



Received
16 MAR 2018

Reauthorisation of the Qantas/Emirates alliance – final report

Reason for this briefing	Qantas and Emirates have applied for reauthorisation of their airline alliance. This briefing accompanies our final report containing our analysis regarding the proposed reauthorisation.
Action required	Agree to reauthorise the alliance for a period of five years.
Deadline	30 March 2018.
Reason for deadline	The current authorisation expires on 31 March 2018.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
[REDACTED]	[REDACTED]	[REDACTED]	
Tom Forster	Manager – International Connections	022 066 3875	✓

MINISTER'S COMMENTS:

Date:	16/3/2018	Briefing number:	OC180101
Attention:	Hon Phil Twyford CC: Hon Julie Anne Genter	Security level:	Commercial: In Confidence

Minister of Transport's office actions

- Noted* *Seen* *Approved*

- Needs change* *Referred to*

- Withdrawn* *Not seen by Minister* *Overtaken by events*

Commercial: In Confidence

Purpose of report

1. Qantas and Emirates (the Applicants) have applied for reauthorisation of their airline alliance, under their Restated Master Coordination Agreement (the Restated Agreement).
2. This briefing seeks your agreement to authorise the Restated Agreement under the Civil Aviation Act 1990. The effect of authorisation is to exempt the arrangements from the provisions in the Commerce Act 1986 that prohibit practices substantially lessening competition.
3. Without authorisation, the parties would be unable to continue to work under their alliance.
4. Our full analysis, which was summarised in an earlier briefing to you (see OC05660) is attached to this report. The Restated Agreement and the Applicants' application are also attached for your reference.

We recommend that the Restated Agreement is authorised for a period of five years

5. We recommend that the Restated Agreement is authorised. We consider that the alliance provides real benefits to New Zealand, in the form of improved connectivity for consumers travelling to and from New Zealand.
6. Our main concerns regarding the alliance, which were echoed by stakeholders, relate to the trans-Tasman market for air services. However, we consider that declining to authorise the alliance would not alleviate all of these concerns. We also consider that the public benefits of the alliance outweigh any potential detriments relating to the market for trans-Tasman air services.
7. As per our earlier advice, we have confirmed with the Applicants that authorisation shall be for a period of five years, as set out in their application. This allows us to reassess the alliance at an appropriate time. It also matches the period proposed by the Australian Competition and Consumer Commission (ACCC), which is the agency considering authorisation in Australia.

Authorisation is under Section 88 of the Civil Aviation Act

8. The Civil Aviation Act does not provide that any or all agreements may be authorised but only that provisions of agreements may be authorised so far as they relate "whether directly or indirectly, to the fixing of tariffs, the application of tariffs, or the fixing of capacity, or any combination thereof".
9. We have concluded that the provisions of the Agreement fall within the scope of section 88 of the Civil Aviation Act, except for clauses 10.1 (a), (d), and (e) which relate to ground handling, engineering services and procurement. The Applicants are not seeking your authorisation of these provisions.
10. We have determined that all other provisions under the Restated Agreement meet the statutory conditions allowing it to be authorised under section 88 of the Civil Aviation Act 1990.

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We intend to publish a copy of our detailed analysis on our website

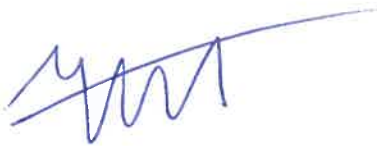
11. Consistent with our approach to previous alliance applications, we intend to publish a copy of our detailed analysis on our website, along with the initial advice we provided to your office in February 2018 (OC05660). This will provide transparency to interested parties on the decision making process and the factors that were taken into account in making your decision. We will withhold any sensitive information in accordance with the Official Information Act 1982.

Next steps

12. We intend to publicise your decision regarding authorisation on the Ministry of Transport website, and advise relevant stakeholders.
13. For some previous authorisations, we have organised an accompanying media release. We will discuss with your office regarding a media release relating to this authorisation.

Recommendations

14. The recommendations are that you:
- (a) **authorise**, pursuant to section 88(2) of the Civil Aviation Act 1990, the provisions of the Restated Master Coordination Agreement between Qantas Airways Limited and Emirates dated 11 October 2017 (except for sub-clauses 10.1 (a), (d) and (e) for which the applicants are not seeking authorisation) until 31 March 2023 Yes/~~No~~
- (b) **agree** that we publish a copy of the report containing our detailed analysis, along with our initial advice to you, on our website (with appropriate deletions in accordance with the Official Information Act 1982). Yes/~~No~~



Tom Forster
Manager International Connections

MINISTER'S SIGNATURE:



DATE: 24.3.18

