreign country on a flight originating in the airline's home country. E.g. the Auckland – Wellington leg of Qantas' former Brisbane – Auckland – Wellington service.
Ninth Freedom	The right for an airline to carry traffic from one point in a foreign country to another point in the same country (without a requirement the flight originates in the airline's home country). E.g. Qantas' Auckland – Christchurch service.

Freesale	A type of Codeshare arrangement where no inventory is held/blocked for the Marketing Carrier. The Marketing Carrier sells into the Operating Carrier's inventory.
Freight-Tonne Kilometres	The number of revenue tonnes of freight multiplied by the kilometres flown.
Frequent-Flyer Programs (FFPs)	Airline loyalty programs granting customers "points" or flights on the basis, among other things, of the distance they have flown. Points generally can be cashed in for free flights, upgrades in cabin services, or non-airline services or items.

Full Service Airline (FSA) An airline with a higher cost structure than a VBA due to “frills service”, extensive networks, interlining and FFP (among other features).

Global Distribution System (GDSs) A tool that allows travel agents or other licensed users to generate travel service options available in response to a particular query, for example all flights from Auckland to Sydney on 1 February 2003. See Schedule 3(e) for a more comprehensive explanation.

Equity Proposal The acquisition by Qantas of 1,220,328,660 ordinary shares (if Air New Zealand makes no further issues before Qantas acquires its final tranche of shares) comprising a 22.5% voting equity interest in Air New Zealand as per the Subscription Deed entered into by Qantas and Air New Zealand on 25 November 2002 and attached as Appendix 2.

Grandfather Rights The allocation of airport take-off and landing slots based on the past and/or current allocation.

GSA Commissions Commission paid to an alternative representative (travel agents/wholesalers/another carrier etc) who sell the Airline’s product/service on behalf of the airline when the airline does not have a sales presence at that location.

Handback The return of unused codeshare space – associated with a Blocked Space Codeshare arrangement.

Hard Block Within a codeshare agreement, where a Marketing Carrier buys a fixed number of seats from the operating carrier and is unable to return the unsold seats.

Hub and Spoke Network A network of routes operating through a central hub point. Airlines may channel and increase traffic through hub points.

Integrated Alliance Typically involve a high degree of integration of the airlines concerned, e.g. co-ordination of fares, schedules, service levels and yield and capacity management.

Interline Agreement An agreement between two airlines for interlining.

Interlining	The issue by one airline (the ticketing carriers) of a ticket coupon for carriage by another airline, where the ticketing carrier is acting as agent of the other airline.
Intermediate Rights	The right of a carrier from one country to fly to another country via a third country (a form of Fifth Freedom rights).
JAO Networks	The entire network of sectors flown from time to time (both within domestic New Zealand and internationally) by Air New Zealand, its subsidiaries or airlines Air New Zealand effectively controls (excluding Freedom Air) including that proportion of flights operated by other airlines on which Air New Zealand codeshares, and all domestic New Zealand sectors and international sectors departing from or arriving in New Zealand flown from time to time by Qantas, its subsidiaries or airlines Qantas effectively controls, including flights operated by other airlines on which Qantas codeshares.
Joint Airline Operations (JAO)	The Agreements reached by the Applicants as set out in the Strategic Alliance Agreement to co-operate and co-ordinate their respective operations in relation to the JAO Networks.
Landing and Take-off Slots	A landing and/or take-off time at an airport. (Usually associated with an allocation to carriers of specific scheduled arrival/departure time slots for aircraft movements at slot co-ordinated airports).
Load Factor	*See* **Passenger Load Factor**
Marketing Alliances	Typically offer the consumer the benefit of broader networks, more seamless travel and expanded loyalty programmes. Member airlines generally continue to offer fares, schedules and services independently.
Marketing Capacity (MASKs)	ASKs which are sold as flights on a carrier. This will differ from actual ASKs due to blocked space agreements with partner airlines, such as Air New Zealand's seat sale to Japan Airlines on some flights to Japan.
Marketing Carrier	A carrier that markets and sells space on another carrier's aircraft (Operating Carrier) under its own code.
Memorandum of Understanding	An agreement between two countries. With regard to ASAs, it is a less formal type of agreement (without treaty status) that is considered to be as binding as a formal agreement.

Multiple Designation	Provision for more than one national airline of a country to be designated by its Government for international air services under that country's ASAs.
Non-scheduled Airline	Any air transport enterprise only offering air transport services to the public that are not performed according to a regular timetable.
Net Fares	Unpublished fare, the value of which is expressed as the amount the airline expects the travel agent to remit to the airline for the fare, net of commission or taxes. Net fares are generally referred to as non-commissionable, since the agent's commission is actually the selling mark-up above the net fare amount.
Non-scheduled Services	Flights performed for remuneration on an irregular basis. Both scheduled and non-scheduled airlines can provide non-scheduled services. Can apply to either passengers or freight.
Non-stop Flight	A flight with no intermediate stops.
oneworld	The airline alliance between, as at the date of this application, between Aer Lingus, American Airlines, British Airways, Cathay Pacific, Finnair, Iberia, LanChile and Qantas.
Open Skies	A liberal ASA under which participating Governments agree to the removal of restrictions on access to each country's market, such as restrictions on capacity, frequency, ability to codeshare and points of access. Commonly. restrictions remain on cabotage Seventh Freedom, foreign control and sometimes on foreign ownership requirements. See Schedule 3(b) for a more comprehensive explanation.
Operating Capacity – (OASKs)	ASKs which are physically flown by an airline.
Operating Carrier	A carrier under a Codeshare arrangement that operates the relevant service.
Origin–Destination (OD) Traffic	A measure of airline (passenger) traffic between the commencement point of an air passenger's journey and the end point or turnaround point of the journey, as distinguished from uplift– discharge traffic.
Passenger Load	Revenue Passenger kilometres (RPKs) as a percentage of Available Seat

Factor (LF)	Kilometres (ASKs).
Qantas	Qantas Airways Limited, a business incorporated under the laws of Australia, having its registered office at Qantas Centre, Level 9, Building A, 203 Coward Street, Mascot, NSW 2020, Australia (ABN 16 009 661 901).
Related Agreements	The Subscription Agreement, Co-ordination Agreement, Sell Down and Voting Deed, Transition Deed, Reciprocal Board Representation Deed and Top-Up Deed entered into by Air New Zealand and Qantas on 25 November 2002, attached as Appendix 1.
Revenue Load Factor (LF)	Revenue Tonne Kilometres (RTKs) as a percentage of ATKs.
Revenue Management	Manipulation of availability of fares to attempt to maximise revenue from each flight. Revenue management systems are based on estimating the number of full fare tickets that would be sold on a particular flight, then offering the remaining tickets at varying discounts to induce demand from more price-sensitive passengers. See Schedule 3(h) for a more comprehensive explanation.
Revenue Passenger Kilometres (RPK's)	The number of paying passengers carried multiplied by the number of kilometres flown.
Revenue per Available Seat Kilometre (RASK)	Net Revenue divided by the number of ASKs flown. A measure of unit revenue.
Revenue Pooling	An agreement between airlines to share all revenue on a route or sector irrespective of the revenue generated by each individual airline on the route. Also referred to as Revenue Sharing.
Revenue Sharing	*See* **Revenue Pooling**
Revenue Tonne Kilometres (RTKs)	The revenue load (passengers and cargo) multiplied by the distance flown.

Route	An air service between two points.
Scheduled Airline	Any air transport entity offering or operating a regular air service according to a published timetable (can also operate non-scheduled services).
Scheduled Services	Flights listed in a published timetable (or that are so regular and frequent as to constitute a recognisable pattern).
Sector	A non-stop (excluding technical stops where no passenger or freight are picked up or dropped off) flight leg between two points.
Single Aviation Market (SAM)	A formal agreement between New Zealand and Australia, under which the two countries are treated as if they were one.
Single Designation	Provision for only one national airline of a country to be designated by its Government for international air services under that country's ASAs.
Soft Block	A block of seats which are allocated to the Marketing Carrier under a Codeshare arrangement, but where the Marketing Carrier can hand back unsold seats without incurring the seat charge (as per the agreement).
Stage Length	The distance flown between take-off and landing.
Substantial Ownership	All or majority ownership of an airline by citizens in the country of registration. There is no internationally agreed standard, so each country can determine what it accepts as substantial ownership.
Star Alliance	The airline alliance between, as at the date of this application, Air Canada, Air New Zealand, All Nippon Airways, Austrian Airlines, British Midland, Lauda Air, Lufthansa, Mexicana, SAS, Singapore Airlines, Thai Airways, Tyrolean Airways, United Airlines and Varig.
Strategic Alliance Agreement	The agreement by that name entered into by Air New Zealand and Qantas on 25 November 2002 which provides for the co-operation and co-ordination of the Applicants' activities in respect of the JAO Network and non-JAO Network business.
Tariff	Passenger airfare and/or cargo rate.

Terminal Slot	A gate at an airport terminal for unloading and boarding passengers and/or freight at a specified time.
Thin Route	Route over which traffic and frequency is low.
Tonne Kilometres Available	A measure of tonnes available for the carriage of freight, mail and passengers, multiplied by the distance flown.
Tonne Kilometres Performed	A measure of tonnes of freight, mail and passengers actually carried, multiplied by the distance flown.
Transactions	The transactions contemplated by the Strategic Alliance Agreement, Subscription Agreement, Transition Deed, Top-Up Deed, Sell-down and Voting Restriction Deed, Reciprocal Board Representation Deed and Co-ordination Agreement, attached as Appendix 1.
US DOT	United States of America Department of Transportation.
Uplift–Discharge Traffic	An airline’s (passenger) traffic uplifted at one point on the route and discharged from the same flight at another point on the route (as distinguished from Origin – Destination traffic).
Value Based Airline (VBA)	An airline with a low cost structure due to strategies such as “no-frills” services, uniform fleet, short haul and point-to-point services, direct ticket services and high aircraft utilisation.
VBA +	An airline, although adopting some VBA strategies, retains a number of FSA features not normally associated with a VBAs such as networking in the case of Air New Zealand Express Class.
Wet Lease	The Lease of an aircraft with all crew (flight deck and cabin crew).
Yield (¢/RPK)	Airline revenue per unit of traffic. Passenger yield is airline revenue per passenger kilometre.

Confidential Appendix 1

Strategic Alliance Agreement and Related Agreements

(These documents are filed with this application)

Clauses 1 – 7 inclusive and clause 10 of the Strategic Alliance Agreement are provided overleaf.

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

"ACCC" means the Australian Competition and Consumer Commission;

"Agreement" means this agreement (and includes the Schedules and Attachments to this Agreement) as amended from time to time;

"Airline Affiliate" means:

(a) Subsidiaries of the parties (excluding, in the case of Air NZ, Freedom); and

(b) franchisees or other affiliated airlines of a party which are effectively controlled by that party;

"Air NZ Group" means Air NZ and any Subsidiary of Air NZ;

"Air NZ Network" means the airline network as described in Part 1 of Schedule 1;

"Air NZ Shareholder Approval" means all approvals of Air NZ shareholders (excluding, for the avoidance of doubt, the Kiwi Shareholder) required by Relevant Laws that the parties (acting reasonably) agree are necessary or desirable to implement and consummate all aspects of this Agreement, the Related Documents and Transactions;

"Alliance" means the strategic relationship established between Qantas and Air NZ by this Agreement as described in clause 2;

"Ancillary Competition Laws" means those competition laws existing in the jurisdiction of the Ancillary Competition Regulators;

"Ancillary Competition Regulators" means the US Department of Transportation, European Commission, Fiji Commerce Commission, Japanese Competition Commission, and such other regulators as may be agreed between the parties from time to time;

"Australian Domestic Sector" means any airline Sector operated by Qantas that departs from and arrives in Australia and **"Australian Domestic Sectors"** shall be construed accordingly;

"Business Day" means any day other than a Saturday, Sunday, a public holiday in Auckland, New Zealand or a day on which banks are not open for business in Auckland, New Zealand;

"Board Representative" has the meaning set out in the Reciprocal Board Representation Deed;

"Code of Conduct" means the Code of Conduct set out in Schedule 4;

"Codesharing" means where one airline assigns its airline designator code to a flight operated by another airline and **"Codeshare"** shall be interpreted accordingly;

"Companies Act" means the Companies Act 1993 (New Zealand);

"Conditions" means the conditions precedent to this Agreement, set out in clause 8.1 and "**Condition**" means any one of them;

"Co-ordination Agreement" means the agreement, intended to be entered into by the parties on the date of this Agreement, under which the parties will agree certain matters relating to the satisfaction of the Conditions;

"Crown" means Her Majesty the Queen in right of New Zealand acting by and through the Minister of Finance;

"Effective Date" means the date on which all of the Conditions are satisfied or waived, as the case may be;

"Equity Security" has the meaning given to that term in Air NZ's constitution;

"**FATA**" means the Foreign Acquisitions and Takeovers Act 1975 of Australia;

"Freedom" means Freedom Air Limited;

"Freight" means air freight, including mail and courier traffic;

"Global Airline Alliance" means a global airline marketing alliance such as **one**world or the Star Alliance;

"Governance Principles" means the JAO Governance Principles and Non-JAO Governance Principles set out, respectively, in Parts 1 and 2 of Schedule 2;

"JAO Governance Principles" means the principles and processes applicable to the management and operation of the JAO Networks, as set out in Part 1 of Schedule 2;

"JAO Networks" means both the Air NZ Network and the Qantas NZ Network, as described in Schedule 1;

"Joint Airline Operations" or **"JAO"** means the agreements reached by the parties as set out in this Agreement to co-operate and co-ordinate their respective operations in relation to the JAO Networks;

"Kiwi Shareholder" has the meaning given to that term in Air NZ's constitution;

"Management Fee and Adjustment Payment Calculation" means the payment calculation set out in Schedule 3;

"NZ" means New Zealand;

"NZCC" means the New Zealand Commerce Commission;

"Non-JAO Governance Principles" means the principles and processes in accordance with which Air NZ and Qantas will co-operate in relation to the Non-JAO Networks (including Freedom), as set out in Part 2 of Schedule 2;

"Non-JAO Networks" means the networks and businesses (flying and non-flying) of Air NZ (including Freedom) and Qantas which do not form part of the JAO Networks but are otherwise agreed by the parties to form part of the Alliance, as set out in this Agreement;

"oneworld**"** means the airline alliance between (at the date of this Agreement) Aer Lingus, American Airlines, British Airways, Cathay Pacific, Finnair, Iberia, LanChile and Qantas;

"Other Sector" means a Sector that does not arrive in or depart from New Zealand or Australia;

“Qantas Group” means Qantas and any Subsidiary of Qantas;

“Qantas Holidays” means the business operated under the name “Qantas Holidays” by Qantas Holidays Limited, a wholly-owned Subsidiary of Qantas;

“Qantas International Sectors” means any international Sectors flown by Qantas that depart from any country other than New Zealand and arrive in any country other than New Zealand;

“Qantas NZ Network” means the airline network as described in Part 2 of Schedule 1;

“Qantas Non-JAO Sectors” means the Qantas International Sectors and the Australian Domestic Sector;

“Qantas Secondees” means the Qantas employees that may be seconded to Air NZ from time to time, as referred to in the JAO Governance Principles;

“Qantas Top-up Right” means Qantas’ right to acquire additional shares in Air NZ in order to maintain its percentage shareholding in the company as contained in the Top-up Deed;

“Reciprocal Board Representation Deed” means the deed under which the parties will agree to provide each other with certain rights in relation to the nomination of representatives to their respective boards, entered into by Air NZ and Qantas on the date of this Agreement;

“Related Body Corporate” has the meaning set out in section 5(7) of the Securities Amendment Act 1988 (New Zealand);

“Related Documents” means:

(a) this Agreement;

(b) the Co-ordination Agreement;

(c) the Top-up Deed;

(d) the Subscription Agreement;

(e) the Reciprocal Board Representation Deed;

(f) the Sell-down and Voting Restriction Deed; and

(g) the Transition Deed,

and any other written and executed document which the parties agree in writing are Related Documents;

“Relevant Air NZ Alliance Agreements” means the following agreements:

(a) Star Alliance Agreement;

(b) United Airlines Agreements; and

(c) Singapore Airlines Alliance Agreement dated 7 August 2001 and all agreements entered into pursuant to that agreement;

"Relevant Competition Laws" means the Commerce Act 1986 (New Zealand), the Trade Practices Act 1974 (Australia) and any relevant regulations promulgated under those statutes;

"Relevant Competition Regulators" means the NZCC and the ACCC, unless otherwise agreed by the parties;

"Relevant Interest" shall have the meaning given to it in the Securities Amendment Act 1988 of New Zealand;

"Relevant Laws" means all statutes, rules and regulations applicable to Air NZ including, without limitation, the Companies Act, the listing rules of the Australian Stock Exchange Limited and the New Zealand Stock Exchange and the Takeovers Code;

"SAAG" means the Strategic Alliance Advisory Group constituted in accordance with clause 4.3;

"Sector" means a non-stop (excluding technical stops where no passengers or freight are picked up or dropped off) flight leg between two points;

"Sell-down and Voting Restriction Deed" means the sell-down and voting restriction deed between Air NZ and Qantas dated the date of this Agreement;

"Star Alliance" means the airline alliance between (at the date of this Agreement) Air Canada, Air New Zealand, All Nippon Airways, Austrian Airlines, British Midland, Lauda Air, Lufthansa, Mexicana, SAS, Singapore Airlines, Thai Airways, Tyrolean Airways, United Airlines and Varig;

"Star Alliance Agreement" means the agreement dated 30 March 2001 between the Star Alliance members and Air NZ and includes any agreement to substantially the same effect which amends or replaces it;

"Subscription Agreement" means the subscription agreement, under which Qantas has agreed to subscribe for and Air NZ has agreed to issue up to 22.5 percent of the total voting shares of Air NZ entered into by Qantas and Air NZ on the date of this Agreement;

"Subsidiary" means subsidiary as defined in the Companies Act;

"Takeovers Code" means the Takeovers Code in the Schedule to the Takeovers Code Approval Order 2000;

"Top-up Deed" means the deed, entered into by the parties on the date of this Agreement, under which Qantas has the ability to maintain its percentage shareholding in Air NZ;

"Transactions" means the transactions contemplated by this Agreement and the Related Documents;

"Transition Deed" means the deed, entered into by the parties on the date of this Agreement, under which the parties will agree certain matters relating to the parties becoming members of the same Global Airline Alliance;

"Trans-Tasman Sectors" means any Sectors which:

(a) depart from Australia and arrive in New Zealand; or

(b) depart from New Zealand and arrive in Australia;

“United Airlines Agreements” means the United Airlines Alliance Agreement dated 27 November 1996, the Codeshare and Regulatory Co-operation Agreement dated 27 November 1996 and the United Airlines Expansion Agreement dated 1 December 1999, together with any agreements entered into pursuant to those agreements;

“USA” means United States of America; and

“Voting Security” has the meaning given to that term in the Securities Amendment Act 1988 (New Zealand) and **“Voting Securities”** has a corresponding meaning.

1.2 In this Agreement, unless the context otherwise requires:

(a) words in the singular include the plural and words in the plural include the singular;

(b) headings and bold type are inserted for convenience only and do not affect the interpretation of this Agreement;

(c) references to this Agreement include any schedules to it and references to clauses and schedules are to clauses of and schedules to this Agreement;

(d) a reference to any legislation includes a reference to that legislation as amended;

(e) a reference to the Strategic Alliance Agreement in any other agreement between the parties entered into on or after the date of this Agreement shall be deemed to be a reference to this Agreement;

(f) references to the words “include” or “including” are to be construed without limitation to the generality of the preceding words;

(g) a reference to “co-ordinate” or “co-operate” in respect of any product or service shall mean co-ordination or co-operation taking into account differences in products or services and shall not, unless specifically stated to the contrary, require alignment of product or service offerings;

(h) a reference to “co-operate” means to co-operate in good faith and on the basis of full disclosure and information exchange (subject to any relevant legal constraint);

(i) a reference to “dollars”, $ or NZ$ means New Zealand dollars; and

(j) a person is an “associated person” of another person if:

(i) they are acting jointly or in concert; or

(ii) either party acts, or is accustomed to act, in accordance with the wishes of the other person; or

(iii) they are Related Bodies Corporate; or

(iv) either person is able, directly or indirectly, to exert a substantial degree of influence over the activities of the other; or

(v) they are both, directly or indirectly, under the control of the same person.

2. ESTABLISHMENT OF THE ALLIANCE

On the terms set out in this Agreement, the parties agree to form a strategic alliance in order to:

(a) together implement the Joint Airline Operations; and

(b) co-operate in relation to the Non-JAO Networks as described in the Non-JAO Governance Principles.

3. OBJECTIVES OF THIS AGREEMENT

3.1 Development of the Alliance

Each of Air NZ and Qantas acknowledges that its best long term interests lie in the future development of the Alliance which will:

(a) maintain the ability of the parties to grow and provide competitive and commercially viable airline services for Australia and New Zealand in support of the transport and commercial infrastructures and trade and tourism interests of each country and the Australasian region;

(b) allow each party to remain autonomous and under ownership structures consistent with the aviation policies of their respective governments; and

(c) provide consumers with significantly improved benefits and services.

3.2 Objectives

Air NZ and Qantas agree that their objectives in entering into this Agreement are:

(a) to work together in good faith and with full co-operation and transparency to successfully grow both airlines;

(b) to manage the JAO Networks for the benefit of the parties;

(c) to ensure that the parties operate under the JAO in such a manner as will:

- (i) provide safe, efficient airline services to customers of each of the parties;
- (ii) enhance consumer service and choice by better co-ordinating schedules, departure times, routes and Sectors flown and fare and tariff availability;
- (iii) deliver cost savings through improved asset utilisation including achieving efficiency improvements in the use of aircraft and other resources; and
- (iv) increase Australian and New Zealand inbound and outbound passenger traffic, tourism and Freight flows;

(d) to improve the cost effectiveness and efficiency of the services provided by the parties in accordance with the JAO and all functions supporting the JAO Networks;

(e) to pursue opportunities where the parties can develop new services and products which, on a basis which is equitable for both parties, will enhance the effectiveness of the services provided by the parties in accordance with the JAO;

(f) to pursue opportunities where they can integrate specific activities and functions, and co-ordinate, integrate or amalgamate areas where benefits can be derived from economies of scale and the combination of activities and functions;

(g) to encourage and facilitate the movement of passengers and Freight on the services provided by the parties in accordance with the JAO and between those services and other Non-JAO Network services provided by the parties elsewhere; and

(h) to promote co-ordinated, seamless customer service levels on the services provided by the parties in respect of the JAO Networks including in relation to:

(i) the handling of passengers and their baggage at all stages from the booking of tickets, checking in at the airport and transfer from one flight to another until disembarkation and retrieval of baggage; and

(ii) subject to clause 7.3, the handling of Freight.

3.3 Guiding Principles

Air NZ and Qantas agree that in implementing the provisions of this Agreement and in relation to the Alliance they will:

(a) at all times act (and shall procure that their respective employees involved in the Alliance shall act) in good faith towards each other and in a manner that is consistent with the provisions of the Code of Conduct;

(b) subject to the provisions of clause 4.4 (Management Fee and Adjustment Payment Calculation), share in any benefits and bear any associated costs which might accrue in a fair and equitable manner; and

(c) have regard to the long term interests and future development of Air NZ and Qantas from time to time and the profitable development of a global network involving Air NZ and Qantas.

4. JOINT AIRLINE OPERATIONS

4.1 Scope

Air NZ and Qantas agree that the JAO will be entered into in relation to the Air NZ Network and the Qantas NZ Network and that, in respect of these networks, they will co-operate in accordance with the JAO Governance Principles.

4.2 Management of the JAO Networks

(a) Air NZ shall be responsible for managing the commercial (as opposed to the flight operation) aspects of the JAO Networks, as more fully described in the JAO Governance Principles. Each party shall remain responsible for the day-to-day flight operations of their respective networks.

(b) Air NZ will not commence its management role under clause 4.2(a) until:

(i) the parties have implemented reciprocal Codeshares on all domestic NZ Sectors and Trans-Tasman Sectors of each airline; and

(ii) in Qantas' reasonable opinion, appropriate reservation and revenue management information technology systems and processes are in place to permit Air NZ to manage the commercial aspects of the JAO Networks.

(c) In the period prior to Air NZ commencing its management role pursuant to clause 4.2(a), Air NZ will act as co-ordinator of the commercial aspects of the JAO Networks, with SAAG undertaking the role described in the JAO Governance Principles in respect of that co-ordination.

(d) If the requirements of clause 4.2(b)(i) have been satisfied but the requirements of clause 4.2(b)(ii) have not, the parties will meet to determine the ways in which Air NZ's move from its co-ordination role under clause 4.2(c) to its full management role under clause 4.2(a) can be expedited.

(e) Qantas shall participate in Air NZ's commercial management of the JAO Networks through its representation on SAAG and through the involvement of the Qantas Secondees in the commercial management of the JAO Networks, as provided for in the JAO Governance Principles.

4.3 **Strategic Alliance Advisory Group (SAAG)**

(a) On the Effective Date Air NZ and Qantas shall establish SAAG, which shall comprise three representatives appointed by Air NZ and three representatives appointed by Qantas.

(b) A quorum at any SAAG meeting must include two representatives from each party.

(c) Air NZ and Qantas will act in good faith to procure that SAAG operates in accordance with the Governance Principles.

(d) In accordance with the JAO Governance Principles, SAAG shall review and endorse, for reference to the Chief Executive Officers of Air NZ and Qantas, the commercial planning, operations and performance of the JAO Networks and provide advice to Air NZ as commercial manager of the JAO Networks.

(e) The chairperson of SAAG will rotate annually between the parties, with the first chairperson to be nominated by Air NZ.

(f) Decisions of SAAG are to be unanimous.

(g) Unless otherwise provided in this Agreement, any disputes between the members of SAAG shall be subject to escalation for resolution in accordance with the provisions of clause 12.

4.4 **Management Fee and Adjustment Payment**

(a) Air NZ has been appointed as the commercial manager of the commercial aspects of the JAO Networks for, amongst other things, the purpose of making the parties equitably profitable (after allowing for agreed capacity charges for each party) in relation to the JAO Networks.

(b) Air NZ may be entitled to a management fee from, or be required to make an adjustment payment to, Qantas depending on the outcome of Air NZ's commercial management of the JAO Networks as determined in accordance with Part A of Schedule 3.

(c) The parties agree that the Management Fee and Adjustment Payment Calculation shall be made in accordance with the rules and procedures set out in Schedule 3.

As commercial manager of the JAO Networks, Air NZ will make the Management Fee and Adjustment Payment Calculation pursuant to Schedule 3 subject to the right of Qantas to review the calculation for the purpose of verification.

(d) Each party is entitled to obtain an audit of the Management Fee and Adjustment Payment Calculation in accordance with the audit provisions set out in Schedule 3.

4.5 **Performance Review**

(a) Not later than one month after the third anniversary of the Effective Date, the parties will meet to review the operation of the Management Fee and Adjustment Payment Calculation to ensure that the benefits generated through the Alliance and the JAO Networks are being allocated equitably between the parties.

(b) Where the parties agree that the benefits generated through the Alliance and the JAO Networks are not being allocated equitably, the parties will consider and agree any changes to the Management Fee and Adjustment Payment Calculation or Schedule 3 to address such inequity. If the parties are unable to reach agreement on any amendment which addresses the inequity, the matter will be resolved in accordance with the Dispute Resolution process set out in clause 12.

(c) Where the parties agree any changes to the Management Fee and Adjustment Payment Calculation, they may also agree to extend the term of the Alliance for a further five years.

4.6 **Freedom**

(a) Qantas agrees and acknowledges that the Freedom business model, including its management, cost and fare structures, is not required to be altered in any way by Air NZ's entry into this Agreement or any Related Document.

(b) Notwithstanding clause 4.6(a), Air NZ acknowledges, and will procure, that:

(i) Freedom's Sectors are to be included as a "route group" for the purposes of the Management Fee and Adjustment Payment Calculation; and

(ii) the decisions of Freedom's management will be materially consistent with the business plan and budget of Freedom and will not be in conflict with the objectives of the JAO.

4.7 **Air NZ Engineering Services Business**

(a) Qantas acknowledges and agrees that Air NZ's engineering services business, including the operations and business activities of Safe Air Limited, Tasman Aviation Enterprises (NSW) Pty Limited and Tasman Aviation Enterprises (Queensland) Pty Limited, is not intended to be subject to any review, control, influence or other decision-making right conferred on Qantas arising out of this Agreement.

(b) Qantas will treat Air NZ as its preferred external supplier of heavy maintenance services provided that Air NZ's charges and service levels (including quality of service) remain competitive with other external alternatives available to Qantas.

4.8 Branding

To the extent necessary to facilitate the effective commercial management of the JAO Networks, Qantas will grant Air NZ and Air NZ will grant Qantas the right to use their respective logos, trademarks, and trade names on terms to be agreed.

5. CO-ORDINATION OF SERVICES UNDER THE JOINT AIRLINE OPERATIONS

5.1 Co-ordination of Services Under the Joint Airline Operations

Air NZ and Qantas will, to the extent possible, co-ordinate the services and activities specified in clauses 5.2 to 5.11 in order to fulfil the objectives of the Alliance and to ensure the efficient and effective operation of the JAO Networks and their commercial management by Air NZ.

5.2 Pricing and Remuneration Co-ordination

(a) Air NZ and Qantas will (and (subject to clause 4.6(a)) Air NZ will procure that Freedom will) co-ordinate all aspects of the pricing of passenger and Freight services on the JAO Networks and on the Sectors operated by Freedom including:

(i) setting passenger fares and Freight rates;

(ii) the level of rebates, incentives, promotions or discounts offered to customers;

(iii) the level of service fees including but not limited to, direct sale channel booking fees, call centre fees, fare change fees and global distribution system fees;

(iv) development of new fare products;

(v) airfares made available for, and appropriate promotion of destinations in, holiday packages;

(vi) the levels of standard commissions and agency incentives (of any kind) paid to travel agents, consolidators or wholesalers, or Freight forwarders including, without limitation, overrides, performance bonuses, educational/free of charge tickets, prizes, marketing support and management fees; and

(vii) joint tendering for corporate and government accounts; and

(b) Air NZ and Qantas will (and (subject to clause 4.6(a)) Air NZ will procure that Freedom will) co-ordinate procedures for pricing and inventory management in order to facilitate the co-ordination of and the setting and marketing of fares and rates for passenger and Freight services on the JAO Networks and on the Sectors operated by Freedom.

5.3 Information Exchange

Subject to all applicable stock exchange listing rules, contractual restrictions, data protection requirements and privacy laws, the parties will (and (subject to clause 4.6(a)) Air NZ will procure that Freedom will) exchange information relating to the JAO Networks and the Sectors operated by Freedom, including schedules, financial information, pricing, yields, seat availability, Freight capacity availability, sales and any other information reasonably required by the other party in order for the parties to achieve the co-ordination described in clause 5.2, to support Air NZ's commercial management of the JAO or in relation to the preparation by each party of their respective management accounts.

5.4 **Scheduling and Capacity Planning**

(a) Air NZ and Qantas will co-ordinate with each other all aspects of the JAO Networks, including scheduling, operations, routings, capacity, frequencies, aircraft types, connection requirements and range of times for any service provided by the parties in order to:

(i) improve profitability through revenue and cost efficiencies; and

(ii) provide consumers with seamless travel through improved connection times and flight schedules.

(b) Air NZ and Qantas will (and (subject to clause 4.6(a)) Air NZ will procure that Freedom will) co-ordinate scheduling, routings and capacity planning in relation to the JAO Networks and the Sectors operated by Freedom.

5.5 **Codesharing**

Subject to obtaining all necessary regulatory approvals, any applicable international airline operating rights and any existing contractual arrangements:

(a) Air NZ grants Qantas the right to Codeshare on any Sector flown within the Air NZ Network;

(b) Air NZ will procure that Freedom grants Qantas the right to Codeshare on any Sector flown by Freedom, should the practice of Codesharing become available in the Freedom business model;

(c) Qantas grants Air NZ the right to Codeshare on any Sector flown within the Qantas NZ Network; and

(d) Qantas grants Air NZ the right to Codeshare on any Qantas Non-JAO Sector flight that reasonably connects to any flight on the JAO Networks. This right will only apply to facilitate the carriage of Air NZ passengers who have a New Zealand point in their itinerary.

5.6 **Special Pro Rate Agreement**

(a) Where Qantas is the operating airline on any Sector, it will (upon request) offer Air NZ a special pro rate agreement which will be on such terms as the parties agree, provided that it will be on terms no less favourable than the terms offered by Qantas to other members of the Global Airline Alliance in which Qantas is a member in relation to the relevant Sector.

(b) Where Air NZ is the operating airline on any Sector, it will (upon request) offer Qantas a special pro rate agreement which will be on such terms as the parties agree, provided that, while Air NZ is a member of a Global Airline Alliance, it will be on terms no less favourable than the terms offered by Air NZ to other members of that Global Airline Alliance in relation to the relevant Sector.

(c) Should the practice of interlining and entry into pro rate agreements become available in the Freedom business model, Air NZ will procure that Freedom offers to Qantas an interline and pro rate agreement to the fullest extent available under the revised business model. Prior to such an agreement being available, Air NZ will, if requested by Qantas, procure that Freedom will offer Qantas seats on all flights operated by Freedom on terms to be agreed but such terms to be no less favourable than those offered by Freedom to any third party.

(d) Inventory access for JAO Networks fare products specified in special pro rate agreements shall be the same as for Qantas and Air NZ on-line fare products of a similar type and value.

5.7 **Qantas Holidays**

While continuing to provide and develop Qantas Holidays' existing portfolio of products, Qantas and Air NZ will take all reasonable steps necessary to facilitate Qantas Holidays maximising the provision of new tourism products which utilise the JAO Networks as part of itineraries offered by Qantas Holidays, including the promotion of New Zealand and Australia as a joint destination.

5.8 **Freight**

Subject to clause 7.3, Qantas and Air NZ will take all steps necessary to co-ordinate their Freight operations to improve the scope and availability of Freight services to customers in Australia and New Zealand.

5.9 **Sales, Marketing and Customer Service**

In order to provide consumers with enhanced sales service and a wider choice of travel and Freight products at competitive prices, Air NZ and Qantas may co-ordinate their sales and marketing functions relating to the JAO Networks. This co-ordination may include:

(a) operating co-branded joint offices and joint retail sales outlets;

(b) co-locating certain facilities and staff;

(c) appointing common general sales agents in countries other than Australia and New Zealand;

(d) conducting joint promotions;

(e) offering co-ordinated incentive programmes for agents, resellers and customers;

(f) each party treating all Qantas and Air NZ passengers and Freight as being equivalent, including by providing access to that party's JAO Network, customer lounges, ground services and Freight handling services; and

(g) providing equivalent customer services to the customers of each other in locations and situations where one party is unable to offer customer services facilities.

5.10 **Frequent Flyer Programmes**

(a) Air NZ's and Qantas' frequent flyer programmes shall remain separate and autonomous.

(b) Air NZ and Qantas will enter into a frequent flyer agreement which shall allow:

(i) Air NZ Airpoints members (**Airpoints Members**) to accrue and redeem Air NZ Airpoints on all flights on the Qantas NZ Network and the Qantas Non-JAO Sectors (to the extent that Qantas Frequent Flyer Members (**Frequent Flyer Members**) are entitled to accrue and redeem Qantas Frequent Flyer Points on those flights);

(ii) Frequent Flyer Members to accrue and redeem Qantas Frequent Flyer points on all flights on the Air NZ Network and all flights flown by Freedom (to the extent that Airpoints Members are entitled to accrue and redeem Air NZ Airpoints on those flights); and

(iii) neither Air NZ nor Qantas shall give preferential access to redemption seat allocation to Airpoints Members over Frequent Flyer Members or vice versa.

5.11 Reservations System Display

Subject to the provisions of existing agreements with other airlines and global distribution system providers, Air NZ and Qantas will, in respect of the JAO Networks, co-operate and, to the greatest extent possible, give priority to each other in the display of each other's flights (JAO and Non-JAO) in their respective airline reservations systems (**Reservations Systems**) as follows:

(a) where both parties operate flights over any Sector or route, each party will, display in their Reservation Systems its flights and the other party's flights in order of departure time, ahead of any third party airline's flights (irrespective of the departure times of that third party airline's flights); and

(b) where only one party operates flights over a Sector or route, the other party will, whenever practicable, give first priority in its Reservations Systems display to those flights ahead of any third party airline's flights,

provided that the parties will comply with all relevant data protection, privacy and competition laws in providing access to its systems, databases and Reservations Systems.

6. ALLIANCE CO-OPERATION

6.1 Co-operation Principles

(a) In addition to the matters set out in clause 5 (Co-ordination of Services under the JAO) Air NZ and Qantas agree to co-operate on activities in relation to the Non-JAO Networks in accordance with the Non-JAO Governance Principles set out in Part 2 of Schedule 2.

(b) Air NZ and Qantas will, where they consider it efficient and beneficial to do so, also co-ordinate scheduling and pricing and take any action contemplated by this Agreement in respect of any service, business or operation not included in the JAO Networks.

6.2 Frequent Flyer Programmes

Air NZ and Qantas will co-operate to develop and implement further arrangements and structures designed to deliver additional benefits to each other's customers and frequent flyers, either as part of a bilateral arrangement or pursuant to their participation in the same Global Airline Alliance.

6.3 Inflight Services

Air NZ and Qantas may co-operate in developing an appropriate in-flight experience for passengers. Subject to privacy laws and any relevant contractual restrictions, when co-operating in this regard Air NZ and Qantas will share information, technology, plans and know-how with each other, and may co-ordinate and converge their in-flight products so that passengers can receive the best available inflight experience with respect to safety and, where commercially viable and sustainable, comfort, entertainment, catering and customer service (taking into account the different service and business models each party is operating at the relevant time).

6.4 **Products and Services**

Air NZ and Qantas will work together to identify, develop and provide new consumer benefits, products, services and pricing strategies for different markets, in order to offer (individually or jointly):

(a) a global network;

(b) attractive holiday packages;

(c) seat sales or other promotions;

(d) a wide variety of travel options;

(e) competitive fares (including “round-the-world” fares);

(f) Freight products; and

(g) shared freighters.

6.5 **Fleet Planning and Flight Operation**

Air NZ and Qantas will liaise with each other regarding fleet planning and flight operations strategies, both short and long term and may:

(a) co-ordinate their individual fleet acquisitions with a view to achieving fleet commonality, in-flight product and interior aircraft configuration convergence, increased purchasing power and flexibility with delivery schedules, aircraft substitution and engineering and maintenance;

(b) identify future fleet requirements to assess opportunities for joint procurement;

(c) lease (subject to any third party contracts) aircraft to each other on arms’ length terms; and

(d) subject to any legal or contractual constraints, share knowledge, expertise and experience, to the greatest extent permissible with respect to fleet planning, flight operations, safety and security policies and procurement opportunities and arrangements.

6.6 **Information Technology**

(a) Air NZ and Qantas may co-ordinate all aspects of their information technology systems and requirements, including:

(i) the licensing, development and use of information technology, whether developed by either party or by third parties (as permitted in any third party contracts);

(ii) the granting of licences to each other, any such licences to be negotiated on arms’ length terms; and

(iii) the development of a long term strategy with respect to the possible integration or joint venturing of information technology systems in order to lower costs and give effect to customer benefits such as through check-in, electronic check-in, internet bookings, electronic tickets, premium customer recognition, travel agency access and to assist each other in the co-ordination of capacity, prices and scheduling.

(b) Should the parties consider it beneficial, they may agree a manager with appropriate information technology experience to become an additional Qantas Secondee.

6.7 **Security, Safety and Emergency Planning**

To improve efficiency and ensure the continued safety and security of passengers and crew, Air NZ and Qantas will:

(a) develop and implement additional safety and security policies and procedures in respect of their use of facilities and services; and

(b) co-operate on flight disruption and emergency planning and procedures and assist one another during any disrupted flight or emergency affecting either or both parties.

6.8 **Purchasing**

Air NZ and Qantas will:

(a) explore joint purchasing options with a view to agreeing the most efficient purchasing practice of third party goods and services; and

(b) where it is effective and efficient to do so, negotiate with suppliers on behalf of each other (as expressly agreed from time to time) and agree rates in order to obtain the best available rates for goods or services in any country.

6.9 **Human Resources**

(a) Where it is efficient and effective to do so, Air NZ and Qantas may pursue joint human resources activities in order to contribute to training of staff, higher service standards, reduce costs and increase productivity. Joint human resources activities may include:

(i) agreement as to the best way to resource joint operations, shared offices and jointly undertaken projects;

(ii) sharing ideas on organisational structure and roles;

(iii) training, including the joint development and delivery of training programmes and shared resources;

(iv) sharing ideas on human resource policies and procedures, for example recruitment and communications; and

(v) from time to time, seconding employees to each other on terms to be agreed.

(b) The staffing and location of any joint operations or shared offices will be agreed by the parties to best suit their needs in that country and will take into account which party operates services to that country. The costs of staffing any joint or shared offices will be shared on an agreed basis.

6.10 Airports

Subject to compliance by Air NZ with the Relevant Air NZ Alliance Agreements, Air NZ and Qantas:

(a) where it is effective and efficient to do so, will operate joint airport lounges, check-in and customer service centres at agreed airports to assist their customers with check-in and transfer arrangements and provide enhanced services at airports; and

(b) will, where only one of Air NZ or Qantas operates an airport lounge at a particular airport, ensure that each other's eligible passengers have access to such airport lounges on terms to be agreed by the parties.

6.11 Government Relations

Air NZ and Qantas will, after the Effective Date, co-operate and liase with each other with respect to any representations to be made to their respective Governments or, as appropriate, other governments or aviation regulators relating to the Alliance, including in relation to the allocation or use of capacity rights.

6.12 Further Commercial Opportunities

Air NZ and Qantas may decide to extend the level of co-operation between them for further commercial opportunities to be agreed from time to time, including by the establishment of joint venture operations.

7. ALLIANCE AGREEMENTS

7.1 Relevant Air NZ Agreements

(a) Nothing in this Agreement shall give rise to an obligation or right the existence or performance of which would breach any Relevant Air NZ Alliance Agreement.

(b) To the extent, and for so long as, any obligation or right arising out of this Agreement does (but for this clause) through its existence, or would through performance, breach a Relevant Air NZ Alliance Agreement:

(i) such obligation or right shall be null and void;

(ii) the parties shall treat such obligation or right as never having been created; and

(iii) this Agreement shall be deemed to have been amended in all respects necessary to ensure this clause 7.1 is given full effect.

7.2 United Airlines Agreements

Without limiting clause 7.1, Air NZ and Qantas agree that for so long as Air NZ and United Airlines are required pursuant to the United Airlines Agreements and permitted under the required regulatory approvals relating thereto to co-ordinate pricing and capacity in respect of Sectors between NZ and the United States, Air NZ and Qantas will not implement any terms of this Agreement (including, for the avoidance of doubt, the

Management Fee and Adjustment Payment Calculation) in relation to the following Sectors:

(a) NZ/USA (direct and indirect services);

(b) Sydney/Los Angeles; and

(c) Los Angeles/London.

7.3 **Freight**

(a) Qantas acknowledges that Air NZ has sub-contracted access to aircraft space to New Zealand Post Limited for the transport of Freight within New Zealand (**New Zealand Post Agreement**). Nothing in this Agreement shall give rise to any obligation or right the existence or performance of which would breach any term of the New Zealand Post Agreement.

(b) Should Air NZ and Qantas consider it beneficial, they may agree a manager with appropriate Freight experience to become an additional Qantas Secondee.

7.4 **Third Party Codeshares**

Notwithstanding the inclusion of any third party Codeshare services in the JAO Networks, neither Air NZ nor Qantas will take any action which has or may have an adverse effect on the contractual relationship that the other party has under its third party Codeshare arrangements.

7.5 **Alternative Means of Achieving Objectives**

Subject to the provisions of clauses 7.1, 7.2 and 7.3, Air NZ and Qantas:

(a) agree to act in good faith and to use all reasonable endeavours to implement the provisions of this Agreement; and

(b) undertake to co-operate to the maximum extent possible with a view to finding alternative ways of achieving their intended Alliance objectives without causing a breach of any of the Relevant Air NZ Alliance Agreements.

10. **MUTUAL OBLIGATIONS**

10.1 **Restrictive Covenants**

Unless previously agreed in writing by Air NZ and Qantas the following provisions shall apply to Air NZ and Qantas as from the Effective Date:

(a) Air NZ and its Airline Affiliates must not, and Air NZ must procure that Freedom does not, operate on any non-Trans-Tasman Sectors which depart from and/or arrive at an airport in Australia (except that Air NZ shall be permitted to continue to operate its Sydney/Los Angeles Sector); and

(b) Qantas and/or its Airline Affiliates must not operate on any Sectors which depart from and/or arrive at an airport in New Zealand, other than by flying as part of the JAO Networks.

This clause 10.1 is not subject to clause 12 (Dispute Resolution Process).

10.2 **Other Sectors – Airline Growth**

(a) Subject to clause 10.2(b), either Air NZ or Qantas and/or their respective Airline Affiliates (including, for the purposes of this clause 10.2, in the case of Air NZ, Freedom) may operate at any time on any Other Sector.

(b) If Air NZ or Qantas and/or their respective Airline Affiliates (including, for the purposes of this clause 10.2, in the case of Air NZ, Freedom) (**Commencing Party**) wishes to commence operating on an Other Sector and the other party is already operating on that Other Sector, the Commencing Party must not commence operating on that Other Sector without first discussing its intentions to do so at SAAG. Air NZ will procure that Freedom complies with the provisions of this clause 10.2 as if it were a party to this Agreement.

10.3 **Parties' Involvement in Other Airlines**

Subject to any existing contractual obligation, neither Air NZ nor Qantas (including in the case of Air NZ, Freedom) shall take, after the Effective Date, any step in relation to any third party airline (other than Freedom, but including any third party airline in which a party has a shareholding but which is not an Airline Affiliate of that party or with which a party has an alliance relationship) which would encourage or knowingly assist that airline to compete against the JAO Networks or operate in a manner contrary to the interests of the Alliance. Air NZ will procure that Freedom complies with the provisions of this clause 10.3 as if it were a party to this Agreement. Nothing in this clause shall operate to constrain Air NZ or Qantas from developing their respective non-JAO operations, provided that such operations do not have a material adverse effect on the JAO Networks.

10.4 **Equitable Relief**

Air NZ and Qantas acknowledge that if there is an alleged breach of clause 10.1, 10.2 or 10.3, the party alleging the breach may seek equitable relief in addition to damages and the other party may not claim that the breach is not one which should be the subject of equitable relief.

10.5 **Employees**

(a) **Code of Conduct**

Air NZ and Qantas agree to procure their respective employees to abide by and observe the Code of Conduct.

(b) **Air NZ Employees**

Qantas undertakes with Air NZ that it will not, and, so far as it is able, it will procure that no member of the Qantas Group and no directors or officers of it or any member of the Qantas Group will prior to the termination of this Agreement and for a period of 18 months thereafter induce or seek to induce any employee of the Air NZ Group to become employed whether as employee, consultant or otherwise by Qantas or any member of the Qantas Group. Nothing in this clause 10.5(b) shall affect or prevent Qantas or any member of the Qantas Group from employing or negotiating the terms of employment of any employee of the Air NZ Group who either:

(i) makes an unsolicited approach to Qantas or any member of the Qantas Group or their respective directors and officers; or

(ii) responds to an advertisement placed by or on behalf of Qantas or any member of the Qantas Group generally soliciting applications for a position or positions.

(c) **Qantas Employees**

Air NZ undertakes with Qantas that it will not, and, so far as it is able, it will procure that no member of the Air NZ Group and no directors or officers of it or any member of the Air NZ Group will prior to the termination of this Agreement and for a period of 18 months thereafter induce or seek to induce any employee of the Qantas Group to become employed whether as employee, consultant or otherwise by Air NZ or any member of the Air NZ Group. Nothing in this clause 10.5(c) shall affect or prevent Air NZ or any member of the Air NZ Group from employing or negotiating the terms of employment of any employee of the Qantas Group who either:

(i) makes an unsolicited approach to Air NZ or any member of the Air NZ Group or their respective directors and officers; or

(ii) responds to an advertisement placed by or on behalf of Air NZ or any member of the Air NZ Group generally soliciting applications for a position or positions.

10.6 Reasonableness of Restrictions

Air NZ and Qantas agree that they consider that the restrictions contained in clauses 10.5(b) and (c) are no greater than is reasonable and necessary for the protection of the respective interests of Air NZ and Qantas but that if any such restriction shall be held to be void but would be valid if deleted in part or reduced in application, such restriction shall apply with such deletion or modification as may be necessary to make it valid and enforceable.

10.7 Material Adverse Effect

Where any applicable law, regulation, or determination of a relevant regulatory or governmental authority is likely to have a material adverse effect on the financial viability of the Alliance from the perspective of either party, the parties must meet and use their best endeavours to take such actions as may be required to mitigate the effect, provided that for the purposes of this clause 10.7, “best endeavours” shall not require either party to take any action which would have a material adverse effect on that party.

Appendix 2

NECG Report

(This document is filed with this application)

SCHEDULES

SCHEDULE 1

Air New Zealand Background Information

Introduction

1. Air New Zealand (company number AK/104799) was incorporated in New Zealand in 1940 and is New Zealand's principal international and domestic airline. Air New Zealand currently operates a fleet of 83 aircraft, linking 48 destinations in 16 countries. Air New Zealand operates an average of 1470 domestic flights and 194 international flights per week and is ranked as the 33rd largest airline worldwide, on the basis of annual RPKs.

2. Air New Zealand is an international and domestic group and one of New Zealand's largest companies. Air New Zealand is publicly listed on the New Zealand and Australian Stock Exchanges. Its principal activities are the operation of international and domestic air passenger and cargo transport services throughout New Zealand and the South West Pacific, and to Australia. The Air New Zealand group also encompasses business units providing engineering and ground handling services. Subsidiaries extend to booking systems, travel wholesaling and retailing services.

3. Freedom Air is a wholly owned subsidiary of Air New Zealand. A table of Air New Zealand's subsidiaries is attached to this Schedule.

History

4. In 1996 Air New Zealand acquired 50% of Ansett Australia Limited and Ansett International Limited (**Ansett**), and in 2000 it acquired the remaining 50%. The acquisition of Ansett enabled Air New Zealand to secure access to the Australian market, protect feeds and enjoy benefits of increased scale. However, as a result of

unsustainable losses on its operations, Ansett was placed into administration on 14 September 2001.

5. The collapse of Ansett and the downturn in the global aviation industry weakened Air New Zealand. To secure Air New Zealand's ongoing viability, in October 2001 the New Zealand Government (the **Government**) advanced a loan of $300 million to Air New Zealand, $AU150 million of which was paid to the administrator of Ansett. In November 2001 the $300 million loan was converted to (voting) convertible preference shares and the Government bought $585 million ordinary shares. The proceeds from the issue of ordinary shares were used to repay all outstanding unsecured borrowings of Air New Zealand – approximately NZ$600 million.

6. The Government acquired, in total, 82% of the share capital in Air New Zealand, which diluted the existing shareholdings of Brierley Investments and Singapore Airlines to 5.5% and 4.5% respectively. The Government has also committed up to $150 million in further funding before June 2003. In addition, the Government retains one fully paid special rights convertible share of $1.00 (the Kiwi Share). The Kiwi Share does not carry any voting rights or dividend entitlements and can only be held by the Government. However, the consent of the Kiwi Shareholder is required for certain prescribed actions.

Alliances

7. On 29 March 1999, Air New Zealand became a member of the marketing alliance known as Star Alliance. The Star Alliance offers customers access to seamless international travel, co-ordinated schedules, and, for qualifying customers, access to reciprocal frequent flier privileges and airport lounge access. The members of the Star Alliance network are Air Canada, Air New Zealand, All Nippon Airways, Austrian Airlines, British Midland, Lauda Air, Lufthansa, Mexicana, SAS, Singapore Airlines, Thai Airways International, Tyrolean Airways, United Airlines and Varig.

8. Air New Zealand also has an alliance with Singapore Airways which entails code sharing and network and schedule integration. Air New Zealand codeshares with Singapore Airways on the Singapore-Bangkok, Singapore-London, Singapore-Manchester, Singapore-Zurich routes and selected New Zealand domestic services. Air New Zealand and Singapore Airways operate joint services between New Zealand and Singapore. This alliance was granted antitrust immunity by the New Zealand Ministry of Transport and the Australian Competition and Consumer Commission in 1998.

9. Air New Zealand codeshares with United Airlines on services to 18 major US cities. United Airlines codeshares with Air New Zealand on trans-Pacific services between New Zealand, Australia and the United States and on selected New Zealand domestic services. The alliance was granted antitrust immunity by the United States' Department of Transportation in 2001 and the New Zealand Ministry of Transport in 2002.

10. Air New Zealand also has arrangements under which it code shares with Air Canada, Lufthansa, British Midland, Mexicana, Aircalin, EVA and Japan Airlines. For a more detailed description of Air New Zealand's codesharing arrangements.

11. A copy of the 2002 Air New Zealand Annual Report is attached as Appendix 4.

Air New Zealand Subsidiaries

Operating Companies	Non Operating & Holding Companies	Engineering
Air Nelson Ltd Air New Zealand Aircraft Holdings Ltd Air New Zealand Destinations Ltd BPT (New Zealand) Ltd Eagle Airways Ltd Freedom Air Ltd Mount Cook Airline Ltd New Zealand International Airlines Ltd	Air New Zealand Associated Companies Ltd Air New Zealand Associated Companies (Australia) Ltd Air New Zealand Express Ltd Air New Zealand International Ltd Air New Zealand Travel Business Ltd Anex Holdings Ltd Eagle Aviation Ltd Enzedair Tours Ltd Events Marketing Ltd Hazelwoods Travel Ltd Hotpac Reservations (NZ) Ltd Jetaffair Holidays Ltd Lexington Securities Ltd National Airlines Company Ltd New Zealand Skiing Company Ltd NZ Tourist Air Travel Ltd New Zealand Tourism Incorporated Ltd New Zealand Tourist Promotion Company Ltd Tasman Empire Airways 1965 Ltd The Mount Cook Group Ltd Tourism New Zealand Ltd Travelseekers International Ltd United Travel Agencies Ltd Variety Travel (Central) Ltd Variety Travel Ltd	Air New Zealand Engines Christchurch Ltd ANNZES Engines Christchurch Ltd Eagle Air Maintenance Ltd Ansett Australia and Air New Zealand Engineering Services Ltd Safe Air Ltd
Australian Subsidiaries	**Foreign Subsidiaries**	**Associated Subsidiaries**
Operating Tasman Aviation Enterprises (Queensland) Pty Ltd **Non Operating** Air New Zealand (Australia) Pty Ltd Koine Pty Ltd Koru Leasing Ltd Tasman Aviation Enterprises (NSW) Ltd	**Operating** Blue Pacific Tours (Japan) Ltd **Non Operating** Mount Cook Tours Ltd	**Operating** Travel Software Solutions Pty Limited (25% ANZ / 25% AN) **Non Operating** CI Air Services Ltd (90% owned) Gitaway Holidays Ltd (33% owned) The London Shoppe Ltd (50% owned)

SCHEDULE 2

Qantas Airways Background Information

1. Qantas was incorporated in Queensland in 1920 and is Australia's principal international and domestic airline. Qantas operates a domestic and international fleet of 194 aircraft linking 142 destinations in 32 countries. Qantas operates an average of 5,300 domestic and 540 international flights per week and employs more than 33,000 people worldwide. Qantas is ranked as the 15th largest airline worldwide, on the basis of RPKs.

2. Qantas is one of Australia's 30 largest companies and is publicly listed on the Australian Stock Exchange. The company's main business is the transportation of passengers and air freight.

3. In addition to the core airline, Qantas subsidiaries Eastern Australia Airlines Pty Limited, Southern Australia Airlines Pty Limited, Sunstate Airlines (Qld) Pty Limited, Airlink Pty Limited and Impulse Airlines Pty Limited operate regional services under the brand QantasLink. Qantas Flight Catering Holdings Limited and its subsidiaries including Qantas Flight Catering Limited, Caterair Airport Services (Sydney) Pty Limited, Caterair Airport Services Pty Limited and Snap Fresh Pty Limited operate inflight catering businesses. Q.H. Tours Limited and its subsidiaries Qantas Holidays Limited operate holiday, tour and travel businesses. Qantas Information Technology Limited provides information technology services.

4. Qantas holds 46.32% of the shares in Air Pacific.

5. In March 1993, British Airways plc (**BA**) acquired a 25% shareholding in Qantas from the Australian Government. Subsequently, during the first half of 1995, the Australian Government sold its remaining 75% shareholding in Qantas through a public offer, and Qantas listed on the Australian Stock Exchange on 31 July 1995. BA's current shareholding in Qantas is 18.93%.

6. In 1995, the (then) Trade Practices Commission granted authorisation to Qantas and BA to enter into an agreement (the **Joint Services Agreement** or **JSA**) which provided for the co-ordination of various aspects of their airline services between Australia/Europe, Australia/South East Asia and South East Asia/Europe. The agreement expired on 11 May 2000 and allowed Qantas and BA to:

   (i) fix prices on all routes between Australia/Europe and Australia/South East Asia;

   (ii) jointly manage capacity and yields on selected routes between Australia/Europe and Australia/South East Asia;

   (iii) co-ordinate scheduling of flights, and relevant sales and marketing operations on selected routes between Australia/Europe and Australia/South East Asia; and

   (iv) amend the routes which were subject to all aspects of the agreement at any time in the future.

7. In 2000, the ACCC granted authorisation to a subsequent authorisation application lodged by Qantas and BA (the **Restated Joint Services Agreement** or **RJSA**). The RJSA provided for the co-ordination of airline services between Qantas and BA on nominated routes, including the co-ordination of scheduling, marketing, sales, freight, pricing and customer services activities. Whereas the original JSA was restricted to routes between Australia/South East Asia, Australia/Europe, and South East Asia/Europe, the RJSA extends to the full networks of both airlines. It also provides for codesharing between the airlines on any part of their route networks. The RJSA authorisation expires in July 2003.

8. Qantas also has a codesharing arrangement with Origin Pacific on New Zealand main trunk and provincial routes (the **OP Agreement**). The OP Agreement commenced on 16

July 2001, for an initial term of one year. It provides that it will continue to renew automatically for further terms of one year, until such time as either party terminates the agreement by giving the other three months' written notice. It is expressly non-exclusive.

9. The arrangement is reasonably standard for the industry in that Origin Pacific owns and is responsible for managing all aspects of the aircraft, including operating, maintaining, and insuring the aircraft. Qantas merely agrees to market jointly the codeshare flights with Origin Pacific. Both parties' airline codes appear in the designation of those flights, in the parties' CRS and reservation systems, and at airports.

10. In addition, the OP Agreement was supplemented by a Heads of Agreement dated 16 may 2002, reflecting Origin Pacific's replacement of its Dash 8-300 aircraft with ATR72-210 aircraft on some routes. As with the existing aircraft, the ATRs are owned and operated by Origin Pacific, and bear the Origin livery. Under the Heads of Agreement, Qantas agreed that until 31 March 2003, it will market the whole capacity of the ATRs on two routes, Christchurch to Queenstown and Christchurch to Rotorua, under the OP Codeshare Agreement. In relation to other routes on which the ATRs replaced the Dash 8-300 aircraft, the arrangements with Qantas remain substantially the same.

11. On 21 September 1998, Qantas became a member of the marketing alliance known as **one**world. The members of this alliance currently include BA, American Airlines Inc, Cathay Pacific Airways Limited, Aer Lingus, Finnair, Iberia and Lan Chile.

12. For a more detailed description of Qantas' Codesharing arrangements, see Schedule 4.

13. A copy of the 2002 Qantas Annual Report is attached as Appendix 5.

SCHEDULE 3

This schedule contains explanations of:

(a) Freedoms and Bilaterals

(b) Air Services Arrangements

(c) Code sharing and the role of the Ministry of Transport

(d) IATA and international tariff co-ordination

(e) Airline booking systems

(f) Airline and Airport Codes

(g) Aircraft description and availability

(h) Sales methodology and Revenue Management

SCHEDULE 3(a)

Freedoms of the air

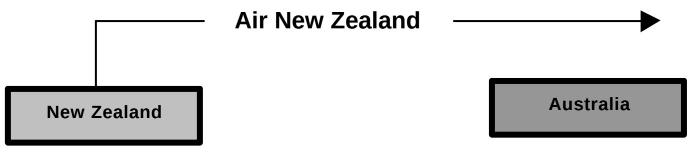
1. The regulatory system for international air transport was established by the Convention on International Civil Aviation of December 1944 (the **Chicago Convention**). The Chicago Convention established the framework under which international air transport is regulated. The key concepts in this system are the freedoms of the air.

2. There are nine “freedoms of the air” (**Freedoms**). The first five Freedoms were identified in 1944, as part of the International Air Transport Agreement which 12 states have signed. Freedoms six to nine have subsequently been identified as additional Freedoms.

3. The Freedoms are set out below along with a relevant illustration of how the Freedom would apply in the Australasian aviation market.

First Freedom

4. The First Freedom is the right of an airline of one country to fly over the territory of a foreign country.



5. For example, First Freedom rights would allow Air New Zealand to fly over Australia en route to Asia.

Second Freedom

6. The right of an airline of one country to land in a foreign country for non-traffic (traffic is passengers, cargo or mail) purposes (for example, re-fuelling or maintenance), en route to another foreign country.

7. For example, Second Freedom rights would allow Air New Zealand to land in the United States, re-fuel, and fly on to London, provided it did not pick up or set down passengers, cargo or mail.

Multilateral exchange of freedoms one and two

8. The International Air Services Transit Agreement which came into force on 30 January 1945, provides for the multi-lateral exchange of the first two Freedoms between the 118 parties to the Agreement. The exchange of all other Freedoms (including the first two Freedoms for countries that were not signatories to the Agreement) is negotiated on a bilateral basis and given effect to in bilateral agreements. Efforts to achieve multilateral exchange of the other Freedoms, by way of the International Air Transport Agreement, were essentially unsuccessful.

Third Freedom

9. The right of an airline of one country to carry traffic from its country to a foreign country.

10. For example, a bilateral between New Zealand and Australia that granted Third Freedom rights would allow Air New Zealand to take traffic from Christchurch and deliver it to Sydney.

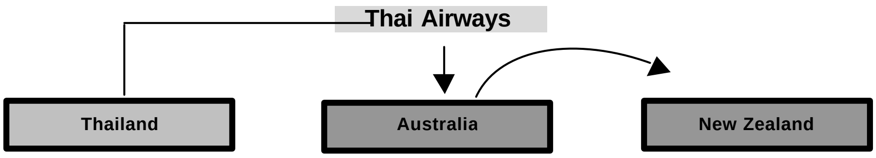
Fourth Freedom

11. The right of an airline to carry traffic from a foreign country to its own country.

12. For example, a bilateral between New Zealand and Australia that granted Fourth Freedom rights would allow Air New Zealand to take traffic from Sydney and deliver it to Wellington.

Fifth Freedom

13. The right of an airline of one country to land in a foreign country, pick up and deliver traffic, and then fly to a second foreign country. Fifth Freedom rights are confined to flights that originate or terminate in the airline's home country.



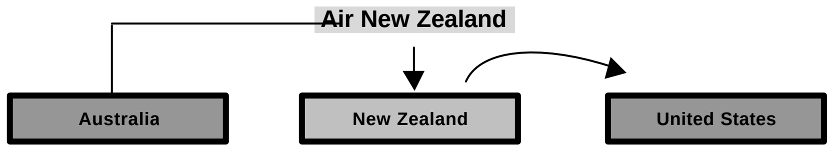
14. For example, Australia and New Zealand's bilateral with Thailand grants Fifth Freedom rights. This allows Thai Airways International (**Thai**) to fly from Bangkok and land in Brisbane, pick up and deliver traffic, and then fly from Brisbane to Auckland. In addition, Fifth Freedom rights allow Thai to do the same in reverse. Accordingly, Thai can fly from Auckland to Brisbane, pick up and deliver passengers and then fly on to Bangkok.

15. Fifth Freedom rights are extremely important in the trans-Tasman market. For example, Thai flies 747's from Bangkok to Australian airports. These flights typically arrive early in the morning. Given the time differences and flying times, in order for Thai's return flights from Australia to Bangkok to connect with evening outgoing flights from Bangkok, Thai's return flights do not leave until late evening. Accordingly, Thai's plane is idle during that period.

16. Fifth Freedom rights allow Thai to utilise the idle plane to fly trans-Tasman routes. Thai can price seats on these trans-Tasman services at close to marginal cost since any revenue received above marginal cost will contribute towards Thai's fixed costs because in the absence of the trans-Tasman service, the aircraft would be idle.

Sixth Freedom

17. The right of an airline of one country to carry traffic between two foreign countries via its own country. Essentially, the Sixth Freedom combines two sets of Third and Fourth Freedoms.



18. For example, a bilateral between New Zealand and Australia, and a bilateral between New Zealand and the United States, that each grant Third and Fourth Freedoms, would allow Air New Zealand to pick up traffic in Sydney, fly to Auckland, and then fly to Los Angeles.

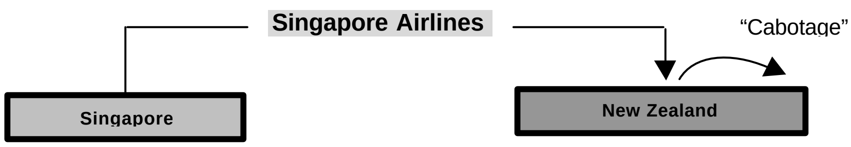
Seventh Freedom

19. The right of an airline of one country to operate flights between two foreign countries without the flight originating or terminating in its own country.

20. For example, bilaterals between New Zealand and Australia and New Zealand and the United States, that granted Seventh Freedom rights allow Air New Zealand to carry traffic directly from Los Angeles to Sydney, without a requirement for that service to operate either through New Zealand, or continue from Sydney to a point in New Zealand.

Eighth Freedom

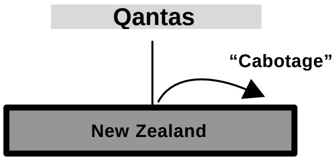
21. The right of an airline to carry traffic from one point in a foreign country to another point in the same foreign country on a flight originating in the airline's home country.



22. For example, a bilateral between New Zealand and Singapore that granted Eighth Freedom rights would allow Singapore Airlines to carry traffic from Singapore to Christchurch, pick up and deliver traffic, and then fly to Wellington. This carriage of passengers domestically in a country by a foreign airline is known as cabotage.

Ninth Freedom

23. The right for an airline to carry traffic from one point in a foreign country to another point in the same country without a requirement that the flight originates in an airline's home country.



24. For example, a bilateral between New Zealand and Australia that granted Ninth Freedom rights would allow Qantas to fly a route from Auckland to Wellington to Christchurch.

SCHEDULE 3(b)

Air Services Arrangements

Introduction

1. The regulatory system for international air transport was established by the Convention on International Civil Aviation of December 1944 (the **Chicago Convention**). The Chicago Convention enshrined the principal that each country has exclusive sovereignty over its own airspace. Unlike most other forms of international trade and transport, which are generally unrestricted unless specifically restricted, international air transport cannot occur unless it is specifically authorised. Efforts in 1944 to develop a multilateral agreement providing for open access to markets were essentially unsuccessful.

Bilaterals

2. International air transport can be specifically authorised, and most commonly is, by two states entering into an arrangement to allow international air transport (a **bilateral**).

3. Bilaterals are premised on reciprocal rights. That is, in a bilateral between country A and country B, country A's designated airlines should have the same access to country B's market as country B's designated airlines have to country A's market. Bilaterals generally comprise an Air Service Agreement, providing the overall framework, and associated documents detailing the operational mechanics of the arrangements between the governments of the two party countries.

4. The precise form of a bilateral agreement will depend on the negotiations between the two party countries. However, some common features of bilateral agreements in the past have included:

- market access provisions (for example, which Freedoms are granted, and which routes are included (see Schedule 3(a) for an explanation of Freedoms));

- capacity and frequency provisions;

- a method for determining or approving tariffs; and

- provision for country A to withhold operating rights from a designated airline of country B if that airline can not demonstrate that it is substantially owned and effectively controlled by nationals of country B.

5. This last requirement is important. There is no international definition of what "substantially owned and effectively controlled" means. This requirement entrenches the bilateral negotiation system by preventing an airline from country C gaining a substantial interest in an airline from country A, and thereby enabling it to take advantage of market opportunities in the bilateral agreement between countries A and B.

Multilateral Air Services Arrangements

6. International air transport can also be specifically authorised by numerous states entering into a single arrangement to allow international air transport between each other (a multilateral air services arrangement).

7. As discussed above, efforts for a multilateral arrangement for open access were unsuccessful in 1944. However, on 21 December 2001 the Multilateral Agreement on the Liberalization of International Air Transportation (**MALIAT**) entered into force. New Zealand, United States, Singapore, Samoa, Brunei, Chile and Peru are all parties of MALIAT. In essence MALIAT is an "Open Skies" arrangement (see below for an explanation).

New Zealand's Air Service Arrangements

8. A summary of New Zealand's existing Air Service Arrangements relevant to this application is included in this Application as Schedule 9.

Open Skies Arrangements

9. An open skies arrangement (**Open Skies**) is a form of liberal air services arrangement between states, most commonly in a bilateral format. The purpose of Open Skies is to remove most traffic and market access constraints as well as reducing the extent of government involvement in the aviation industry.

10. Although there is no uniform definition of Open Skies and the precise provisions of Open Skies vary from arrangement to arrangement, it generally involves the removal of restrictions and access to each country's markets, including unlimited rights to intermediate and beyond points. Restrictions on capacity and frequency, ability to codeshare and routes (including points of access) are also removed. However, restrictions often remain on foreign ownership and control of designated airlines, ability to operate domestic flights in the other country (cabotage) and, in some cases, the ability to fly from the other country to a third country (Fifth Freedom).

11. The open skies “movement” gathered pace in 1994, following the United States’ initial open skies bilateral with the Netherlands in 1992. The Open Skies that the United States generally enters into provides for open entry on all routes between the bilateral partners, unrestricted rights to operate between any international gateways in the United States and participating countries, unrestricted capacity, frequency and aircraft on all routes and allows flexibility in setting fares. However, United States does not grant cabotage and is generally unwilling to relax the restrictions on foreign ownership. There is the possibility that the US position may be relaxed in the context of a negotiation with the EU.

12. The Open Skies agreements that New Zealand enters into with other nations are based on the United States model. However, New Zealand’s model includes more liberal terms than those acceptable to the United States, such as the inclusion of passenger and cargo seventh freedom and cabotage rights and New Zealand prefers a formulation based on the principal place of business, place of incorporation, and effective control in the country or nationals of that country).

SCHEDULE 3(c)

Codesharing and the role of the Ministry of Transport

What is codesharing?

1. IATA assigns each airline a designator code, which is used to identify that airline within schedules. For example, Air New Zealand's IATA assigned designator code is NZ. A particular flight is identified in a schedule according to the designator code of the airline providing the service and by the flight number assigned to that flight by the airline. For example, Air New Zealand's Wednesday 6:45 a.m. flight from Christchurch to Sydney is identified by the code NZ181. NZ is Air New Zealand's designator code, while 181 is the flight number assigned to that flight by Air New Zealand.

2. Codesharing involves an airline assigning its own designator code to a flight operated by another airline. The essence of a codeshare is that two or more airlines can each sell seats on the same flight with each airline using its own designator code and flight number to identify that flight in the schedule.

3. For example, a codeshare on the Christchurch to Sydney route between Qantas and Air New Zealand would allow Qantas to assign its designator code (QF) and to assign a flight number to Air New Zealand flight NZ181. Qantas could then sell tickets on NZ181 as if NZ181 was a Qantas flight. That is, a passenger could choose to purchase a ticket for a Wednesday 6:45a.m. flight from Christchurch to Sydney on either flight NZ181 or flight QF391, even though these two services are operated using the same aircraft.

Types of codesharing

4. A common way in which a codeshare is executed is through a blocked space agreement. Under a blocked space codeshare, an airline (for example, Qantas) buys a certain amount of seats on another airline's flight (for example, on Air New Zealand's NZ181). Qantas then markets and sells the seats it has purchased on NZ181 as if the seats were on a Qantas plane.

5. Alternatively, airlines may codeshare on a freesell basis. Under a freesell codeshare there is no arrangement for an airline to buy a certain amount of seats on another airline. Instead an airline (for example Qantas) simply sells part the inventory of another airline (for example Air New Zealand).

Motivation for codesharing

6. The key driver for airlines to use codeshares is that codeshares provide a cost-effective method of adding to an airline's network. Using the example above, through codesharing, Qantas obtains a presence on the Christchurch to Sydney route without having to incur the costs of actually flying an aircraft on that route.

7. In addition, the role that the CRS plays in marketing an airline's services is a key driver for airlines to establish codeshares. Where passengers must stop off during a flight (for example, on Air New Zealand's flights from Auckland to London via the United States, a stop-off is required at Los Angeles) passengers prefer to connect with a flight operated by the same carrier (an **online connection**). The CRS system recognises this passenger preference and gives priority to online connecting flights over other connecting flights. Codesharing allows an airline to ticket codeshared connecting flights as if they were its own flights and, accordingly, allows that service to appear as an online connection in the CRS system.

Role of the Minister of Transport

8. Section 88(2) of the Civil Aviation Act 1990 (the **Civil Aviation Act**) provides:

> "The Minister [of Transport] may from time to time specifically authorise all or any provisions of a contract, arrangement, or understanding made between 2 or more persons in respect of international carriage by air and related to such carriage so far as the provisions relate, whether directly or indirectly, to the fixing of tariffs, application of tariffs, or the fixing of capacity, or any combination thereof."

9. Pursuant to this section, the Minister of Transport (the **Minister**) has the discretion to authorise arrangements involving the carriage by air of persons, cargo and mail:

   (a) between New Zealand and any place outside New Zealand; and

   (b) between places outside New Zealand if that carriage is purchased, sold or arranged in New Zealand.

10. The Minister has the discretion to authorise codeshares under section 88(2). In exercising this discretion, the Minister receives advice from the Air Services Section of the Ministry of Transport. Sections 88(3) and 88(4) specify considerations that the Minister must have regard to when deciding whether to exercise his discretion whether or not to grant an authorisation.

11. Section 88(3) concerns ensuring that New Zealand complies with its obligations under the international aviation conventions and agreements to which New Zealand is a party.

12. Section 88(4) sets out the competition law concerns that the Minister is directed to consider in determining whether or not to exercise his discretion to grant an authorisation.

13. Section 88(3) and section 88(4) are set out below.

Section 88(3)

14. Section 88(3) provides:

> "In considering whether to grant authorisation under sub section (2) of this section, the Minister shall ensure that the granting of such authorisation will not prejudice compliance with any relevant international convention, agreement, or arrangement to which the Government of New Zealand is a party."

15. As part of his consideration under section 88(3) the Minister will consider the impact of the contract, arrangement or understanding on New Zealand's obligations under existing bilateral Air Service Agreements.

Section 88(4)

16. As stated above, section 88(4) details the competition law concerns that the Minister is directed to consider in determining whether or not to exercise his discretion to grant an authorisation. The Minister may not authorise any provision of any contract, arrangement, or understanding, that:

- provides that any party to it may directly or indirectly enforce it through any form of action by way of fines or market pressures against any person, whether or not that person is a party to the contract, arrangement, or understanding; or
- has the purpose or effect of breaching the terms of a commission regime issued under section 89 of the Civil Aviation Act; or
- unjustifiably discriminates between consumers of international air services and the access they have to competitive tariffs; or
- so far as it relates to tariffs, has the effect of excluding any supplier of international carriage by air from participating in the market to which it relates; or

- has the purpose or effect of preventing any party from seeking approval, in terms of section 90 of the Civil Aviation Act, or the purpose of selling international carriage by air at any other tariff so approved; or
- prevents any party from withdrawing without penalty on reasonable notice from the contract, arrangement, or understanding.

17. However, the Minister must not decline to make an authorisation if such an action would have an undesirable effect on international comity between New Zealand and another state. This saving provision is discussed below.

Saving where to decline authorisation would have an undesirable effect on international comity between New Zealand and another state.

18. If the Minister declines to authorise on the grounds that the contract, arrangement or understanding would breach section 88(4), section 88(5) of the Civil Aviation Act empowers the Minister to authorise the contract, arrangement or understanding if refusal to authorise would have an undesirable effect on international comity between New Zealand and another state. Section 88(5) provides:

> “Notwithstanding the provisions of subsection (4) of this section, the Minister may authorise any provision of any contract, arrangement, or understanding under this section if the Minister believes that to decline authorisation would have an undesirable effect on international comity between New Zealand and any other State”.

Application of the Commerce Act 1986

19. Section 91(1) provides that sections 27 to 29 of the Commerce Act do not apply to negotiating and concluding tariff or capacity fixing arrangements under section 88. Section 91(2) provides that Ministerial Authorisations under section 88 are specific authorisations for the purposes of section 43 of the Commerce Act. Section 43 of the Commerce Act 1986 provides that nothing in Part II of the Commerce Act relating to restrictive trade practices applies to any matter that is specifically authorised by any other enactment.

20. The Civil Aviation Act’s approach is to specify certain matters the Minister *shall* have regard to. However, there is no express limitation on the matters which the Minister *may* have regard to. Accordingly, it is arguable whether section 88 is a code insofar as it identifies the specific competition law concerns the Minister is permitted to have regard to when exercising his discretion.

21. While not made explicitly clear, interpreting the Civil Aviation Act as a whole, it appears that Parliament intended to exempt international air carriage from the application of the competition law policy considerations under the Commerce Act 1986, replacing them with the more limited (and codified) regime in the form of the six specified matters in section 88(4).

22. Accordingly, in the Applicant's view, the Minister must exercise his discretion under section 88(2) in accordance with the Civil Aviation Act. The Minister can only decline to grant an authorisation under section 88(2) if (at least) one of the reasons set out in section 88(3) or section 88(4) is established.

SCHEDULE 3(d)

IATA and international tariff co-ordination

1. The International Air Transport Association (**IATA**) is a non-governmental industry body, incorporated in Canada, that represents the interests of its approximately 280 airline members. "Active" members of IATA must provide international air service for the public transport of passengers, mail or cargo by aircraft. Non-international airlines can be "associate" members. An associate member can not vote at certain IATA meetings.

2. The member airlines of IATA account for more than 95% of all international scheduled air traffic. Both Air New Zealand and Qantas are members of IATA.

3. IATA serves as the authority and reference point for:

   (a) passenger, tariff-related issues, and as the forum where fares and rules are established for interlining purposes; and

   (b) cargo, tariff-related issues and as the forum where rates and rules are established for interline purposes.

4. IATA was established in 1945. As noted at Schedule 3(a), regulation of international air transport is premised on each country's exclusive sovereignty over its own airspace. Governments have exercised sovereignty over their airspace in a number of ways, including overseeing the setting of prices.

> "In the early days Governments insisted on the right to oversee the prices charged by international airlines, but they could not, in practical terms, develop those prices for themselves. IATA was delegated to hold Traffic Conferences for this purpose, with all fares and rates subject to final Government approval. The aim was two-fold: to ensure that fares and rates would not involve cut-throat competition, and to ensure that they could be set as low as possible, in the interests of consumers."[2]

5. It is from this exercise of Government sovereignty that IATA gained its mandate to co-ordinate prices. During this period, air fares and cargo rates were negotiated at IATA conferences and then those fares were implemented through their incorporation, by Governments, into bilateral air service agreements.

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[2] http://www1.iata.org/about/history_2.htm

6. Deregulation of the airline industry began in the USA in the 1970s and had a profound impact on IATA. The U.S. Government, which had granted IATA traffic conferences immunity from national anti-trust law in 1946, began a review of air transport regulation. IATA was called upon to “show cause” why anti-trust immunity should not be removed from its tariff co-ordination activities. IATA’s website, with respect to the United States, notes that “the current position is that all Tariff Coordination activities continue to be protected”.[3]

7. Prior to deregulation, participation by member airlines in tariff co-ordination was a condition of membership. However, today, participation in tariff co-ordination is optional, with approximately 100 member airlines participating. The focus of IATA’s tariff co-ordination conferences is now on establishing “reference fares”.

8. These “reference fares” are used to facilitate interlining and to determine how revenue from the sale of an interline ticket should be divided between the airlines. Accordingly, the fares negotiated in these conferences are not the fares faced by final consumers. For example, the IATA published fare for flights between Singapore and Auckland is $SG2,917 ($NZ3,315) while the Air New Zealand nett level fare is $SG1,500 ($NZ1,704). Similarly the IATA published fare for London Heathrow to Auckland is £1374 ($NZ4,286) while the Air New Zealand nett level fare is £700 ($NZ2,183). As these examples illustrate, there is no fixing of final consumer fares.

[3] http://www1.iata.org/about/history_4.htm

SCHEDULE 3(e)

Airline booking systems

1. The booking system for air travel is based around each individual airline's Computerised Reservation System (**CRS**), which contains an airline's flight information, and Global Distribution Systems (**GDSs**), which collate and consolidate the information made available on individual airlines CRSs. CRSs and GDSs are explained below.

CRS

2. Each airline operates its own CRS, which is a computerised booking and ticketing system. Airlines use CRSs to manage their seat inventory, marketing and ticketing processes. Accordingly, CRSs play an important role in an airline's sales methodology and yield management processes (discussed elsewhere in this Schedule at 3(h)). An airline can analyse the likely returns on a particular flight and adjust the number of tickets it makes available in each fare class on that flight immediately in its CRS.

3. Customers can generally access an airline's CRS, so as to make a booking enquiry, through that airline's website. For example, a customer can ultimately access Air New Zealand's CRS for booking purposes via Air New Zealand's website at www.airnz.co.nz.

GDS

4. A GDS is a tool, provided to travel agents and other licensed users, that allows a user to generate the travel service options available in response to a particular query, for example, all flights from Wellington to Melbourne on 1 December 2002.

5. A GDS works by collating the information contained on the CRSs of various airlines, hotels, rental car companies and tourism service providers. A user can then, using software on his or her desktop computer terminal, have real time access to information on airline flight schedules, seat availability and prices, information on availability and prices of hotel accommodation, information on availability and prices of rental cars, and information on availability and prices of other travel services.

6. The major GDSs are Galileo, Sabre, Amadeus and Worldspan. The owners of each of these GDSs are set out below:

   (a) Galileo is owned by Cendant Corporation;

   (b) Sabre is a public company, listed on the New York Stock Exchange;

(c) Amadeus is a public company, listed on the Madrid, Frankfurt and Paris Stock Exchanges. Founding airlines Air France (23%), Iberia (18%) and Lufthansa (18%), currently hold approximately 59% of the shares in Amadeus; and

(d) Worldspan is owned by affiliates, Delta (40%), Northwest (34%) and American Airlines (26%).

SCHEDULE 3(f)

Airline and Airport Codes

1. This section sets out the codes used in the aviation industry for airlines and airports.

Airlines

2. IATA assigns each airline a designator code pursuant to IATA resolution 762. The designator codes for those airlines that operate services (including codeshare services) in New Zealand and Australia are given in the table below. The airlines that conduct services into or within New Zealand are highlighted in bold.

Code	*Airline*
AA	**American Airlines**
AC	**Air Canada**
AR	**Aerolineas Argentinas**
BA	**British Airways**
BI	Royal Brunei
BR	**EVA Airways**
CA	Air China
CI	China Airlines
CS	Continental Micronesia
CX	**Cathay Pacific**
CZ	China Southern
DJ	Virgin Blue
EK	Emirates
FJ	**Air Pacific Ltd**
GA	**Garuda Indonesia**
IE	Solomon Airlines
JL	**Japan Airlines**
KE	**Korean Air**
KL	KLM Royal Dutch Airline

Code	***Airline***
LA	**Lan Chile**
LH	**Lufthansa** (cargo only)
MH	**Malaysia Airlines**
MS	Egypt Air
NC	Norfolk Jet Express
NF	**Air Vanuatu**
NG	Lauda Air
NZ	**Air New Zealand**
OA	Olympic Airways
OZ	Asiana Airlines
PH	**Polynesian Airways**
PX	Air Niugini
QF	**Qantas**
QO	**Origin Pacific**
SA	South African Airlines
SB	**Air Calin**
SJ	**Freedom Air**
SQ	**Singapore Airlines**
TG	**Thai Airways**
TN	Australian Airlines
UA	**United Airlines**
VS	Virgin Atlantic
WR	**Royal Tongan Airline**

Airports

3. The codes for New Zealand airports and certain Australian, Pacific Island and other international airports that are potentially relevant to the Application are set out in the tables below.

New Zealand

4. The domestic airports flown to by Air New Zealand are listed below.

Code	**Airport**
AKL	Auckland
BHE	Blenheim
CHC	Christchurch
DUD	Dunedin
GIS	Gisborne
HKK	Hokitika
HLZ	Hamilton
IVC	Invercargill
KAT	Kaitaia
KKE	Kerikeri
NPE	Napier Hawkes Bay
NPL	New Plymouth
NSN	Nelson
PMR	Palmerston North
ROT	Rotorua
TIU	Timaru
TRG	Tauranga
TUO	Taupo
WAG	Wanganui
WHK	Whakatane
WLG	Wellington

Code	**Airport**
WRE	Whangarei
WSZ	Westport
ZQN	Queenstown

Australian Airports

5. Potentially relevant Australian Airports are listed in the table below.

Code	***Airport***
ADL	Adelaide
ASP	Alice Springs
AYQ	Ayers Rock Connellan
BNE	Brisbane
CNS	Cairns
CFS	Coffs Harbour
DRW	Darwin
JFM	Fremantle
OOL	Gold Coast Coolangatta
MEL	Melbourne Tulamarine
NTL	Newcastle
PER	Perth
TSV	Townsville
SYD	Sydney

Pacific Islands

6. Potentially relevant Pacific Island airports are listed in the table below.

Code	***Airport***
APW	Apia
NAN	Nadi
NLK	Norfolk
NOU	Noumea
PPT	Papeete
RAR	Rarotonga
SUV	Suva
TBU	Tongatapu

Other International

7. Those other international airports that are potentially relevant to the Application are listed in the table below.

Code	***Airport***
BKK	Bangkok
BOM	Bombay
CAN	Guangzhou
CDG	Paris
DPS	Denpasar
FCO	Rome
FRA	Frankfurt
HKG	Hong Kong
HNL	Honolulu
JFK	New York
JKT	Jakarta

Code	***Airport***
JNB	Johannesburg
KIX	Osaka Kansai
KUL	Kuala Lumpur
LAX	Los Angeles
LGW	London (Gatwick)
LHR	London (Heathrow)
MNL	Manilla
NGO	Nagoya Komaki
NRT	Tokyo Narita
ORD	Chicago
PEK	Beijing
PVG	Shanghai
SEL	Seoul
SFO	San Francisco
SIN	Singapore Changi
TPE	Taipei
YMQ	Montreal
YVR	Vancouver
YYZ	Toronto

Schedule 3(g)

Aircraft Description and Availability

1. Introduction

1.1 Aircraft In Use

The Air New Zealand Main Trunk Market is currently serviced by Boeing 767's (Air New Zealand), Boeing 737s (Air New Zealand and Qantas), ATR-72's (Air New Zealand and Origin Pacific), De Havilland Dash 8's (Origin Pacific), and BritishAerospace Jetstream 41's. A wide range of turboprop aircraft service the New Zealand provincial routes.

The trans-Tasman Market is currently serviced by Boeing 747s (Air New Zealand, Qantas, Malaysian Airlines and Thai International), Airbus A340's (Aerolineas Argentinas and Lan Chile), McDonnell Douglas (now Boeing) MD-11's (Thai International), Airbus A330's (Garuda), Boeing 767s (Air New Zealand and Qantas), Boeing 757's (Royal Tongan), Boeing 737s (Air New Zealand, Freedom Air, Qantas and Polynesian).

The Asia/Pacific Destinations Market is currently serviced by Boeing 747's (Air New Zealand), Airbus A340's (Air Tahiti Nui), Boeing 767's (Air New Zealand), Boeing 757's (Royal Tongan), Boeing 737's (Air Calin, Air New Zealand, Air Pacific, Air Vanuatu and Polynesian).

The New Zealand–USA market is currently serviced by Boeing 747s (Air New Zealand and Qantas), Boeing 777's (United Airlines). Other International markets are currently served by Boeing B747's (Air New Zealand, Korean Airlines, and Singapore Airlines), Airbus A340's (Aerolineas Argentinas, Cathay Pacific, and Lan Chile) and Boeing B767's (Air New Zealand and EVA Airways).

Details of these aircraft are provided below.

1.2 Aircraft On Order

Air New Zealand currently has Airbus A320's on order for future use. Qantas currently has Airbus A330 and A380 aircraft on order for future use

1.3 Aircraft Availability

The market for aircraft is characterised by an oversupply of aircraft and a lack of willing purchasers. This, along with the increased risk of aircraft being under-utilised for the next two years (affecting the potential returns on investment in aircraft), has impacted the market value of aircraft. For example, it has been estimated that more than 100 single-aisle passenger aircraft suitable for use within New Zealand are currently in storage.

2. Acquisition of Aircraft

Aircraft can be acquired new from the manufacturer, leased from a variety of companies (such as GECAS, Boullioun Aviation and International Lease Finance Corporation (**ILFC**)) or bought on an active second-hand market. Leasing or purchasing second-hand aircraft is a cost-effective means of acquiring sufficient aircraft.

Leasing aircraft enables airlines to maximise limited capital resources, reduce financial risk and retain the flexibility required to alter services in order to meet operational and passenger needs.

Airlines can lease aircraft on a financial or operational basis, the airline acquiring title to the aircraft in relation to the former only. Operating leases are increasing in popularity, one aircraft leasing firm, Boullioun, estimates that in 1980 only 3% of aircraft were acquired through operating leases, by the end of 2000 this had increased to an estimated 20% and is projected to increase further to 25% by 2008 (www.boullioun.com).

3. Types of Aircraft

Two important characteristics for aircraft are the seats per aircraft and the flying range. The table below indicates this information for typical jet aircraft currently used in New Zealand and/or on order: carrier specific seating configurations may differ and manufacturers produce several different versions of the same aircraft, hence the series identifiers used below (i.e. B737 family of aircraft is now identified as B737-300, B737-700 etc.). (See www.boeing.com and www.airbus.com.)

Aircraft	Typical Seats Single Class	Typical Seats Dual Class	Typical Seats Tri-Class	Maximum Range
B737-300	149	128	N/A	4,175 Km

B737-700	149	126	N/A	6,038 Km
A320	180	135	N/A	5,550 Km
B737-800	184	162	N/A	5,449 Km
B757-200	228	200	N/A	7,222 Km
B767-200ER	255	224	181	12,220 Km
B767-300ER	351	269	218	11,305 Km
A330-300	N/A	335	295	10,400 Km
A340-300	N/A	335	295	13,500 Km
B777-300	N/A	400	306	14,316 Km
MD-11	N/A	410	285	13,230 Km
B747-400	N/A	524	416	13,445 Km
A380	N/A	N/A	555	14,800 Km

SCHEDULE 3(h)

Sales methodology and revenue management

1. The goal of an airline's sales activity is to maximise revenue over its available seat kilometres (ASKs) A key means of accomplishing this goal is the pricing and revenue management function. Pricing and revenue management allows the airline to:

   (a) Spread demand over all flights scheduled during a particular time period (e.g. a day, week, year). This smoothes out the peaking of demand at certain time periods that would occur with a single price.

   (b) Fill as many seats as possible with passengers paying the highest yield possible (maximise the revenue per ASK from each individual flight).

Definitions

2. Available seat kilometres (ASKs) are calculated by multiplying the number of seats on a flight by the total distance the flight travels. For example, if there are 120 seats on a 500-kilometre flight (approximately the distance from Wellington to Auckland), the available seat kilometres for that flight would be 60,000 ASKs.

3. Yield is the average price a passenger pays for every kilometre he or she travels on an individual flight.

4. Yield is calculated by dividing the total revenue earned by the airline from an individual flight by the passenger kilometres travelled on that flight. In the above example, if 100 passengers travel on the 500-kilometre flight the passenger kilometres travelled for that flight would be 50,000 revenue passenger kilometres (RPKs).

5. Accordingly, if the total revenue earned from that flight was $15,000, then the yield would be equal to $15,000 / 50,000 = $0.3 per kilometre. That is, the airline would earn 30 cents per passenger for every kilometre flown.

6. Revenue per available seat kilometre (RASK) is a measure of the revenue generating performance of a unit of airline capacity. It is calculated by dividing the total revenue earned on a flight by the ASKs flown on that flight. It is a measure that captures both volume of passengers carried and the average yield per passenger.

7. Accordingly, the revenue per ASK on the flight in the above example would be equal to $15,000 / 60,000 = $0.25.

Revenue Management

What is revenue management?

8. Revenue management is the process by which airlines attempt to maximise RASK from each individual flight.

9. Airlines use different fare classes, each with different conditions or rules and a different price, to achieve this goal. Fare classes are not restricted to first class, business class and economy class fares. Even within those broad classifications, airlines offer different classes of fares. Accordingly, not all economy class tickets are sold at the same price. Revenue management is the process by which an airline determines the optimal amount of each class to sell on a given flight.

Revenue management to maximise RASK

10. Fares on a single flight are set along a continuum of pricing in order to achieve focus on target segments of passengers. At the extremes are:

    (a) on the one hand the “last minute” passenger; and

    (b) on the other hand the most price sensitive passenger.

11. Between these two extremes lie fares of variable amounts and with varying conditions attached.

12. Seats not expected to be needed for sale to higher yield passengers are sold in advance to leisure passengers who are more price sensitive or more accepting of qualifying conditions such as advance purchase or a Saturday night stay requirements. Such restrictions fit the travel and booking patterns of leisure passengers, but they are very unattractive for business passengers.

13. From historical data, an airline will know how many high yield tickets will be sold on a particular flight. For example, an airline will know that most of the tickets on the 7:00 a.m. flight from Wellington to Auckland will be sold to travellers who are willing to pay a high price. Accordingly, an airline will offer few (if any) tickets in low fare classes for this flight because it knows the travellers using this flight will be less sensitive to price.

14. In contrast, more low fare class tickets will be sold on an off-peak service to induce price sensitive travellers to use those flights.

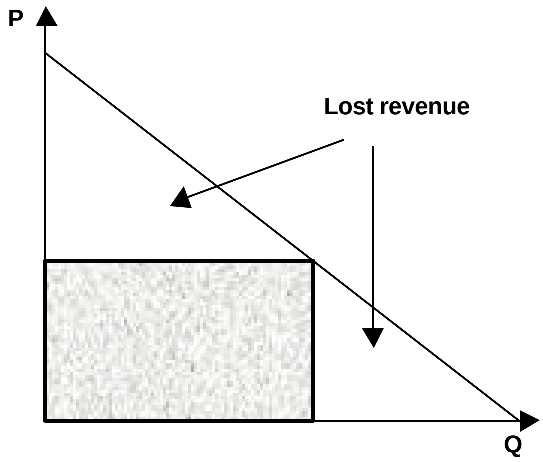
Revenue management to maximise yield

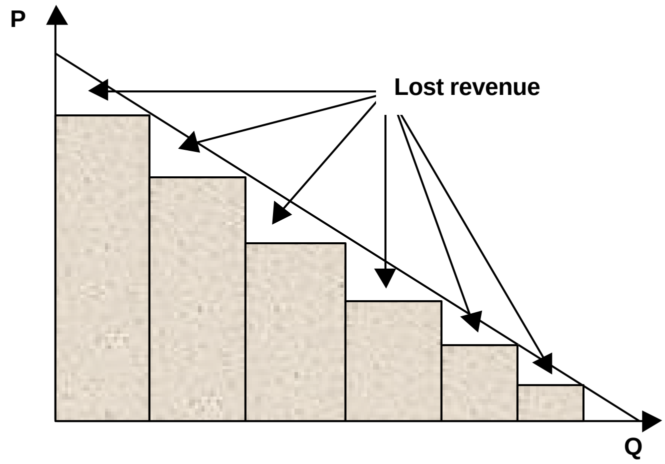
15. Revenue management to maximise yield involves price discrimination. That is, passengers are charged different prices depending on the value they assign to a particular service.

16. Each individual passenger values air travel differently. At one extreme is the passenger who must take a flight regardless of the cost. At the other extreme is the traveller who will only take a particular flight if the fare offered is the lowest available. Willingness to pay varies between these two extremes.

Benefits of price discrimination

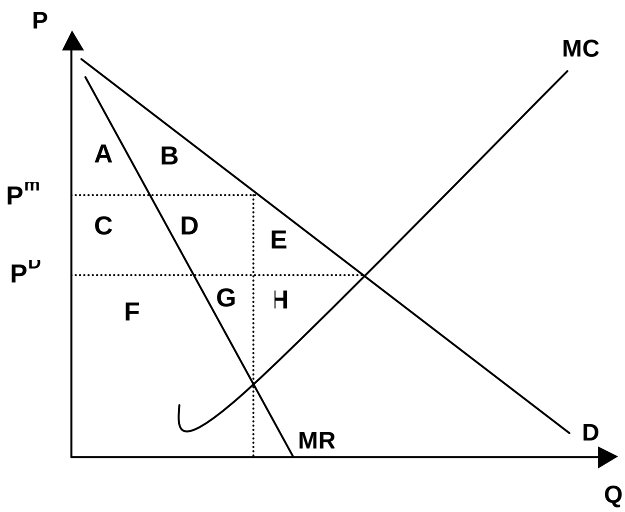
17. The benefit to an airline of charging different passengers different prices is illustrated in the graphs below. The graphs show that an airline can increase its revenue by charging different passengers different prices.





18. In addition, price discrimination is beneficial from a passenger's perspective. Price discrimination allows an airline to offer fares that make air travel possible for those passengers who would not be able to afford to pay a uniform price. Those passengers who are willing to pay a high price cover the airline's fixed costs, which allows the airline to offer fares to price sensitive customers a price that reflects marginal cost.

19. More broadly, price discrimination is beneficial to society from an efficiency perspective because it increases the overall welfare of the economy. This increase in welfare is illustrated in the graph below.



P^m: Single price charged by airline

P^D: Final price internal charged by perfect price discriminating airline

In practice, how do airlines discriminate?

20. Airlines cannot perfectly price discriminate because an airline can not ask a passenger how much he or she values the service. However, an airline can divide passengers into broad groups, where the groups reflect willingness to pay, by offering different classes of fares. Each fare class is subject to different conditions and attracts a different price. In general, the less conditions a class has the more expensive the fare.

21. Typical conditions and rules include, tickets:

    (a) bought in advance are cheaper than tickets bought on the day;

    (b) that require a Saturday night stay are cheaper;

    (c) for travel at off peak times are cheaper;

    (d) that are not transferable are cheaper; and

    (e) that are not refundable are cheaper.

22. However, the conditions and rules imposed on fare classes by airlines do not perfectly segregate the market. For example, there is nothing preventing a passenger with no discretion as to when he or she must travel, accessing a cheaper fare by booking well in advance. For example, passengers with a regular calendar of out of town meetings may access significantly reduced fares by booking lengthy periods in advance of travel.

SCHEDULE 4

Breakdown of Airline Alliances

Member airlines of the four main global groupings

Alliance Name	Establishment Date	Members	
Star Alliance	May 1997	Air New Zealand United Lufthansa All Nippon Airways Air Canada SAS Tyrolean Airways	Thai Airways International Singapore Airlines Varig Austrian Airlines Mexicana bmi British Midlands Lauda Air
oneworld	September 1998	Qantas American Airlines British Airways Iberia	Cathay Pacific Aer Lingus FinnAir Lanchile
SkyTeam	June 1999	Delta Air France Alitalia	Korean Air CSA Czech Airlines Aeromexico
Wings	1989	Northwest Airlines Japan Air Systems Malaysia Airlines KLM	KLM Excel Martinair Kenya Airways Surinam Airways

1. At the date of this Application, there are three major global airline alliances[4]:

   (a) **one**world;

   (b) Star Alliance; and

   (c) SkyTeam.

2. A fourth major alliance, Qualifier (whose members included Air Littoral, LOT Polish Airlines, Swiss Air, Brussels Airlines, TAP Air Portugal and Sabena) dissolved in 2001 following the collapse of Swiss Air and Sabena.

3. The Wings grouping is not a formal airline alliance. However, it is considered by some commentators[5] to be a global grouping because of the strong co-operation between its two founding members, KLM and Northwest, and because membership of Wings has, to date, precluded membership of any other alliance. Credit Suisse First Boston note:

> "KLM and Northwest agreed to participate in a far-reaching joint venture in 1989, including common purchasing and a frequent flyer programme. The joint venture was the first to receive US antitrust immunity and the alliance was given the tentative name "Wings", although it was never formally launched as such"[6].

4. Accordingly, the Wings grouping includes airlines that co-operate closely. The members of Wings listed in the table above are those airlines that Credit Suisse First Boston list as members of Wings in its paper *Global Airlines*. However, Continental Airlines, which works closely with KLM and Northwest, is sometimes considered to be part of the Wings grouping. There are very strong rumours that Continental Airlines, KLM and Northwest are applying to join Sky Team in December 2002.

5. The three major global alliances and Wings carry 69% of global international passenger traffic and control 43% of international passenger flights worldwide[7].

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[4] Credit Suisse First Boston, *Global Airlines* (May 2002) 12-15.

[5] Above Credit Suisse First Boston.

[6] Above Credit Suisse First Boston, 14.

[7] Above Credit Suisse First Boston, 3.

Other arrangements

Air New Zealand

6. Air New Zealand has the following arrangements with other airlines:

(a) An Alliance Agreement with Singapore Airlines, with application network-wide, including:

- for services beyond Singapore to London, Bangkok, Zurich and Manchester;
- on selected New Zealand domestic services; and
- on services between New Zealand and Singapore;

Pursuant to her jurisdiction under the Civil Aviation Act, the then Minister of Transport authorised those provisions of the Alliance Agreement concerning the fixing of tariffs, the application of tariffs and the co-ordination of capacity on international routes.

(b) An Alliance Expansion Agreement with United Airlines, with application network-wide, including:

- for services from New Zealand to major cities in the United States including Los Angeles, Las Vegas, San Diego, San Francisco, Seattle, Portland, Chicago, Denver, New York, Boston, Washington DC, Philadelphia, Miami, Dallas-Fort Worth and Honolulu;
- on selected New Zealand domestic services;
- on services between Australia, New Zealand and the United States; and
- on services between New Zealand, the Pacific Islands and the United States.

Pursuant to his jurisdiction under the Civil Aviation Act, the Minister of Transport authorised those provisions of the Alliance Agreement concerning the fixing of tariffs, the application of tariffs and the co-ordination of capacity on international routes.

(c) A codeshare agreement with Air Canada for services between:

- Auckland and Toronto; and
- Auckland and Vancouver via Honolulu and Los Angeles;

(d) A codeshare agreement with Lufthansa for services:

- between Auckland and Frankfurt via Los Angeles and Hong Kong;
- between Auckland and Munich via Los Angeles and Hong Kong; and
- beyond Singapore to Frankfurt;

(e) A codeshare agreement with British Midland on services between

- London Heathrow and Brussels;
- London Heathrow and Amsterdam; and
- London Heathrow and seven other United Kingdom cities;

(f) A codeshare agreement with Mexicana for services between:

- New Zealand and Mexico City; and
- New Zealand and Guadalajara;

(g) A codeshare agreement with Japan Airlines on Air New Zealand services between Auckland, Christchurch, and Narita, Kansai and Nagoya;

(h) A codeshare agreement with Aircalin between Auckland and Noumea on both the New Zealand and Aircalin services;

(i) A codeshare agreement with EVA between Taipei and Auckland on both Air New Zealand and EVA services.

Qantas

7. British Airways (which owns 25% of Qantas) has an agreement with Qantas whereby Qantas and British Airways co-ordinate various aspects of their networks including scheduling, marketing, sales, freight, pricing and customer services activities.

8. Qantas and British Airways codeshare on a freesell basis on all flights operated by each other. British Airways has an extensive network, throughout Europe and from the United Kingdom to North America, Caribbean, South America and Asia, as well as operating services to several cities in Africa.

9. Qantas also has a codeshare arrangement with Origin Pacific on the following flights operated by Origin Pacific:

- between Auckland and Nelson/Rotorua/Palmerston North;
- between Christchurch and Wellington/Queenstown/Rotorua/Nelson/Dunedin/ Palmerston North/Invercargill; and
- between Wellington and Hamilton/Nelson.

10. In addition to its relationship with British Airways and Origin Pacific, Qantas has the following arrangements with other airlines:

(a) A codeshare agreement with Fin Air for services between:

- Singapore and Bangkok; and
- Singapore and Helsinki;

(b) A codeshare agreement with South African Airways for services between Perth and Johannesburg;

(c) A codeshare agreement with Asiana Airlines for services between Sydney and Seoul;

(d) A codeshare agreement with Japan Airlines for services between:

- Brisbane and Tokyo;
- Brisbane and Osaka; and
- Sydney and Osaka;

(e) A codeshare agreement with Vietnam Airlines for services between:

- Melbourne and Ho Chi Min City; and

- Sydney and Ho Chi Min City;

(f) A codeshare agreement with Eva Airways for services between Brisbane and Taipei;

- A codeshare agreement with China Eastern Airlines for services between Sydney and Shanghai/Beijing.

(g) A codeshare agreement with Air Vanuatu for services between Sydney/Brisbane and Port Vila;

(h) A codeshare agreement with Air Niugini for services between Brisbane/Cairns/Sydney and Port Moresby;

(i) A codeshare agreement with Air Pacific for services between:

- Melbourne/Sydney/Brisbane/Los Angeles/Auckland/Honolulu and Nadi; and
- Sydney and Suva;

(j) A codeshare agreement with Polynesian Airlines for services between:

- Sydney and Apia;
- Auckland and Apia;
- Auckland and Papeete; and
- Auckland and Sydney.

(k) A codeshare agreement with Air Tahiti for services between:

- Auckland and Papeete; and
- Los Angeles and Papeete;

(l) A codeshare agreement with Air Aircalin for services between Sydney/Brisbane and Noumea;

(m) A codeshare agreement with Norfolk Jet for services between Sydney/Brisbane/Melbourne and Norfolk Island;

(n) A codeshare agreement with Alaska Airlines for services beyond Los Angeles to Vancouver, Portland, Seattle and Calgary:

(o) A codeshare agreement with American Airlines for services:

- beyond Los Angeles to Boston, Chicago, Dallas Fort Worth, Las Vegas, Miami, San Francisco, San Jose, Washington, Newark, San Diego, Phoenix, Oakland, Denver and Toronto;

- beyond Honolulu to San Jose, San Francisco, Los Angeles, Dallas Fort Worth and Chicago.

(p) A codeshare agreement with Lan Chile for services between Sydney/Auckland and Santiago.

SCHEDULE 5

Statement by Virgin Blue

Statements by Virgin Blue on entering the New Zealand Main Trunk Trans-Tasman Markets

1. **IZB News Report**

31 May 2002

David Huttner says that an alliance between New Zealand and Qantas will not scare Virgin Blue away. "Monopolies, if they are formed are almost a source of encouragement for Virgin Blue to challenge them. It is part of the nature of Virgin not to let monopolies price in a way that is detrimental to the public".

2. **Virgin Blue resolute on NZ Foray**

Jayne Boyce

1 June 2002

Australian Financial Review

"Virgin Blue's chief executive Brett Godfrey said on Friday that the discount airline remained committed to expanding to New Zealand, but warned competition would get tougher if Qantas bought a minority stake in Air New Zealand… 'It is going to make it tough from our point of view… but we'll still be getting into NZ' he said".

3. **Virgin warns on Air NZ Buy-up**

Roeland Van den Bergh

23 July 2002

Dominion Post

"[David Huttner] conceded that if the Qantas - Air New Zealand deal was allowed, it would make it easier to enter the market. 'There is a case for that. But the reality is it is not good for competition."

4. **Virgin Blue's NZ Mission**

www.xtramsn.com\business

IRN Limited

29 July 2002

"[Mr Huttner] also says Virgin Blue is definitely planning to set up in New Zealand for domestic and trans-Tasman flights".

5. **Virgin Blue on course for a kiwi landing despite battle of giants**

The New Zealand Herald

Matthew Dearnaly

9 August 2002

"Despite the phonetic activity over there, Huttner said his airline has never taken its eye of this ball on this side of the Tasman and fully intends flying here within a year – whether or not Qantas is allowed an Air New Zealand shareholding".

6. **Discount carrier Virgin Blue's profit to top A$100M, says Branson: Australian airline to sell shares to public next year**

Margreet Dietz

31 August 2002

National Post

"The airline wants to begin services to New Zealand and Hong Kong within 12 months, Mr. Branson said. It may speed up the start of its New Zealand service if Qantas succeeds in a plan to buy a stake in Air New Zealand Ltd., he said."

7. **Discount air carrier Virgin Blue profit to top A$100m**

Financial Post: World

Margreet Dietz

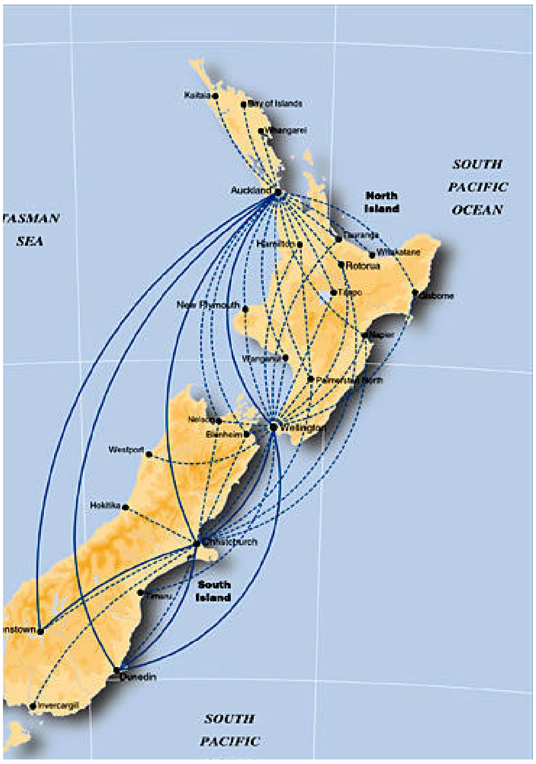
31 August 2002

"The airline [Virgin Blue] wants to begin services to New Zealand and Hong Kong within 12 months, Mr Branson said. It may speed up the start of its New Zealand service if Qantas succeeds in a plan to buy a stake in Air New Zealand Ltd, he said."

SCHEDULE 6

Route Maps

Air New Zealand – Domestic New Zealand Routes

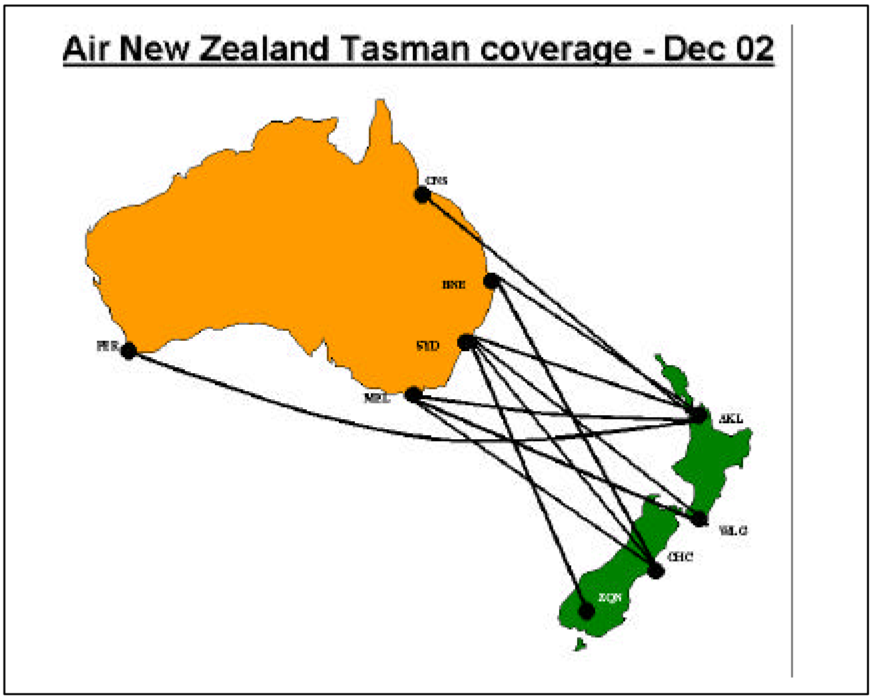


Qantas – Domestic New Zealand Routes

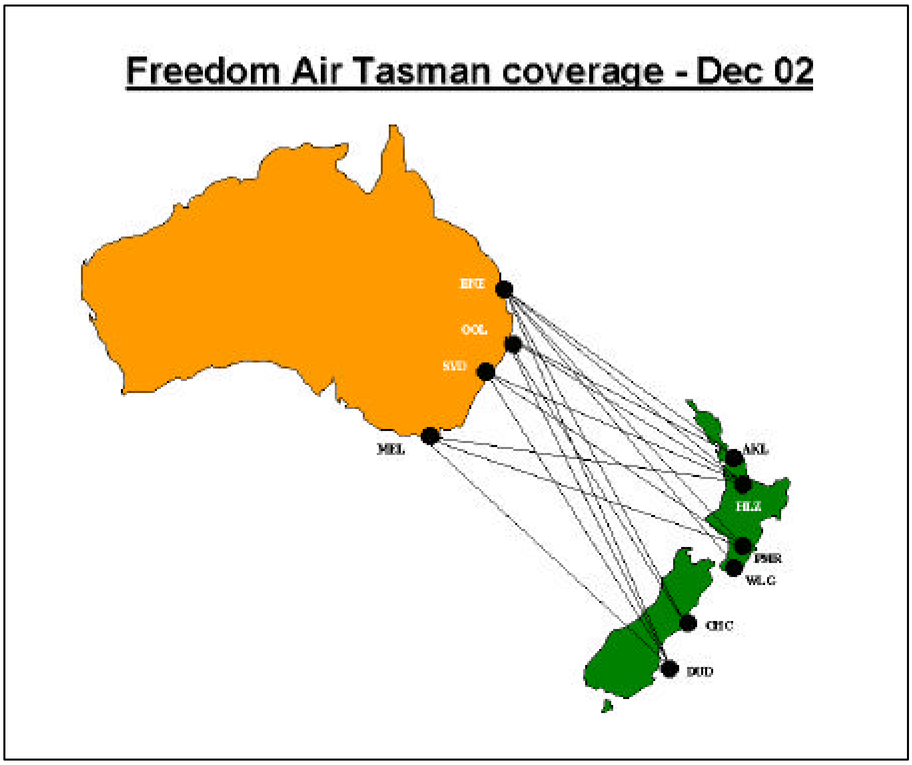
Origin Pacific – Domestic New Zealand Routes

(---- Codeshare on Qantas aircraft)

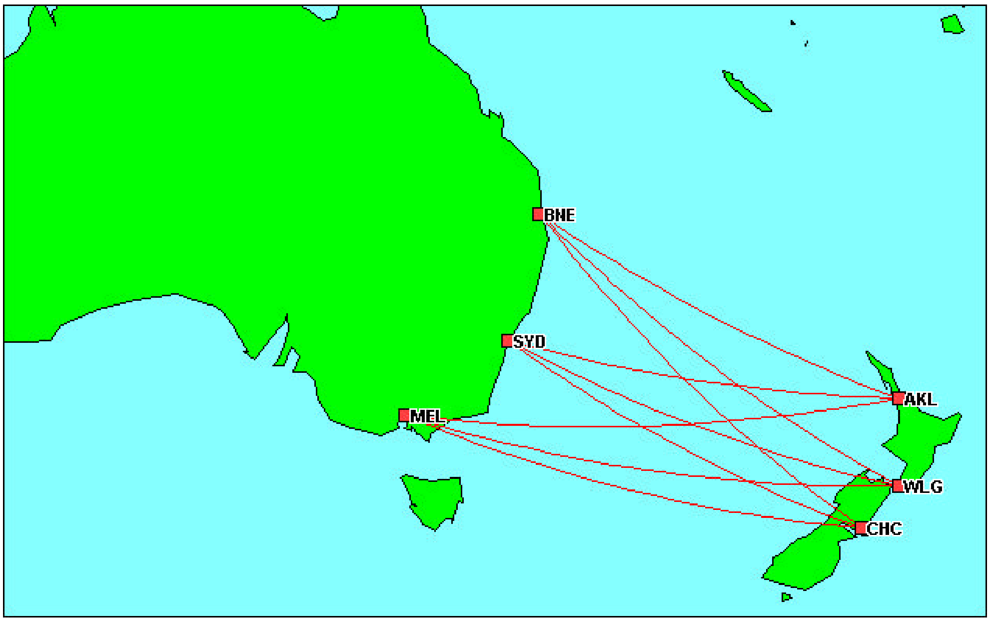
Air New Zealand – Trans Tasman Routes



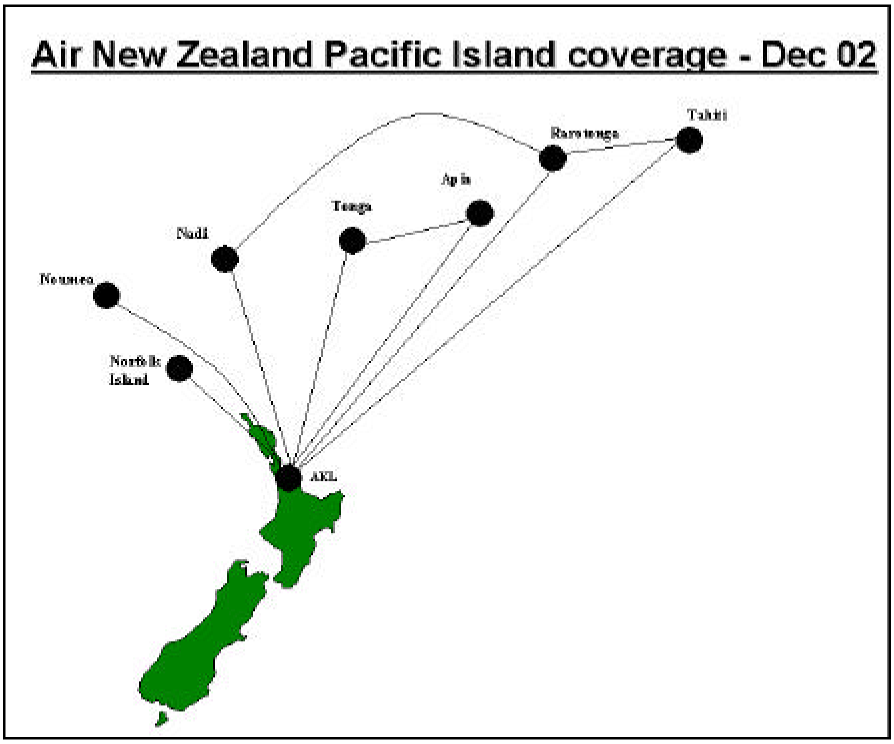
Freedom Air – Trans Tasman Routes



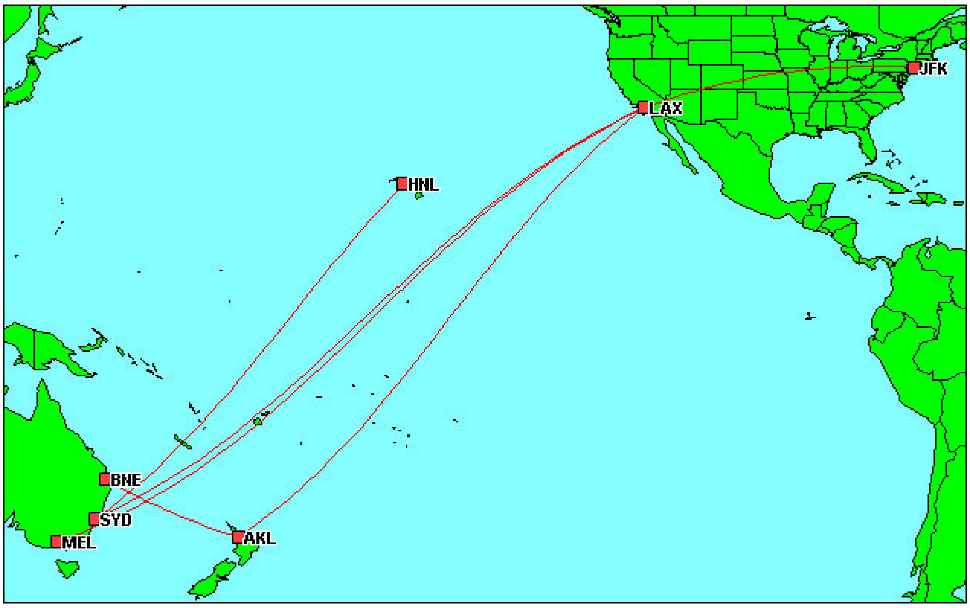
Qantas – Trans Tasman Routes



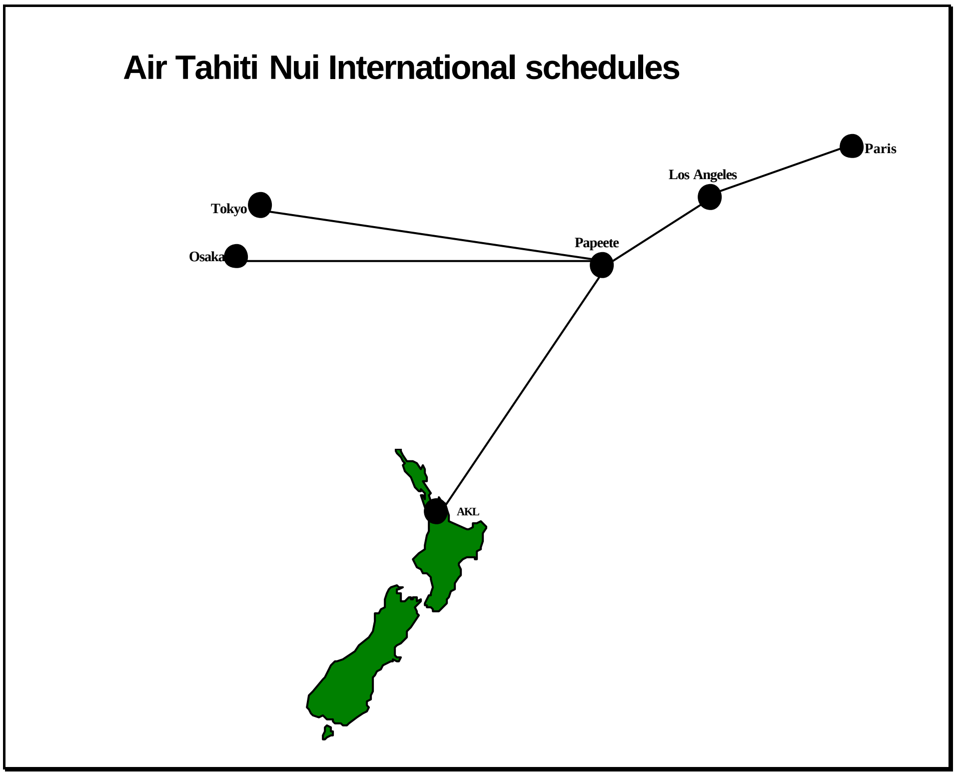
Air New Zealand - Pacific Islands Routes



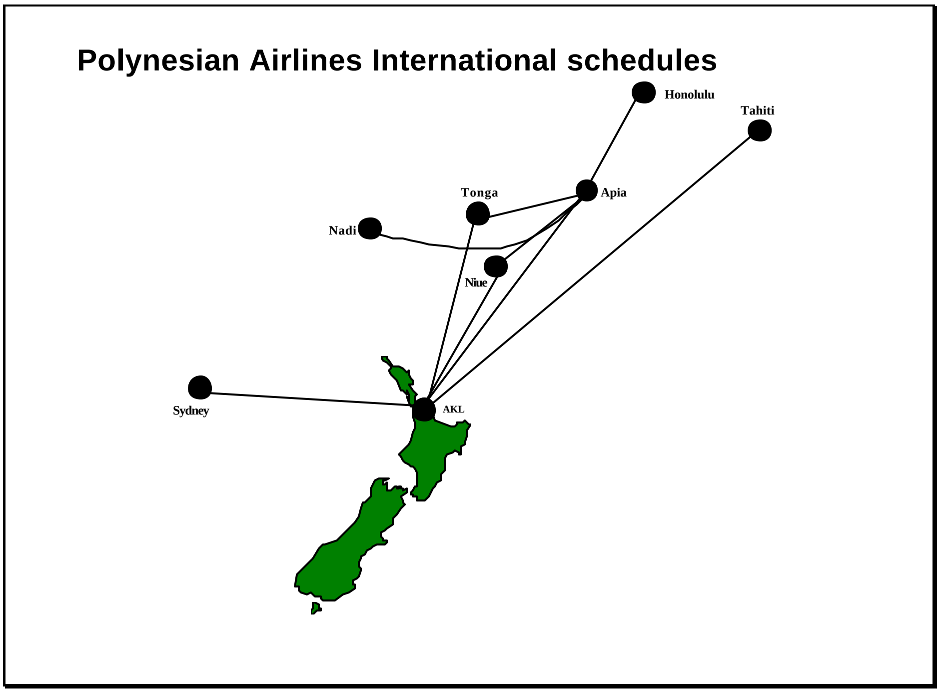
Qantas – Pacific Routes



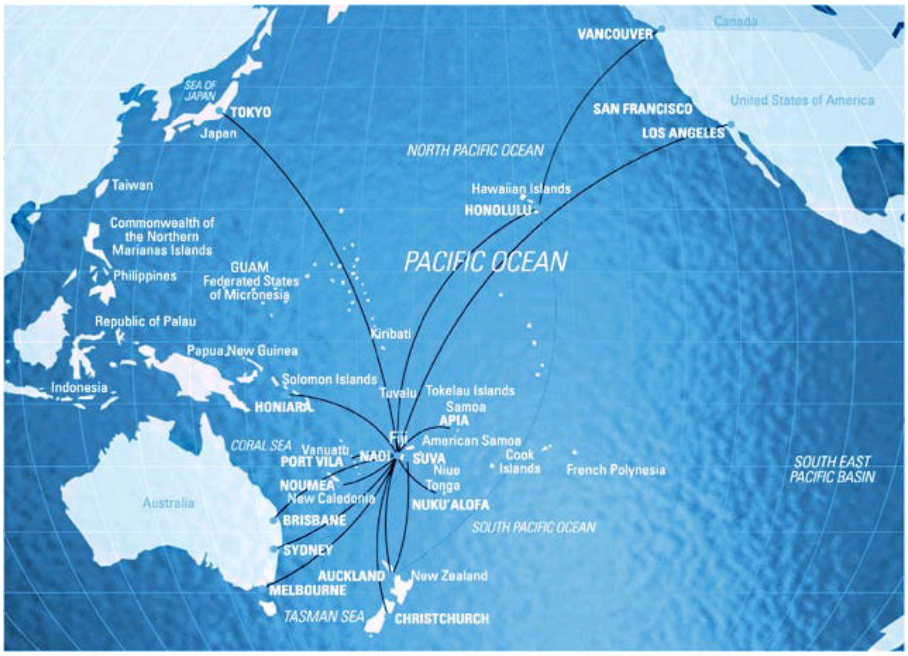
Air Tahiti – Pacific Routes



Polynesian Airlines – Pacific Routes



Air Pacific – Pacific Routes



SCHEDULE 7

SUMMARY OF AIR SERVICES AGREEMENTS

This is a broad outline of the Air Services Arrangements New Zealand has concluded with other countries. There are specific limitations imposed in individual bilaterals. Additional information is available if the Commission requests.

Air New Zealand is currently utilising rights under air services arrangements concluded by the New Zealand Government with the bilateral partners listed below. This table details the rights available to airline designated by the other Party.

COUNTRY/TERRITORY	INTERMEDIATE/BEYOND POINTS AVAILABLE	TRAFFIC RIGHTS
Austria	Unrestricted route	No fifth freedom rights
Australia	Unrestricted route	Unrestricted fifth freedom
Belgium	Unrestricted route	No fifth freedom rights
Canada	Intermediate points – HNL, NAN & one other in Sth Pacific to be selected (excluding Australia) Beyond points – to be agreed	Fifth freedom rights available at points specified
Chile	Unrestricted route	Unrestricted fifth freedom

Cook Islands	Unrestricted route	Unrestricted fifth freedom
Fiji	Intermediate points – 1 point in Sth Pacific Islands Beyond points – HNL, LAX, YVR, HKG, TPE, 1 point in Japan, 1 point in Sth Pacific Islands	Fifth freedom rights available at points specified
France (New Caledonia & Tahiti –no access to metropolitan France)	Intermediate points – points in Southern Europe, the United Arab Republic, the Near and Middle East, Pakistan, Ceylon, Thailand, Burma, Cambodia, Vietnam, Malaysia, Singapore, Indonesia, Australia and New Caledonia Beyond points – points in third countries	Fifth freedom rights available at points specified
Germany	Unrestricted route	Unrestricted fifth freedom
Hong Kong	Unrestricted route (excluding mainland China and Taiwan)	Fifth freedom rights available at intermediate & beyond points on 7 services per week.
Ireland	Unrestricted route	No fifth freedom rights
Japan	Intermediate points – NAN, SYD, 1 other point in Australia to be specified, 2 other points in SE Asia and/or Sth Pacific (points in	Fifth freedom rights available at points specified (up to 50% of traffic carried)

	SE Asia to be selected from HKG, MNL, BKK, KUL, SIN, JKT)	
Korea	Unrestricted intermediate points	Fifth freedom rights available at all intermediate points
Malaysia	Unrestricted route	Unrestricted fifth freedom
Mexico	Unrestricted route	No fifth freedom rights
Netherlands	Unrestricted route	No fifth freedom rights
Samoa	Unrestricted route	Unrestricted fifth freedom rights
Singapore	Unrestricted route	Unrestricted fifth freedom
Switzerland	Unrestricted route	No fifth freedom rights at SIN, BKK & HKG
Thailand	Unrestricted route (technically)	Fifth freedom rights available on 21 frequencies per week

Tonga	Unrestricted route	Unrestricted fifth freedom rights
United Kingdom	Unrestricted route	Fifth freedom at intermediate points on 7 services per week, no fifth freedom at beyond points
United States of America	Unrestricted route	Unrestricted fifth freedom rights

There is also a non-governmental air links agreement covering Taiwan.

Taiwan	Intermediate points – unrestricted Beyond points – 1 to be agreed	Fifth freedom rights available at points specified

In addition the New Zealand Government has concluded bilateral air services arrangements with the following partners which Air New Zealand is not utilising. Rights specified are those available to the airlines of the other Party.

COUNTRY/TERRITORY	INTERMEDIATE/BEYOND POINTS AVAILABLE	TRAFFIC RIGHTS
Argentina	Intermediate points – points in South America, the South pacific, and Antarctica Beyond points – 2 points in Australia NB – open skies agreement being negotiated	Fifth freedom rights available at points specified
Brazil	Unrestricted route	Fifth freedom rights available
Brunei	Unrestricted route	Fifth freedom rights available
China	Intermediate points – SYD or MEL, and another point in Asia or SW Pacific Beyond points – no beyond points available	Fifth freedom rights available at points specified
Denmark	Unrestricted route	Fifth freedom rights available

India	No route	Rights not specified
Italy	Unrestricted route	Availability of fifth freedom rights subject to agreement
Luxembourg	Unrestricted route	Fifth freedom rights available
Macau	Intermediate points – points in SE Asia & Australia Beyond points – no beyond points available	Fifth freedom rights available at points specified
Nauru	Intermediate points – Honiara, Port Vila, Niue Beyond points – no points available	Fifth freedom rights available at points specified
Niue	Intermediate points – Tonga Beyond points –no beyond points available	Fifth freedom rights available at points specified
Norway	Unrestricted route	Fifth freedom rights available

Papua New Guinea	Intermediate points – no intermediate points available Beyond points – no beyond points available	NA
Peru	Unrestricted route	Fifth freedom rights available
Russia	Intermediate points – points in Asia and Australia Beyond points – 2 points in the Sth Pacific Islands and Sth America	Not specified
Solomon Islands	Intermediate points – Port Vila, Nadi Beyond points – Niue	Fifth freedom rights available
South Africa	Intermediate points – not specified Beyond points – not specified	Fifth freedom rights to be negotiated
Spain	Unrestricted route	No fifth freedom rights
Sweden	Unrestricted route	Fifth freedom rights available

United Arab Emirates	Unrestricted route	Fifth freedom rights available
Vanuatu	Intermediate points –1 point to be nominated Beyond points – no beyond points available	Fifth freedom rights available

SCHEDULE 8

Air New Zealand Confidential Counterfactual

CONTRACTION

1. Under this counterfactual, in response to a period of intense, aggressive competition and sustained and substantial losses, one Applicant would reduce its total capacity. **[**

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2. Contraction would occur when Air New Zealand determined it could not win the war of attrition, and could therefore no longer rely on its domestic New Zealand and Tasman traffic to justify a continuation of its existing international services. If the Qantas increase in capacity triggers a substantial switching from Air New Zealand, particularly of the high value corporate segment, then Air New Zealand will have no option but to contract in the manner outlined in the NECG confidential appendix. The extent of the contraction will of course depend on the success that Qantas enjoys but it is unlikely that a determination by Air New Zealand to contract would be at a lesser level than that outlined by NECG.

Nature of Contraction

3. In a network business, contraction only makes economic sense if it:

   (a) decreases costs per ASK and maintains (or increases) revenue per ASK;

   (b) maintains cost per ASK and increases revenue per ASK; or

   (c) increases revenue per ASK faster than it increases cost per ASK.

4. **[**

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5. **[**

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6. [

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7. In summary, a contracting Air New Zealand would almost certainly be ‘squeezed’ between an efficient low cost point-to-point VBA, and Qantas as the full service network carrier. The experience of Ansett in Australia illustrates how an airline in such a position is likely to fail in a particularly short time.