

Application to the Minister of Transport  
pursuant to Part 9 of the Civil Aviation Act 1990

19 November 2019



**PUBLIC VERSION**

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**PART 9 CIVIL AVIATION ACT 1990: NOTICE SEEKING AUTHORISATION**

19 November 2019

Ministry of Transport  
PO Box 3175  
Wellington 6140  
New Zealand

**EXECUTIVE SUMMARY**

- 1 British Airways Plc (**BA**) and Qatar Airways Q.C.S.C. (**QR**) (collectively, **Parties**) entered into a confidential Joint Business Agreement on 17 November 2016 (**the JBA**). The JBA was amended on 15 May 2018.<sup>1</sup>
- 2 The JBA covers the Parties' air passenger services on all routes between the United Kingdom (**UK**) and Qatar, including the trunk route London-Doha, and more than 80 routes behind and beyond (**B&B**) each of London and Doha.

**Rationale for the JBA**

- 3 The principal objective of the JBA was (and continues to be) to give BA and QR access to "offline"<sup>2</sup> origin and destination ports to enable each of them to compete more effectively on Europe/UK to Asia/Australasia/Middle East/Africa routes with other Gulf carriers, most notably Emirates and Etihad; Turkish Airlines; and the large competing global alliances, Skyteam and Star Alliance.
- 4 The JBA allows the Parties to offer customers more compelling and competitive travel options than either of them would be able to offer on a stand-alone basis, including by allowing each Party's customers access to the other's complementary network of routes B&B the London-Doha "trunk route".<sup>3</sup>
- 5 QR contributes an established network between the UK and Doha and a wide range of onward destinations B&B Doha, [
 

].
- 6 BA, in turn, contributes a number of B&B London routes and offers an established distribution structure with strong loyalty programmes and marketing platforms as well as extensive corporate and agency relationships.<sup>4</sup>

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<sup>1</sup> A confidential copy of the JBA is contained in Confidential **Attachment A**. A confidential copy of the amended JBA is contained in Confidential **Attachment B**.

<sup>2</sup> An "offline" route is one where the airline does not operate its own aircraft on the route but serves the route, if at all, only via competitive connecting codeshare or interline arrangements with third-party airlines.

<sup>3</sup> A trunk route in air transport is a strategic route between major cities, usually a long-haul route that connects hubs to other hub routes and cities.

<sup>4</sup> Note that if one of the parties decides to commence its own operations to a JBA destination then that destination is removed from the scope of the JBA immediately upon the relevant carrier publicly announcing the new route. Note that each carrier makes such decisions entirely independently without any discussion or coordination with the other party, who are informed of the decision only on the date of the public announcement.

- 7 In addition, the JBA facilitates the Parties' ability to generate efficiencies and cost savings.

**Staged implementation of the JBA**

- 8 The Parties have been implementing the JBA in stages, commencing with their London-Doha trunk routes and B&B into Asia and Africa.<sup>5</sup>
- 9 The Parties now wish to co-ordinate their air passenger services on a limited number of routes between the UK/Europe and Australasia which include a UK-Doha leg.
- 10 The Parties seek initial approval by December 2019.

**Proposed co-ordination on New Zealand B&B Routes**

- 11 The B&B routes that are the subject of this application include all routes between (1) Auckland, which is offline to BA and (2) the UK, and cities in Western Europe which are offline to QR (**the B&B Routes** or the **Proposed Conduct**). Currently there are 26 B&B Routes, which are listed in **Schedule 2**.
- 12 In this joint application, the Parties focus particularly on two of the B&B Routes. These routes have been identified using a *de minimis* threshold of 10,000 MIDT<sup>6</sup> passengers per annum (based on S17/S18 and W17/W18 seasons combined and equating to approximately 20,000 total passengers per annum because MIDT's data only records bookings made via travel agents (or indirect bookings) and does not record direct bookings made directly with airlines. This follows the approach in the European Union (**EU**) where, for threshold purposes, the European Commission has assumed that MIDT indirect bookings represent 50% of all bookings with the other 50% being bookings made directly with the airlines).
- 13 The European Commission's decisional threshold practice is 30,000 passengers per annum (15,000 MIDT passengers). Routes which have passenger densities of fewer than 15,000 MIDT passengers per annum are considered by the European Commission to have a likely impact on competition that is too small to warrant investigation.
- 14 Having regard to demographic differences between the EU and New Zealand, to available resources and the need to use those resources efficiently, out of an abundance of caution the Parties have used a more conservative threshold to identify the two routes, being 20,000 passengers per annum compared to the European Commission's threshold of 30,000 passengers per annum.
- 15 Accordingly, the B&B Routes with 20,000 passengers per annum comprise two routes with origins in New Zealand. Those two B&B Routes are:

15.1 AKL – LON (Auckland to London); and

15.2 AKL – MAN (Auckland to Manchester)

(the **two New Zealand B&B Routes**).

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<sup>5</sup> At the time, the UK's Competition Markets Authority and the European Commission were provided with confidential briefings, pursuant to the rules for self-assessment under the UK's Competition Act 1998 and Article 101 of the Treaty on the Functioning of the European Union.

<sup>6</sup> MIDT stands for Marketing Information Data Tapes.

- 16 Both routes are “offline” routes for BA, meaning that BA does not operate its own aircraft on the routes but serves the routes via competitive codeshare or interline arrangements with third-party airlines.
- 17 The Proposed Conduct will not involve any air cargo services.

**Authorisation sought**

- 18 The Parties seek authorisation under section 88(2) of the Civil Aviation Act 1990 (**Act**) to make and give effect to the Proposed Conduct.
- 19 The Parties submit that the Minister should exercise his discretion to authorise the Proposed Conduct because the Proposed Conduct:
- 19.1 is capable of authorisation by the Minister under section 88 of the Act (see from paragraph 31 below);
- 19.2 will result in benefits to the public in the form of increased competition on the two New Zealand B&B Routes and the other B&B Routes, including because it may trigger a competitive response from other airlines, through more compelling travel options for passengers wishing to travel on those routes, and efficiencies (which given the competitiveness of the routes there will be pressure to pass on) (see from paragraph 86 below);
- 19.3 will not result in detriment to the public sufficient to outweigh those benefits, including because the Proposed Conduct will not have any substantial impact on the concentration of suppliers on either of the two New Zealand B&B Routes (with the highest increase being on the Auckland to Manchester route at only 0–10%, which only arises if non-time sensitive passengers are considered separately) and the presence of vigorous competition from other well-established international air carriers on each of the two New Zealand B&B Routes (see from paragraph 99 below); and
- 19.4 does not breach any of the specific provisions in section 88(4)(a)-(f) of the Act which limit the Minister’s discretion to grant an authorisation (see from paragraph 113 below).

**THE PARTIES**

**British Airways**

- 20 BA is a British airline with a hub at London Heathrow and bases at London Gatwick and London City airports. It is part of the International Airlines Group and is one of the world’s leading global airlines. BA flies to more than 70 different countries, carries more than 40 million customers a year and has a fleet of nearly 300 aircraft.
- 21 For further information, please see **Attachment C** for BA’s most recent company factsheet, and [www.iairgroup.com](http://www.iairgroup.com), including for a copy of [BA’s Annual Reports](#).

***BA’s operations in New Zealand***

- 22 Passengers travelling with BA to New Zealand have a choice of flying to New Zealand via Hong Kong, Doha, Kuala Lumpur and Singapore.<sup>7</sup>

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<sup>7</sup> Passengers travelling via Singapore to New Zealand also stop in Sydney.

- 23 BA does not have any direct flights into or out of New Zealand. Accordingly, all routes into or out of New Zealand involve a passenger changing onto another carrier's plane in Doha, Hong Kong, Kuala Lumpur or Sydney.
- 24 In Doha, the passenger may board a code share flight offered by QR to Auckland. In Kuala Lumpur, the passenger may board a code share flight offered by Malaysia Airlines to Auckland. In Hong Kong, the passenger may board a code share flight offered by Cathay Pacific to Auckland or to Sydney, and then change to a code share flight operated by Qantas to Auckland, Wellington or Christchurch. Passengers may also travel on BA to Sydney via Singapore and connect on to Qantas services to New Zealand.

#### **Qatar Airways**

- 25 QR provides international air transportation services as well as domestic air transportation services in Qatar. QR is the national carrier of the State of Qatar. QR is one of the fastest growing airlines operating one of the youngest fleets in the world. It flies to more than 150 destinations.
- 26 For further information, please see **Attachment D** for QR's company factsheet dated October 2019 and further information on [QR's website](#).

#### **QR's operations in New Zealand**

- 27 In February 2017 QR began flying to New Zealand with its record-breaking Auckland-Doha flight, the world's longest direct commercial flight at that time.<sup>8</sup> Jeremy Clarke-Watson, New Zealand Ambassador to the State of Qatar has said, "Welcoming Qatar Airways to New Zealand, through this direct service, is a significant event in the New Zealand Qatar relationship – opening up greater people to people and business to business connections between our two countries".<sup>9</sup>
- 28 QR offers daily flights from Auckland to London via Doha.

#### **AUTHORISATION SOUGHT**

- 29 The Parties seek authorisation under section 88(2) of the Act to make and give effect to the Proposed Conduct. As set out from paragraph 113 below, the JBA does not breach any of the provisions in section 88 of the Act which limit the Minister's discretion to grant an authorisation.
- 30 As set out above, the Parties seek initial approval by December 2019. For commercial reasons, it is important for the Parties to be able to engage in the Proposed Conduct as soon as possible. For example, scheduling and marketing activities typically occur in large blocks (for example, for an entire summer or winter season). Any delay in authorisation is only likely to prevent the benefits of the Proposed Conduct from accruing for an entire season. The inability to take advantage of these benefits would be commercially costly for both carriers and to the detriment of the passengers travelling on the B&B Routes.

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<sup>8</sup> Qatar Airways Press Release, 7 February 2017. Available: [https://www.qatarairways.com/en/press-releases/2017/Feb/pressrelease\\_aucklandprconference\\_eng.html?activeTag=Press-releases](https://www.qatarairways.com/en/press-releases/2017/Feb/pressrelease_aucklandprconference_eng.html?activeTag=Press-releases)

<sup>9</sup> Qatar Airways Press Release, 7 February 2017. Available: [https://www.qatarairways.com/en/press-releases/2017/Feb/pressrelease\\_alkarrival.html?activeTag=Press-releases](https://www.qatarairways.com/en/press-releases/2017/Feb/pressrelease_alkarrival.html?activeTag=Press-releases)

**The Proposed Conduct is capable of authorisation under section 88 of the Act**

31 The Proposed Conduct could involve the Parties revenue planning, sales and marketing activities, service parameters and standards with a view to ensuring they deliver a seamless service for passengers and realise efficiencies (see further below at paragraph 36). Consequently, for the purposes of the Act, the Proposed Conduct may be an arrangement in respect of international carriage by air that relates, directly or indirectly, to the fixing of tariffs, the application of tariffs, or the fixing of capacity.<sup>10</sup>

**Term of authorisation**

32 The Parties are seeking authorisation for five years.

33 The Parties consider that a period of five years is necessary in order to realise the benefits of the Proposed Conduct. The successful implementation of the Proposed Conduct will require investment by each of the Parties, including to align sales and services on the relevant routes.

34 Having regard to previous Ministry of Transport decisions, several have accepted that certain arrangements justify a five year period. For example:

34.1 the Air New Zealand / Singapore Airlines alliance was authorised in 2018 for five years;<sup>11</sup>

34.2 the Air New Zealand / Air China alliance was authorised in 2015 for five years and four months;<sup>12</sup>

34.3 the Qantas / Emirates alliance was authorised in 2013 for five years;<sup>13</sup>

34.4 the Air New Zealand / Virgin Australia alliance was re-authorised in 2013 for five years;<sup>14</sup> and

34.5 the Qantas / American Airlines Joint Business Agreement was authorised in 2015 for five years.<sup>15</sup>

35 In the sections below the Parties outline why the Minister should exercise his discretion to approve the Proposed Conduct. In particular, they show the Proposed Conduct will be pro-competitive; it will not create any harm to competition or

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<sup>10</sup> Civil Aviation Act 1990, s 88(2).

<sup>11</sup> Beehive Press Release, 5 October 2018. Available: <https://www.beehive.govt.nz/release/air-new-zealand-%E2%80%93-singapore-airlines-alliance-reauthorised>

<sup>12</sup> Beehive Press Release, 2 September 2015. Available: <https://www.beehive.govt.nz/release/air-new-zealand-%E2%80%93-air-china-alliance-authorised>

<sup>13</sup> Beehive Press Release, 15 May 2013. Available: <https://www.beehive.govt.nz/release/qantas-%E2%80%93-emirates-alliance-authorised>

<sup>14</sup> Ministry of Transport, *Air New Zealand – Virgin Australia Group Alliance Reauthorisation*, 20 September 2013. Available: <https://www.transport.govt.nz/air/internationalairservices/internationalaircarriagecompetition/anzan-dvirgin/>

<sup>15</sup> Ministry of Transport, *Qantas – American Airlines Joint Business Agreement*, 8 November 2015. Available: <https://www.transport.govt.nz/air/internationalairservices/internationalaircarriagecompetition/qantas-american-joint-agreement/>



consumers. Nevertheless, for completeness the Parties outline below the further public benefits expected to be generated.

## **THE PROPOSED CONDUCT**

### **The JBA**

#### ***Co-ordination under the JBA***

36 Under the JBA, the Parties may co-ordinate their activities in various ways, including in relation to:

36.1 schedule co-ordination;

36.2 capacity (limited to London-Doha);

36.3 revenue planning;

36.4 joint pricing;

36.5 sales e.g. fare combinability, joint selling and dealing through direct and indirect channels;

36.6 marketing;

36.7 service parameters and standards e.g. routings, frequencies, connection requirements and times;

36.8 product development and alignment of passenger handling policies and service procedures (limited to London-Doha);

36.9 frequent flyer programmes; and

36.10 sharing and alignment of best practices and tools.

37 The Proposed Conduct may involve all of the above co-ordinated activities except for capacity co-ordination, which will remain confined to the London-Doha route.

#### ***Financial arrangements under the JBA***

38 Under the JBA, the Parties:

38.1 share revenues on the London-Doha route; and

38.2 on all other routes, including the B&B Routes, the parties have a codeshare<sup>16</sup> arrangement [ ]].

#### ***The two New Zealand B&B Routes are important to the Parties' ability to compete***

39 The B&B Routes are significant for any carrier operating on the trunk route. This is because access to the B&B Routes helps maximise passenger numbers, improving the commercial viability of the London-Doha trunk route.

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<sup>16</sup> "Codesharing" arrangements allow one carrier to market tickets under its own code on a flight operated by another carrier. Under these arrangements, the marketing carrier places its code on the operating carrier's flight and sells tickets through its own distribution system.

**Value-added services for passengers**

- 40 The arrangements under the JBA, including the ability to jointly offer loyalty benefits, including reciprocal “earn and burn” of frequent flyer points, status recognition and ease of booking flights, together with an enhanced network of destinations on the code of each Party, are particularly important to passengers on itineraries involving long international sectors on which ease of connection becomes of increasing value. These value-added services have a significant impact on consumer satisfaction and preferences when choosing which airline to fly with.
- 41 The JBA was designed to address these very consumer needs and adapt the Parties’ offerings accordingly. The Proposed Conduct would allow passengers travelling on the B&B Routes to enjoy these value-added benefits.

**Drive for efficiency is increasingly necessary for airline success**

- 42 The highly competitive nature of the passenger airline industry means that the Parties must continually search for opportunities to drive efficiency. Given the competitiveness of the two New Zealand B&B Routes (and other B&B Routes), and international passenger travel more generally, there is likely to be competitive pressure to pass on cost efficiencies to consumers.

**COUNTERFACTUAL**

- 43 In the absence of the Proposed Conduct, the counterfactual scenario would be less effective competition against other carriers on the two New Zealand B&B Routes and other B&B Routes.
- 44 Without authorisation of the Proposed Conduct, BA and QR would not extend the current JBA to include the B&B Routes and would continue their existing codeshare and interline arrangements.
- 45 This would mean that the customer benefits set out below at paragraphs 86 to 98 would not materialise.
- 46 The Ministry of Transport and Commerce Commission have acknowledged that co-ordination between airlines can result in:
- 46.1 benefits to consumers, for example, better access to connecting flights, the ability to earn and redeem frequent flyer points across the networks of both airlines,<sup>17</sup> and improved service quality;<sup>18</sup> and
- 46.2 synergies for airlines, enabling airlines to interface networks to provide seamless travel and share facilities and services. This can lead to reduced unit costs, allowing partners to take advantage of operational or cost economies, increased traffic density and economies of scope.<sup>19</sup>

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<sup>17</sup> Ministry of Transport, *Application by Air New Zealand and Air China for authorisation of a Strategic Alliance: Detailed analysis*, 10 July 2015 at [17]. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/a1bbee4750/Final-report-NZ-CA-Public.pdf>

<sup>18</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [179].

<sup>19</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [176 - 179].

## AIR PASSENGER SERVICES BETWEEN NEW ZEALAND AND THE UK/EUROPE

### New Zealand – UK/Europe

47 Recent years witnessed an increase in passenger numbers on New Zealand-UK/Europe routes and a significant expansion of capacity on the routes.<sup>20</sup> The overall annual demand for air services between New Zealand and UK/Europe is around 830,000 passengers.<sup>21</sup> In the period August 2018 to August 2019, 560,349 Europeans travelled to New Zealand. In the same period, 277,287 New Zealanders travelled to Europe.<sup>22</sup>

48 But even prior to the recent expansion, the Ministry of Transport has acknowledged that the market for air services between New Zealand and Europe is very competitive by industry standards.<sup>23</sup> Currently 14 carriers<sup>24</sup> offer one-stop services to Europe through hubs in the Middle East, Southeast Asia, North America and Northern Asia,<sup>25</sup> and a further two carriers offer two-stop services to Europe.<sup>26</sup>

### Other airlines on the New Zealand-UK/Europe routes

49 The Parties are subject to competitive constraints from other carriers, including in many instances from other Gulf carriers, as well as Star and SkyTeam alliance airlines more generally on the New Zealand to UK/Europe routes.

50 New Zealand to UK/Europe routes are characterised by strong competition between a large number of competitors, from Air New Zealand (currently) and mid-point carriers, which offer services from hubs primarily in Asia or the Middle East. Mid-point carriers based in Asia compete with mid-point carriers based in the Middle East for passengers flying between New Zealand and the UK/Europe.

### Air New Zealand

51 Air New Zealand is the only end-point carrier on the New Zealand to UK/Europe route, and has recently announced that it will be ceasing to offer this service from October 2020.<sup>27</sup> All European carriers rely on alliance or codeshare relationships with mid-point carriers.

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<sup>20</sup> Stats New Zealand, *International travel: August 2019*, 15 October 2019. Available: <https://www.stats.govt.nz/information-releases/international-travel-august-2019>

<sup>21</sup> Stats New Zealand, *International travel: August 2019*, 15 October 2019. Available: <https://www.stats.govt.nz/information-releases/international-travel-august-2019>

<sup>22</sup> Stats New Zealand, *International travel: August 2019*, 15 October 2019. Available: <https://www.stats.govt.nz/information-releases/international-travel-august-2019>

<sup>23</sup> Ministry of Transport, *Detailed analysis to support the report to the Minister of Transport: Application by Air New Zealand and Singapore Airlines for authorisation of a Strategic Alliance Agreement*, at pp 33 – 34. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/dd7febb9b9/Final-Public-Version-of-Detailed-Analysis.pdf>

<sup>24</sup> Air New Zealand, Singapore Airlines, Emirates, Cathay Pacific, QR, Thai Airways, Malaysia Airlines, Korean Air, China Southern, China Eastern, Philippine Airways, Air China, United, and American Airlines.

<sup>25</sup> Ministry of Transport, *Air New Zealand / Singapore Airlines Alliance Reauthorisation: Ministry of Transport Analysis*, September 2018. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/f39bdc014e/Full-report-September-2018.pdf> at [103].

<sup>26</sup> China Airlines and Qantas.

<sup>27</sup> Air New Zealand, *New era for Air New Zealand's International Network*, 23 October 2019. Available: <https://www.airnewzealand.co.nz/press-release-2019-new-era-airnz-international-network>. Air New Zealand noted that fewer than "7 percent of all airline travellers between Auckland and London

52 Currently (and until October 2020) Air New Zealand operates daily indirect flights from Auckland to London via Los Angeles.

53 It is also worth noting that Air New Zealand has plans to introduce a new direct service between Christchurch and Singapore from December 2019.<sup>28</sup> The new service may allow travellers to fly from Christchurch to London with only one stop.

#### **Qantas**

54 Qantas is Australia's largest carrier, operating multiple daily indirect flights ex Auckland, Christchurch, Wellington and Queenstown via Australia and then onto London, via Singapore.

55 It is also worth noting that:

55.1 Qantas launched non-stop flights from Perth to London in March 2018,<sup>29</sup> and in August 2018 announced plans for a non-stop flight between Sydney and London to commence in 2022.<sup>30</sup> Qantas is said to be making "really good progress" with those plans, with the non-stop flight between Sydney and London said to be on the "brink of commercial viability".<sup>31</sup>

55.2 Qantas and Emirates entered into an alliance in 2013. The two airlines co-operate on services on trans-Tasman routes as well as Australia to UK/Europe, Australia to the Middle East and Australia to Asia.

#### **Emirates**

56 Emirates is the Middle East's largest carrier, flying to over 40 cities in Europe and operating services on more than 130 city pairs. Emirates currently operates multiple daily services between Auckland and Christchurch to London, via Dubai.

57 In March 2016 Emirates launched a direct daily A380 Auckland to Dubai service. In addition, it operates a daily 777-300ER from Auckland to Dubai via Bali and a daily A380 from Christchurch to Dubai via Sydney.

58 In recent years, Middle Eastern airlines, including Emirates and QR, have rapidly expanded capacity to and from New Zealand and Australia. Between 2012 and

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chose to fly via Los Angeles last year". Air New Zealand will offer travel "between Auckland and London with partner airlines via 12 gateways in Asia and the Americas, including New York".

<sup>28</sup> Christchurch to Singapore is an "Alliance Sector" in the Air New Zealand / Singapore Airlines alliance – see above at paragraph 34.1. Air New Zealand will operate a five times weekly seasonal service between Christchurch and Singapore from 1 December 2019 to 22 February 2020 using new configuration Boeing 787-9 Dreamliner aircraft. Further information available at <https://www.airnewzealand.co.uk/press-release-2018-air-new-zealand-to-operate-christchurch-singapore-services>.

<sup>29</sup> Bronte Coy, *The long haul: Here's what to expect on board Australia's longest flight*, 26 March 2018. Available: <https://www.news.com.au/travel/travel-advice/flights/the-long-haul-heres-what-to-expect-on-board-australias-longest-flight/news-story/1b09b307d85bf688b0c378b44941ae07>

<sup>30</sup> Lauren McMaha, *Qantas' non-stop flights are about to get even longer*, 31 August 2018. Available: <https://www.news.com.au/travel/travel-advice/flights/qantas-nonstop-flights-are-about-to-get-even-longer/news-story/68a2c4437dd2131ac701fbb7edfb82c>. Qantas is testing the flight from London to Sydney "in the coming months" – see David Slotnick, *The challenges of the world's longest nonstop flight – as Qantas prepares to take passengers from New York to Australia in 20 hours*, 17 October 2019. Available: <https://www.businessinsider.com.au/new-york-sydney-world-longest-flight-qantas-test-2019-10?r=US&IR=T>.

<sup>31</sup> SCMP, *Qantas non-stop Sydney-London flight on the brink of 'commercial viability', a threat to Cathay Pacific and Hong Kong airport*, 13 November 2018. Available: <https://www.scmp.com/news/hong-kong/hong-kong-economy/article/2173004/threat-cathay-pacific-and-hong-kong-qantas-says-non>

2017, Middle Eastern airlines doubled in size in New Zealand and Australia, growing from 1.8 million seats to the region in 2012 to 3.6 million in 2017.<sup>32</sup>

- 59 It has been predicted that by 2020, Middle Eastern airlines could create a presence in New Zealand and Australia equivalent to two Singapore Airlines, an operation which established itself over many decades.<sup>33</sup>

**Midpoint carriers based in Asia**

- 60 The following mid-point carriers based in Asia also operate on the New Zealand to UK/Europe routes:

- 60.1 Singapore Airlines: currently operates services from Auckland, Christchurch and Wellington<sup>34</sup> to Europe, via Singapore.
- 60.2 Cathay Pacific: currently operates services from Auckland and Christchurch to Europe, via Hong Kong.
- 60.3 Malaysia Airlines: currently operates services from Auckland to Europe, via Kuala Lumpur.
- 60.4 China Southern: currently operates services from Auckland and Christchurch to Europe, via Guangzhou.
- 60.5 Thai Airways International: currently operates services from Auckland to Europe, via Bangkok.
- 60.6 Philippine Airlines: currently operates services from Auckland to Europe, via Manila.
- 60.7 Korean Air: currently operates services from Auckland to Europe, via Seoul.
- 60.8 Air China: currently operates services from Auckland to Europe, via Beijing.
- 60.9 China Eastern: currently operates services from Auckland to Europe, via Shanghai.
- 60.10 China Airlines: currently operates services from Auckland to Europe, via Brisbane and Taipei.

**Midpoint carriers based in the United States**

- 61 Two midpoint carriers based in the United States also offer flights between Auckland and London:

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<sup>32</sup> CAPA, *Gulf airlines in Australia/New Zealand: 2017 could surpass 2016's record growth*, 20 January 2017. Available: <https://centreforaviation.com/insights/analysis/gulf-airlines-in-australianew-zealand-2017-could-surpass-2016s-record-growth-321532>

<sup>33</sup> CAPA, *Gulf airlines in Australia/New Zealand: 2017 could surpass 2016's record growth*, 20 January 2017. Available: <https://centreforaviation.com/insights/analysis/gulf-airlines-in-australianew-zealand-2017-could-surpass-2016s-record-growth-321532> According to Tourism Australia's market profile for the UK in 2017, capacity from the three Middle Eastern hubs of Doha, Dubai and Abu Dhabi to Australia is reported to have grown by 18.4 per cent in 2016, reaching approximately 2.8 million annual seats. Tourism Australia Market Profiles 2017 – UK. Further information available: <http://www.tourism.australia.com/content/dam/assets/document/1/6/x/q/0/2002896.pdf>

<sup>34</sup> Services from Wellington to Singapore are via Melbourne.

61.1 United Airlines: currently operates daily services between Auckland and London via San Francisco.

61.2 American Airlines: currently operates daily services between Auckland and London via Los Angeles.

**Codeshare carriers**

62 A large number of carriers offer services between New Zealand and Europe by codesharing with other airlines, in addition to BA, including:

62.1 Airlines based in Europe: Swiss International Airlines, Austrian Airlines, Scandinavian Airlines, Virgin Atlantic, Turkish Airlines, Finnair, Lufthansa, KLM Royal Dutch Airlines, Aeroflot;

62.2 Airlines based in the Middle East: Etihad Airways, Oman Air.

**Existing competitors are vigorous and effective**

63 The New Zealand-UK/Europe route is characterised by competitive behaviour that will not be lessened in any way as a result of the Proposed Conduct.

64 The route is characterised by large, well-established carriers like Emirates, Cathay Pacific, Singapore Airlines and (currently) Air New Zealand. As well as being vigorous competitors individually, through a number of codeshare and authorisation arrangements they have collectively made it more difficult for individual carriers to compete effectively.

65 The Parties expect that competitors will continue the pro-competitive initiatives they have in place, including by taking advantage of efficiencies and enhanced offerings enabled by the creation of alliances.

66 Both the Ministry of Transport and the Commerce Commission have recognised the competitive nature of long haul services between New Zealand and Europe, including the UK.<sup>35</sup> The Commerce Commission noted that in relation to flights into Europe:<sup>36</sup>

Competition on international routes is strong with the presence of many large and fringe competitors. Many alternatives exist in flying to destinations in Europe, for instance Singapore Airlines, Thai Airways, Cathay Pacific and Emirates all operate extensive routes to Europe from their respective hubs in Singapore, Bangkok, Hong Kong and Dubai.

67 Further:

67.1 There is competition on the two New Zealand B&B Routes via multiple hubs including Dubai, Bangkok, Singapore, Hong Kong and cities in the United States and China.

67.2 There are a large number of established carriers with the ability to expand their operations, including a number of Chinese airlines which have recently expanded services to New Zealand, such as China Southern Airlines, China Eastern Airlines and Air China, as well as other midpoint carriers who all have the ability to expand capacity between New Zealand and Europe.

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<sup>35</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [833].

<sup>36</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [833].

- 67.3 There are very few barriers to entry or expansion on the two New Zealand B&B Routes. Auckland Airport is currently upgrading its international terminal, with the aim of increasing the airport's capacity in line with the airport's vision to increase its capacity to 40 million passengers a year by 2040 from its current 16 million.<sup>37</sup> Air Service Agreements (**ASAs**) are generally not a barrier to entry for international airlines who wish to fly into New Zealand.
- 68 We summarise below some examples of initiatives implemented by other airlines to attract travellers to and from New Zealand.
- Qantas and Emirates**
- 69 The Qantas and Emirates alliance has provided Qantas customers with greater choice and flexibility of schedules in flying to the UK and Europe. Customers can purchase either a Qantas ticket or an Emirates ticket and access any of the alliance's codeshare flights.
- 70 Increased access to each carrier's frequencies and destinations has provided passengers with increased flexibility and convenience. For example, before the alliance with Emirates, around 400,000 customers travelled on Qantas code to Europe each year. This figure has now tripled, with more than 1.2 million customers travelling on Qantas code to Europe.<sup>38</sup>
- 71 Qantas and Emirates have made adjustments to their networks to deliver additional benefits to travellers. These include Emirates launching in March 2016 a non-stop Auckland to Dubai service, shortly after QR announced it would operate a non-stop service from Auckland to Doha.
- 72 In addition to the daily Auckland and Christchurch to Dubai service, the Qantas/Emirates alliance offers a number of two-stop services via Australia and Dubai or Singapore to over 30 destinations in Europe. Qantas operates services from a number of New Zealand destinations which feed into its Australia-London services.
- Air New Zealand and Singapore Airlines**
- 73 In January 2015 Air New Zealand and Singapore Airlines entered into an alliance. Through the alliance Singapore Airlines and Air New Zealand operate codeshare services on each other's flights between London and Manchester to Singapore and onwards to Auckland, Christchurch and Wellington.<sup>39</sup>
- 74 The alliance has provided Air New Zealand customers with greater choice and flexibility of schedules in flying to the UK and Europe via Singapore.<sup>40</sup> In addition,

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<sup>37</sup> Airport Technology, *Auckland Airport International Terminal Expansion*. Available: <https://www.airport-technology.com/projects/auckland-airport-international-terminal-expansion/>. The redevelopment of the international terminal departure area has been completed – see Auckland Airport, *Annual Report 2019*. Available:

<sup>38</sup> Qantas, *Application for Revocation and Substitution of Authorisations A91332 and A91333, D17+144897*, 11 October 2017. Available: <https://www.accc.gov.au/system/files/public-registers/documents/D17%2B144897.pdf>

<sup>39</sup> Singapore Airlines, *Singapore Airlines – Air New Zealand Joint Venture*. Available: [http://www.singaporeair.com/en\\_UK/qb/plan-travel/local-promotions/taw/taw-sg-anz/](http://www.singaporeair.com/en_UK/qb/plan-travel/local-promotions/taw/taw-sg-anz/)

<sup>40</sup> Air New Zealand operates Boeing 787-9 aircraft between Auckland and Singapore. On the same route, Singapore Airlines operates a mix of Boeing 777s and Airbus A380s. Singapore Airlines also operates Airbus A350 aircraft between Singapore and Christchurch year round. Air New Zealand will operate a five time weekly seasonal service on the same route on Boeing 787-9 Dreamliner aircraft.

codeshare flights on the Singapore Airlines and SilkAir networks give Air New Zealand customers access to more than 90 destinations around the world, including 17 destinations in Europe.<sup>41</sup>

- 75 The alliance provides Singapore Airlines with increased network reach into New Zealand and behind and beyond markets through Air New Zealand's network, and a consequent increase in feed into its broader network.
- 76 The alliance has sustained a significant growth programme, focusing on increasing the number of passengers travelling on the parties' combined services.<sup>42</sup> In addition to substantially increasing capacity on the Auckland – Singapore route,<sup>43</sup> in September 2016 Singapore Airlines commenced operating a Singapore-Wellington service.
- 77 The Air New Zealand/Singapore alliance offers a one-stop service from Auckland, Wellington and Christchurch to London via Singapore, and a two stop service from Wellington to London via Singapore.<sup>44</sup> This means that customers wishing to fly to London on Air New Zealand have a choice of flying either via Los Angeles or Singapore.
- 78 The Parties do not have information about Singapore Airlines' intentions following Air New Zealand's withdrawal from the New Zealand to UK route from October 2020.

**Rapid expansion of Chinese airlines**

- 79 New hub carriers have emerged throughout Asia, and in particular Greater China, with a strong focus on linking Asian markets to New Zealand.<sup>45</sup> China is New Zealand's second-largest international tourism market,<sup>46</sup> with 30 flights operating between New Zealand and China each week.<sup>47</sup>
- 80 A number of China-based carriers, including Air China, China Airlines and China Eastern have entered the New Zealand market and offered Auckland to Europe flights. Further, in 2017 China Southern increased its capacity between Auckland

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<sup>41</sup> Singapore Airlines, *Where we fly*. Available: [https://www.singaporeair.com/en\\_UK/us/plan-travel/destinations/where-we-fly/](https://www.singaporeair.com/en_UK/us/plan-travel/destinations/where-we-fly/)

<sup>42</sup> Singapore Airlines and Air New Zealand, *Application to the Minister of Transport pursuant to Part 9 of the Civil Aviation Act 1990 for authorisation of the Air New Zealand and Singapore Airlines Strategic Alliance*, p 8. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/6de26f4655/Public-Application-for-Reauthorisation-NZ-and-SQ.pdf>

<sup>43</sup> Singapore Airlines and Air New Zealand, *Application to the Minister of Transport pursuant to Part 9 of the Civil Aviation Act 1990 for authorisation of the Air New Zealand and Singapore Airlines Strategic Alliance*, p 7. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/6de26f4655/Public-Application-for-Reauthorisation-NZ-and-SQ.pdf>

<sup>44</sup> Note that there is an extra stop in Australia for this flight path.

<sup>45</sup> Singapore Airlines and Air New Zealand, *Application to the Minister of Transport pursuant to Part 9 of the Civil Aviation Act 1990 for authorisation of the Air New Zealand and Singapore Airlines Strategic Alliance*, p 16. Available: <https://www.transport.govt.nz/assets/Uploads/Air/Documents/6de26f4655/Public-Application-for-Reauthorisation-NZ-and-SQ.pdf>

<sup>46</sup> Tourism New Zealand, *China: Market Overview*. Available: <https://www.tourismnewzealand.com/markets-stats/markets/china/>

<sup>47</sup> Tourism New Zealand, *China: Market Overview*. Available: <https://www.tourismnewzealand.com/markets-stats/markets/china/>. This information is current as at August 2019.



and its home base in Guangzhou, introducing a brand-new Boeing 787-9 to the route.<sup>48</sup>

**Customers have the ability to completely bypass the Parties**

81 Clearly, New Zealand travellers have significant choice in how to fly from New Zealand to the UK/Europe. Customers can completely bypass the Parties.

**The B&B Routes are highly contestable**

82 The Parties will remain constrained by the threat of new entry and expansion as a result of New Zealand's bilateral "Open Skies"-focused ASAs with certain countries.

83 As the Commerce Commission has acknowledged, in negotiating ASAs, New Zealand has a preference for "Open Skies" agreements.<sup>49</sup> There are no restrictions imposed from the New Zealand side of the ASA negotiations on which airports may be serviced; its approach is to leave the choice to the foreign airline's commercial assessment, although sometimes the foreign government specifies the airport to be used.<sup>50</sup>

84 Although the provisions of the "Open Skies" agreements vary from arrangement to arrangement, such agreements generally permit unrestricted services by the airlines of the countries involved to, from and beyond the other's territories, without prescribing where carriers fly, the number of flights they operate and the prices they charge.<sup>51</sup>

85 New Zealand's liberalised air services agreements with other countries make it likely that the Parties will remain constrained by the prospect of new entry and expansion (including by low cost carriers).

**PUBLIC BENEFITS**

**The Proposed Conduct will increase competition**

86 It is well established that the enhancements to the product and service offerings enabled by the creation of an alliance have the potential to trigger a competitive response from rival airlines, having regard to the varying competitive conditions across the relevant markets.<sup>52</sup>

87 The Proposed Conduct will increase competition by making the Parties each more effective competitors against other Gulf carriers and joint businesses.

**Passengers will enjoy more compelling travel options**

88 The Proposed Conduct will allow the Parties to offer customers more compelling and competitive travel options than each is able to offer currently, such as by adjusting schedules to offer more convenient connection times.

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<sup>48</sup> New Zealand Herald, *China Southern Airlines to boost Auckland route with 787-9*. Available: [https://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=12119151](https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12119151)

<sup>49</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [145].

<sup>50</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [144].

<sup>51</sup> Commerce Commission, *Air New Zealand and Qantas Authorisation*, 23 October 2003 at [145]. Further information about New Zealand's ASAs is available: <https://www.transport.govt.nz/air/internationalairservices/>

<sup>52</sup> ACCC, *Determination on Qantas/Emirates alliance (Authorisation numbers A91332 and A91333)*, 27 March 2013, p 58.

**Passengers will enjoy improved customer service**

89 Passengers travelling on the two New Zealand B&B Routes (and other B&B Routes) will have the benefit of the following as a result of the Proposed Conduct:

89.1 seamless journeys when connecting between the Parties on indirect services through enhanced customer support in London and Doha and reciprocal lounge access;

89.2 seamless booking and check-in on either Party's website;

89.3 enhanced access to both Parties' frequent flyer programmes beyond what is offered through Oneworld, including enhanced loyalty offerings and more options to earn/use points, aligned benefits gained from different loyalty programmes, improved availability of redemption classes and access to promotions and special offers in the Parties' combined networks; and

89.4 fare combinability leading to a greater number of frequency choices for passengers.

**The Proposed Conduct will result in efficiencies**

90 The Parties expect the Proposed Conduct will potentially allow them to generate efficiencies across the two New Zealand B&B Routes (and other B&B Routes), leading to lower average per-passenger costs. Strong competition from other major airlines and alliances means there is likely to be an incentive to pass on cost efficiencies. With nearly twenty years of experience with metal-neutral joint businesses, there is now overwhelmingly strong empirical evidence of the pro-consumer price effects of metal-neutral joint businesses. In 2017, Compass Lexecon published a comprehensive worldwide study of international airline cooperation, analysing airline passenger, capacity, and fare data over a 17-year period.<sup>53</sup> The study shows that revenue-pooling joint businesses are "strongly procompetitive, generating lower fares on connecting routes and increased traffic on segments served by multiple alliance partners, with no associated increase in nonstop fares where partner airlines have overlapping operations".<sup>54</sup> A recent analysis conducted by Brueckner and Singer for the United States Department of Transportation further confirmed these pro-competitive fare effects (in relation to connecting markets).<sup>55</sup>

91 The Parties envisage deriving the following from the Proposed Conduct.

***Elimination of double-marginalisation***

92 The Proposed Conduct will prevent double-marginalisation on the two New Zealand B&B Routes.

93 In competitive arm's length arrangements, the Parties individually set prices on the portion of the itinerary where they operate their own aircraft and maximise their own mark-up based on the demand on that portion of the passenger's journey.

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<sup>53</sup> Robert J Calzaretta Jr, Yair Eilat, and Mark A Israel "Competitive Effects of International Airline Co-operation" (2017) 13(3) Journal of Competition Law & Economics 501, available at: <https://doi.org/10.1093/joclec/nhx016>. The article is provided at **Attachment F**.

<sup>54</sup> At 530.

<sup>55</sup> Jan K Brueckner and Ethan Singer "Pricing by International Airline Alliances: A Retrospective Study Using Supplementary Foreign-Carrier Fare Data" revised February 2019, available at: [http://www.socsci.uci.edu/~jkbrueck/DOT\\_study.pdf](http://www.socsci.uci.edu/~jkbrueck/DOT_study.pdf).

However, this pricing fails to take into account the demand for the overall itinerary and has the potential to result in higher fares and suboptimal capacity utilisation.

- 94 By comparison, the co-operative pricing arrangement under the JBA will allow each of the Parties to take into account the effect of its pricing on the overall demand for the itinerary, removing double-marginalisation and consequently having the potential to reduce fare levels and improve capacity utilisation.

***Other efficiencies***

- 95 Further, the JBA is expected to allow the joint utilisation of the marketing and distribution strength of each Party, particularly in their home markets (London in the case of BA and Doha in the case of QR), enabling better promotion of their services.

- 96 Combined passenger feed means that new routes and frequencies reach acceptable load factors earlier than would be the case for each carrier operating individually, providing the potential to increase capacity.

- 97 The Proposed Conduct allows the Parties to improve efficiencies by benefitting from:

- 97.1 economies of scope by spreading head office, marketing, IT and distribution costs over a greater number of destinations serviced;
- 97.2 more efficient and effective brand exposure, marketing budget allocation and sales impact. The ability to co-operate and openly discuss strategy is integral to both short-term tactical decisions to promote services to specific destinations and to broader joint marketing and promotional activity;
- 97.3 economies of density as a result of the Parties being able to increase load factors on the two New Zealand B&B Routes (and other B&B Routes) and consequently reduce average cost per seat sold; and
- 97.4 cost savings from various areas of invariable costs including, but not limited to, marketing and sales and scheduling.

- 98 The JBA will allow the Parties to better compete to win share from competitors such as the other global alliances, the Gulf carriers and other carriers. In light of the strong competition on relevant routes, there is likely to be pressure to pass on cost efficiencies.

**NO ADVERSE IMPACT ON CONSUMERS**

**The effect on competition will be minimal**

- 99 The two New Zealand B&B Routes that are the focus of this application are serviced by QR using its own planes, but BA only services the two New Zealand B&B Routes through competitive codeshare or interline arrangements with third-party airlines and has a very low share of supply on the routes. Accordingly, the effect on competition will be minimal (regardless of Air New Zealand's presence or otherwise on the relevant routes).

**The incremental increases in shares of supply will not be significant**

- 100 Table 1 below shows the incremental increases in share of supply on the two New Zealand B&B Routes that will result from the Proposed Conduct.
- 101 Table 1 has been prepared based on the information contained in **Schedule 1** ("New Zealand Route passenger numbers and shares of supply") which contains a detailed breakdown of passenger numbers and shares for the two New Zealand B&B Routes.

**Table 1: Incremental increases in shares on the two New Zealand B&B Routes**

Route	Share of supply increment - Passengers		
	Time Sensitive <sup>56</sup>	Non-Time Sensitive <sup>57</sup>	All passengers
AKL - LON	1 – 2%	1 – 5%	1 – 4%
AKL - MAN	0%	0 – 10%	0 – 9%

102 As can be seen from Table 1, the incremental increase in share brought about by the Proposed Conduct will be small, irrespective of how passengers are segmented.

**Competitive constraints on the two New Zealand B&B Routes<sup>58</sup>**

103 As can be seen from the tables in Schedule 1 (“New Zealand Route passenger numbers and shares of supply”) which provide detailed data and shares (for the summer and winter seasons 2017 and 2018) on the two New Zealand B&B Routes, the Parties will continue to face vigorous competition from other carriers. This will continue to be the case following Air New Zealand’s withdrawal from the route in October 2020.

**AKL-LON**

- 104 The incremental increase in share of supply resulting from the Proposed Conduct on the Auckland to London route will be minimal – 1 to 2% if time sensitive passengers are considered separately, 1 to 3% for non-time sensitive passengers and 1 to 4% for all passengers. This is due to BA’s very limited presence on this route.
- 105 QR’s presence, if aggregated with BA’s, would continue to be relatively limited at 10 to 13% if time sensitive passengers are considered separately, 13 to 15% for non-time sensitive passengers and 12 to 14% for all passengers. The route is relatively fragmented, with no one airline being a clear leader in terms of its share of the route.
- 106 QR’s share, aggregated with BA’s, would be exceeded by several other airlines for non-time sensitive passengers and all passengers. For time sensitive passengers, several competitors would have comparable shares of supply with QR’s 10 to 13% – Cathay Pacific has a share of 12 to 14%, Emirates has a share of 22%, Singapore Airlines has a share of 10 to 14%, and Air New Zealand currently has a share of 21 to 25%.
- 107 For non-time sensitive passengers, several airlines would have comparable shares of supply with QR and BA’s aggregated shares of 13 to 15%. Emirates has a share of 20 to 22%, Singapore Airlines has a share of 9 to 11%, Malaysian Airlines has a

<sup>56</sup> “Time Sensitive” passengers are passengers predominantly interested in reaching their destination in the shortest possible time and purchase tickets with a high level of flexibility and with fewer restrictions on changing their itineraries. They are mainly (but not exclusively) travelling on business.

<sup>57</sup> “Non-Time Sensitive” passengers are passengers prepared to accept longer journey times and are more price-sensitive. They are mainly (but not exclusively) those travelling for leisure.

<sup>58</sup> Note that we have used share of supply data from MIDT from 2017 and 2018 in our analysis in this section. We have provided the complete data set at **Attachment E**.

share of 7 to 9%, Cathay Pacific has a share of 12 to 13% and Qantas has a share of 9 to 10%.

- 108 In terms of total passengers, QR and BA's aggregated share would be 12 to 14%. However, several competitors would have higher or comparable shares of supply – Emirates has a share of 20 to 22%, Cathay Pacific has a share of 12 to 13%, and Air New Zealand currently has a share of 18 to 22%.
- 109 Accordingly, the Parties will continue to be constrained by competition on the Auckland to London route from other airlines, including in particular, Emirates, Cathay Pacific and, currently, Air New Zealand.

#### **AKL-MAN**

- 110 The incremental increase in share resulting from the Proposed Conduct on the Auckland to Manchester route will be small (0% for time sensitive passengers, 0 to 10% for non-time sensitive passengers and 0 to 9% for all passengers).
- 111 While QR, combined with BA, would have a share of 26 to 28% if time sensitive passengers were considered separately, 27 to 32% for non-time sensitive passengers and 27 to 32% for all passengers, the aggregation is limited and Emirates surpasses QR for non-time sensitive passengers and all passengers, with substantially higher shares of 42 to 46% and 43 to 47% respectively. For time sensitive passengers, Emirates has a 48 to 51% share and Cathay Pacific has a 15 to 17% share of supply.
- 112 Accordingly, the Parties will continue to be constrained by competition on the Auckland to Manchester route from other airlines and, in particular, Emirates.

### **NO LEGAL REASONS FOR THE MINISTER REFUSING TO AUTHORISE THE PROPOSED CONDUCT**

#### **Introduction**

- 113 In considering whether to grant authorisation for the Proposed Conduct under section 88 of the Act, sections 88(3) and (4) provide specific reasons for the Minister to decline to authorise. Section 88(4) is subject to section 88(5), which allows the Minister to authorise the Proposed Conduct if the Minister believes that to decline authorisation would have an undesirable effect on international comity between New Zealand and any other state.
- 114 For the reasons discussed below:
- 114.1 none of the reasons set out in sections 88(3) and (4) apply in respect of the Proposed Conduct; and
- 114.2 declining authorisation would have an undesirable effect on international comity between New Zealand and the UK and New Zealand and Qatar. Accordingly, section 88(5) provides a distinct reason for the Minister to exercise his discretion in favour of authorising the Proposed Conduct.

#### **No infringement of section 88(3)**

- 115 The Minister's authorisation of the Proposed Conduct will not prejudice New Zealand's compliance with any relevant international conventions, agreements or arrangements. Conventions and agreements which may be relevant include:

115.1 the ASA between New Zealand and the UK, and the Agreement between the European Community and New Zealand on certain aspects of air services;<sup>59</sup> and

115.2 the ASA between New Zealand and Qatar.

***ASA between New Zealand and the UK***

116 Article 18 of the ASA between New Zealand and the UK provides that:<sup>60</sup>

The airlines of each Contracting Party may, subject to applicable laws and regulations governing competition, enter into code-sharing or other co-operative marketing arrangements with any other airline or carrier, whether as an operating airline or marketing airline, provided that:

- i. each flight forming part of a service to which the arrangements apply is operated by an airline entitled to operate that flight;
- ii. none of the airlines concerned holds out service for the carriage of local traffic between any two points unless it is entitled to operate and carry local traffic between these points in its own right;
- iii. in respect of each ticket sold, the purchaser is informed at the point of sale which airline will operate each sector of the service.

117 The Proposed Conduct will clearly meet the criteria described under Article 14 of the ASA. The ASA expressly contemplates codesharing arrangements of the type sought in this application and therefore any authorisation cannot be said to prejudice compliance with that agreement.

118 The Agreement between the European Community and New Zealand on certain aspects of air services does not purport to limit the ability to authorise the Proposed Conduct.<sup>61</sup>

***ASA between New Zealand and Qatar***

119 The ASA between New Zealand and Qatar does not address code sharing or alliances.<sup>62</sup> However, the Memorandum of Understanding (**MOU**) of 7 March 2013 grants codeshare rights up to and including third country airlines.<sup>63</sup> The Proposed Conduct does not prejudice compliance with the agreement.

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<sup>59</sup> Ministry of Transport, *New Zealand's air service agreements*. Available: <https://www.transport.govt.nz/air/internationalairservices/newzealandsairserviceagreements/> ASAs contain provisions on traffic rights (the routes planes fly and the cities served), capacity (the number of flights and passengers), the number and ownership of airlines operating between countries and the prices involved (including any tariffs imposed). For further information see: <https://www.productivity.govt.nz/sites/default/files/B%20-%20Air%20Services%20agreements%20and%20CAA%20Act.pdf>

<sup>60</sup> Agreement between the Government of the United Kingdom of Britain and Northern Ireland and the Government of New Zealand concerning Air Services, 26 July 2005, p 18. Available: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/273248/6659.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/273248/6659.pdf)

<sup>61</sup> [https://ec.europa.eu/transport/modes/air/international\\_aviation/country\\_index/new-zealand\\_en](https://ec.europa.eu/transport/modes/air/international_aviation/country_index/new-zealand_en)

<sup>62</sup> Agreement between the Government of New Zealand and the Government of the State of Qatar for Air Services, signed 9 September 2015. Available: <https://www.treaties.mfat.govt.nz/search/details/t/3836>.

<sup>63</sup> The letter of 16 November 2015 confirms that the MOU is in effect.

**No infringement of section 88(4)**

120 The Parties consider that the Minister should not decline to authorise the Proposed Conduct under section 88(4) as the Proposed Conduct includes no provision that would infringe section 88(4)(a)-(f):

120.1 **No infringement of section 88(4)(a):** The Proposed Conduct makes no provision for either party to directly or indirectly enforce the Proposed Conduct through any form of action by way of fines or market pressures against any person.

120.2 **No infringement of section 88(4)(b):** The Parties are aware of two commission regimes currently in force:

- (a) The Civil Aviation (Passenger Agents' Commission Regime) Notice 1983. This is not engaged because the JBA does not specify arrangements with respect to agents.
- (b) The Civil Aviation (Cargo Agents' Commission Regime) Notice 1983. The Proposed Conduct does not have the purpose or effect of breaching the terms of either of these commission regimes. This is not engaged because the Proposed Conduct will not involve air cargo services.

120.3 **No infringement of section 88(4)(c):** The Proposed Conduct, [

] does not contain any provision which discriminates between consumers in the access they have to tariffs. In fact, the Proposed Conduct is likely to enhance the availability of competitive fares on the two New Zealand B&B Routes, and improve outcomes for consumers of international air services – see paragraphs 95 to 98 above.

The JBA does not prescribe actual tariffs, but puts in place a process for setting tariffs, and does not contain any provisions that unjustifiably discriminate between consumers in their access to competitive tariffs.

In addition, the Parties will continue to face competitive pressure from a range of international airlines, including Emirates, Singapore Airlines, Cathay Pacific, Qantas, Malaysian Airlines and Air New Zealand.

Accordingly, neither the JBA viewed as a whole, nor the specific Proposed Conduct that the Parties are seeking authorisation for, will undermine consumers' wide access to competitive fares either from the Parties or their competitors on the two New Zealand B&B Routes. Indeed, the opposite is the case.

120.4 **No infringement of section 88(4)(d):** The Proposed Conduct will have no impact on the ability of any supplier of international carriage by air from participating in the provision of services on the two New Zealand B&B Routes or other B&B Routes as:

- (a) the Parties will continue to set tariffs having regard to existing and potential competition from other carriers on all routes on which they operate. Authorisation will not have any flow-on impact in terms of ASAs or other regulatory conditions that would impact another airline's access to the B&B Routes; and

- (b) given the low barriers to entry and expansion and the existence of strong international competitors such as Emirates, Singapore Airlines, Cathay Pacific and Air New Zealand, the Parties will have no ability to set tariffs so as to exclude any person from providing international air services on any routes.

120.5 **No infringement of section 88(4)(e):** The ASA between the UK and New Zealand allows tariffs for air services to be established freely by each designated airline.<sup>64</sup> The ASA between Qatar and New Zealand allows tariffs for air services to be decided freely by each designated airline, subject to limited grounds for intervention by the government of New Zealand or Qatar.<sup>65</sup> The Proposed Conduct does not prevent any party from seeking the Minister's approval of any tariff under section 90 of the Act.

120.6 **No infringement of section 88(4)(f):** [

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As the Ministry has recognised in the past, alliance agreements provide for a greater degree of commitment by the parties than lesser forms of co-operation, such as codeshare arrangements, that justify a longer notice period.

### **International Comity**

- 121 If the Minister considers, contrary to the Parties' view, that the Proposed Conduct does not comply with any of section 88(4)(a)-(f), he can nevertheless authorise the Proposed Conduct under section 88(5) if declining authorisation would have an undesirable effect on international comity between New Zealand and another state.
- 122 Declining authorisation would have an undesirable effect on international comity between New Zealand and the UK and New Zealand and Qatar. Accordingly, international comity provides a distinct reason for the Minister to exercise his discretion in favour of authorising the Proposed Conduct.

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<sup>64</sup> Agreement between the Government of the United Kingdom of Britain and Northern Ireland and the Government of New Zealand concerning Air Services, 26 July 2005, p 10. Available: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/273248/6659.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/273248/6659.pdf)

<sup>65</sup> Agreement between the Government of New Zealand and the Government of the State of Qatar for Air Services, signed 9 September 2015 at Article 8. Available: <https://www.treaties.mfat.govt.nz/search/details/t/3836>. Intervention by the Contracting Parties is limited to:

- (a) prevention of unreasonably discriminatory prices or practices;
- (b) protection of consumers from prices that are unreasonably high or restrictive due to the abuse of a dominant position; and
- (c) protection of airlines from prices that are artificially low due to direct or indirect governmental subsidy or support.



**New Zealand and UK**

- 123 The UK is New Zealand's fourth largest international tourist market<sup>66</sup> and a significant trading partner.
- 124 One of the primary drivers of the Proposed Conduct is to offer customers more competitive and compelling travel options, leading to lower average per-passenger costs across the two New Zealand B&B Routes. As discussed at paragraph 116, the JBA is consistent with the ASA between New Zealand and the UK. In those circumstances, declining authorisation for the Proposed Conduct would prevent the UK from realising these net public benefits from an arrangement that is expressly contemplated in the ASA between New Zealand and the UK.

**New Zealand and Qatar**

- 125 Qatar is a significant trading partner of New Zealand, with annual two-way trade exceeding \$187 million in 2018.<sup>67</sup> In 2017, the then-Trade Minister Todd McClay said that QR's direct Auckland-Doha service was "a vote of confidence in the New Zealand economy and will be beneficial to both trade and tourism".<sup>68</sup> Similarly, Jeremy Clarke-Watson, New Zealand Ambassador to the State of Qatar, commented that the Auckland-Doha service is a "significant event in the New Zealand Qatar relationship".<sup>69</sup> Auckland Airport estimated that the daily QR service could generate close to \$200m in spending by visitors.<sup>70</sup>
- 126 In the Parties' view, declining authorisation on the basis of any of the provisions in section 88(4)(a)-(f), despite the clear benefits that would arise from the Proposed Conduct, would prevent Qatar from realising those benefits and would have an undesirable effect on international comity between New Zealand and Qatar.

**CONCLUSION**

- 127 In conclusion:
- 127.1 the Proposed Conduct will not be likely to cause any appreciable loss to competition or other public detriment, including uncompetitive pricing or uncompetitive service levels; and
- 127.2 material public benefits are expected to arise from the Proposed Conduct. The benefits to the public include increased efficiencies, growth in quality of services, better product offering and increased competition on the two New Zealand B&B Routes, and all other B&B Routes.

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<sup>66</sup> Tourism New Zealand, *United Kingdom: Market overview*. Available: <https://www.tourismnewzealand.com/markets-stats/markets/united-kingdom/>.

<sup>67</sup> Stats New Zealand, *New Zealand Trade Dashboard*. Available: [https://statisticsnz.shinyapps.io/trade\\_dashboard/](https://statisticsnz.shinyapps.io/trade_dashboard/).

<sup>68</sup> New Zealand Herald, *Trade Minister says Qatar Airways and Air NZ should sort out differences over canned deal*, 8 February 2017. Available: [https://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=11796179](https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11796179)

<sup>69</sup> Stuff, *World's longest flight touches down at Auckland Airport*, 6 February 2017. Available: <https://www.stuff.co.nz/travel/news/89118068/worlds-longest-flight-touches-down-at-auckland-airport>

<sup>70</sup> New Zealand Herald, *Trade Minister says Qatar Airways and Air NZ should sort out differences over canned deal*, 8 February 2017. Available: [https://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=11796179](https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11796179)

128 Accordingly, the Parties submit that the Minister should authorise the Proposed Conduct and grant this application for authorisation.

**CONFIDENTIALITY**

- 129 The Parties claim confidentiality over Attachment A and Attachment B to this Application and also the information in this Application enclosed in square brackets (**Confidential Information**) pursuant to section 9(2)(b) of the Official Information Act 1982.
  
- 130 A public version with Confidential Information redacted will be provided separately. The Confidential Information is commercially sensitive and valuable to the Parties and disclosure would be likely to unreasonably prejudice the commercial position of one, or both, of the Parties. The Parties request that they be notified if a request is made to the Commission for release of the Confidential Information under the Official Information Act 1982.

## SCHEDULE 1: NEW ZEALAND ROUTE PASSENGER NUMBERS AND SHARES OF SUPPLY

### Definitions

- 1 In this Schedule, the terms below have the following meanings:<sup>71</sup>
- 1.1 **Time Sensitive passengers:** passengers travelling in first or business cabins. In reality not all passengers in these cabins will be time-sensitive (i.e. predominantly interested in reaching their destination in the shortest possible time and purchasing tickets with a high level of flexibility and with fewer restrictions on changing their itineraries). These passengers are often (but not exclusively) travelling for business.
- 1.2 **Non-Time Sensitive passengers:** passengers travelling in economy or premium economy cabins. In reality, not all passengers in these cabins will be non-time sensitive (i.e. prepared to accept longer journey times, more price sensitive, and often travelling for leisure).
- 1.3 **Direct flight:** flights carrying a single flight number. Unlike a non-stop flight, direct flights involve one or more stopovers to refuel although but does not involve a change of aircraft.
- 1.4 **Indirect flight:** flights involving one or more stopovers and involves a change of aircraft.
- 1.5 **Non-stop flight:** flights that do not involve any stopovers.

### Methodology for calculating the incremental increase in share of supply

- 2 Throughout this Schedule, the increment is the lower of the numbers for passengers and share of supply contributed by each of BA and QR to the "Total BA + QR" row in the tables below.

### AKL-LON

- 3 Only Air New Zealand carried passengers direct on the AKL-LON route in S17, W17, S18 or W18.
- 4 The following information includes both direct and indirect flights.

#### (a) Time sensitive passengers

- 5 BA and QR carried the following number of time sensitive passengers:

Time sensitive passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	1,877	1,112	1,241	973	11%	7%	9%	6%
oneworld	BA	277	199	200	233	2%	1%	1%	2%
TOTAL BA + QR		2,154	1,311	1,441	1,206	13%	9%	10%	8%
<b>Increment</b>		<b>277</b>	<b>199</b>	<b>200</b>	<b>233</b>	<b>2%</b>	<b>1%</b>	<b>1%</b>	<b>2%</b>
oneworld	CX	1,520	2,052	1,517	1,827	9%	14%	11%	12%

<sup>71</sup> The Parties have provided passenger numbers for both time sensitive and non-time sensitive passengers based on a split of first/business cabins and economy/premium economy cabins respectively.

Time sensitive passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	MH	1,143	487	350	432	7%	3%	2%	3%
oneworld	QF	584	667	165	353	3%	4%	1%	2%
oneworld	Others	82	30	3	27	1%	0%	0%	1%
TOTAL oneworld		5,483	4,547	3,476	3,845	33%	30%	24%	26%
SkyTeam	KE	934	1,748	779	1,776	6%	12%	5%	12%
SkyTeam	CZ	870	640	815	466	5%	4%	6%	3%
SkyTeam	Others	146	43	223	157	1%	0%	2%	1%
TOTAL SkyTeam		1,950	2,431	1,817	2,399	12%	16%	13%	16%
Star	NZ	3,272	2,437	3,587	3,198	19%	16%	25%	21%
Star	SQ	1,634	1,305	1,302	2,063	10%	9%	9%	14%
Star	TG	489	350	454	352	3%	2%	3%	2%
Star	Others	91	148	83	214	1%	1%	1%	2%
TOTAL Star		5,486	4,240	5,426	5,827	33%	28%	38%	39%
Other	EK	3,670	3,350	3,141	2,371	22%	22%	22%	16%
Other	Others	256	376	434	589	1%	3%	3%	4%
TOTAL Other		3,926	3,726	3,575	2,960	23%	25%	25%	20%

- 6 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 1 to 2%.

*(b) Non-time sensitive passengers*

- 7 BA and QR carried the following number of non-time sensitive passengers:

Non-time sensitive passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	10,889	4,708	7,001	3,068	14%	7%	10%	4%
oneworld	BA	823	1,058	1,593	3,130	1%	1%	2%	5%
TOTAL BA + QR		11,712	5,766	8,594	6,198	15%	8%	13%	9%
<b>Increment</b>		823	1,058	1,593	3,130	1%	1%	2%	5%
oneworld	CX	7,943	8,772	8,833	7,910	10%	12%	13%	12%
oneworld	MH	7,345	4,745	2,621	2,714	9%	7%	4%	4%
oneworld	QF	7,204	6,859	2,660	2,262	9%	10%	4%	3%
oneworld	AA	809	618	22	510	1%	1%	0%	1%
oneworld	Others	1	15	8	4	0%	0%	0%	0%
TOTAL oneworld		35,014	26,775	22,738	19,598	44%	38%	33%	28%
SkyTeam	CZ	2,516	2,564	2,002	2,209	3%	4%	3%	3%
SkyTeam	KE	1,049	799	357	527	1%	1%	1%	1%
SkyTeam	MU	444	683	413	1,391	1%	1%	1%	2%
SkyTeam	CI	1	953	992	947	0%	1%	1%	1%
SkyTeam	Others	5	16	16	12	0%	0%	0%	0%
TOTAL SkyTeam		4,015	5,015	3,780	5,086	5%	7%	6%	7%

Non-time sensitive passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
Star	NZ	7,721	7,834	11,564	14,909	10%	11%	17%	22%
Star	SQ	5,862	5,785	5,850	7,793	7%	8%	9%	11%
Star	TG	4,263	2,746	4,909	3,881	5%	4%	7%	6%
Star	CA	928	3,117	1,410	2,115	1%	4%	2%	3%
Star	Others	261	452	310	811	0%	0%	0%	1%
TOTAL Star		19,035	19,934	24,043	29,509	24%	28%	35%	43%
Other	EK	17,124	14,201	12,955	8,349	22%	20%	19%	12%
Other	PR	2,658	3,001	2,665	1,418	3%	4%	4%	2%
Other	VS	715	1,028	947	1,633	1%	1%	1%	2%
Other	EY	572	507	742	590	1%	1%	1%	1%
Other	UA	23	44	88	1,944	0%	0%	0%	3%
Other	Others	340	309	323	645	0%	0%	1%	1%
TOTAL Other		21,432	19,090	17,720	14,579	27%	27%	26%	21%

- 8 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 1 to 5%.

(c) All passengers

- 9 BA and QR carried the following number of passengers:

All passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	12,766	5,820	8,242	4,041	13%	7%	10%	5%
oneworld	BA	1,100	1,257	1,793	3,363	1%	1%	2%	4%
TOTAL BA + QR		13,866	7,077	10,035	7,404	14%	8%	12%	9%
<b>Increment</b>		1,100	1,257	1,793	3,363	1%	1%	2%	4%
oneworld	CX	9,463	10,824	10,350	9,737	10%	13%	13%	12%
oneworld	MH	8,488	5,232	2,971	3,146	9%	6%	4%	4%
oneworld	QF	7,788	7,526	2,825	2,615	8%	9%	3%	3%
oneworld	AA	891	647	25	536	1%	1%	0%	1%
oneworld	Others	1	16	8	5	0%	0%	0%	0%
TOTAL oneworld		40,497	31,322	26,214	23,443	42%	37%	32%	28%
SkyTeam	CZ	3,386	3,204	2,817	2,675	4%	4%	3%	3%
SkyTeam	KE	1,983	2,547	1,136	2,303	2%	3%	1%	3%
SkyTeam	MU	587	697	428	1,419	1%	1%	1%	2%
SkyTeam	CI	3	982	1,198	1,075	0%	1%	1%	1%
SkyTeam	Others	6	16	18	13	0%	0%	0%	0%
TOTAL SkyTeam		5,965	7,446	5,597	7,485	6%	9%	7%	9%
Star	NZ	10,993	10,271	15,151	18,107	11%	12%	18%	22%
Star	SQ	7,496	7,090	7,152	9,856	8%	8%	9%	12%
Star	TG	4,752	3,096	5,363	4,233	5%	4%	6%	5%
Star	CA	993	3,244	1,438	2,173	1%	4%	2%	3%
Star	Others	287	473	365	967	0%	0%	1%	1%

All passengers (AKL-LON)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
TOTAL Star		24,521	24,174	29,469	35,336	25%	28%	36%	42%
Other	EK	20,794	17,551	16,096	10,720	22%	20%	19%	13%
Other	PR	2,727	3,224	2,822	1,700	3%	4%	3%	2%
Other	VS	793	1,052	1,071	1,799	1%	1%	1%	2%
Other	EY	634	617	868	689	1%	1%	1%	1%
Other	UA	35	61	107	1,980	0%	0%	0%	2%
Other	Others	375	311	331	651	0%	1%	1%	1%
TOTAL Other		25,358	22,816	21,295	17,539	26%	27%	26%	21%

- 10 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 1 to 4%.

#### AKL-MAN

- 11 No airlines carried time sensitive passengers or non-time sensitive passengers direct on the AKL-MAN route in S17, W17, S18 or W18.

(a) Time sensitive passengers

(a) Time sensitive passengers

- 12 BA and QR carried the following number of time sensitive passengers:

Time sensitive passengers (AKL-MAN)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	446	483	374	355	28%	22%	26%	18%
oneworld	BA	3	4	2	3	0%	0%	0%	0%
TOTAL BA + QR		449	487	376	358	28%	22%	26%	18%
<b>Increment</b>		3	4	2	3	0%	0%	0%	0%
oneworld	CX	127	328	242	287	8%	15%	17%	14%
oneworld	QF	14	26	12	7	1%	1%	1%	0%
oneworld	Others	17	16	4	13	1%	1%	0%	0%
TOTAL oneworld		604	853	632	662	38%	39%	44%	33%
SkyTeam	CZ	33	37	9	7	2%	2%	1%	0%
SkyTeam	KE	8	18	7	12	1%	1%	0%	1%
SkyTeam	Others	6	3	2	5	0%	1%	0%	0%
TOTAL SkyTeam		47	58	18	24	3%	3%	1%	1%
Star	SQ	87	116	84	215	5%	5%	6%	11%
Star	NZ	45	30	53	21	3%	1%	4%	1%
Star	LH	5	0	0	33	1%	0%	0%	2%
Star	Others	1	4	12	19	0%	0%	0%	0%
TOTAL Star		138	150	149	288	9%	7%	10%	14%
Other	EK	756	1,127	618	964	48%	51%	43%	48%
Other	EY	42	18	20	47	3%	1%	1%	2%
Other	Others	4	1	2	3	0%	0%	0%	0%
TOTAL Other		802	1,146	640	1,014	50%	52%	44%	51%

- 13 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 0%.

(b) *Non-time sensitive passengers*

- 14 BA and QR carried the following number of non-time sensitive passengers:

Non-time sensitive passengers (AKL-MAN)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	3,363	2,316	2,414	1,681	32%	18%	24%	13%
oneworld	BA	32	53	251	1,305	0%	0%	3%	10%
TOTAL BA + QR		3,395	2,369	2,665	2,986	32%	19%	27%	23%
<b>Increment</b>		32	53	251	1,305	0%	0%	3%	10%
oneworld	CX	848	1,344	1,094	1,127	8%	11%	11%	9%
oneworld	QF	330	566	263	134	3%	4%	3%	1%
oneworld	AA	156	181	1	124	1%	1%	0%	1%
oneworld	Others	37	56	14	13	0%	1%	0%	0%
TOTAL oneworld		4,766	4,516	4,037	4,384	45%	36%	40%	34%
SkyTeam	CZ	88	109	33	55	1%	1%	0%	0%
SkyTeam	Others	7	42	3	27	0%	0%	0%	1%
TOTAL SkyTeam		95	151	36	82	1%	1%	0%	1%
Star	SQ	512	693	507	1,180	5%	5%	5%	9%
Star	NZ	217	640	732	1,673	2%	5%	7%	13%
Star	LH	62	94	53	71	1%	1%	1%	1%
Star	Others	31	55	44	153	0%	1%	0%	1%
TOTAL Star		822	1,482	1,336	3,077	8%	12%	13%	24%
Other	EK	4,408	5,882	3,981	4,568	42%	46%	40%	36%
Other	EY	340	415	530	642	3%	3%	5%	5%
Other	Others	73	226	51	107	1%	1%	1%	0%
TOTAL Other		4,821	6,523	4,562	5,317	46%	51%	46%	41%

- 15 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 0 to 10%.

(c) *All passengers*

- 16 BA and QR carried the following number of passengers:

All passengers (AKL-MAN)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
oneworld	QR	3,809	2,799	2,788	2,036	31%	19%	24%	14%
oneworld	BA	35	57	253	1,308	0%	0%	2%	9%
TOTAL BA + QR		3,844	2,856	3,041	3,344	32%	19%	27%	23%
<b>Increment</b>		35	57	253	1,308	0%	0%	2%	9%
oneworld	CX	975	1,672	1,336	1,414	8%	11%	12%	10%
oneworld	QF	344	592	275	141	3%	4%	2%	1%
oneworld	AA	162	181	1	127	1%	1%	0%	1%
oneworld	Others	45	68	16	20	0%	0%	0%	0%



All passengers (AKL-MAN)									
Alliance	Company	Passengers				Share of supply			
		S17	W17	S18	W18	S17	W17	S18	W18
TOTAL oneworld		5,370	5,369	4,669	5,046	44%	36%	41%	34%
SkyTeam	CZ	121	146	42	62	1%	1%	0%	0%
SkyTeam	Others	21	63	12	44	0%	0%	0%	0%
TOTAL SkyTeam		142	209	54	106	1%	1%	0%	0%
Star	SQ	599	809	591	1,395	5%	5%	5%	9%
Star	NZ	262	670	785	1,694	2%	5%	7%	11%
Star	LH	67	94	53	104	1%	1%	0%	1%
Star	Others	32	59	56	172	1%	0%	0%	1%
TOTAL Star		960	1,632	1,485	3,365	8%	11%	13%	23%
Other	EK	5,164	7,009	4,599	5,532	43%	47%	40%	37%
Other	EY	382	433	550	689	3%	3%	5%	5%
Other	Others	77	227	53	110	0%	2%	1%	1%
TOTAL Other		5,623	7,669	5,202	6,331	46%	52%	46%	43%

- 17 Therefore, the Proposed Conduct would result in an incremental increase in share of supply of approximately 0 to 9%.

**SCHEDULE 2: THE B&B ROUTES THAT INVOLVE NEW ZEALAND**

<b>No.</b>	<b>Route</b>	<b>No.</b>	<b>Route</b>
1	AKL-BLL	14	AKL-BSL
2	AKL-LYS	15	ABZ-AKL
3	AKL-MRS	16	AKL-BHD
4	AKL-TLS	17	AKL-GLA
5	AKL-DUS	18	AKL-INV
6	AKL-HAM	19	AKL-LBA
7	AKL-HAJ	20	AKL-NCL
8	AKL-STR	21	AKL-JER
9	AKL-LUX	22	AKL-MAN
10	AKL-FAO	23	AKL-LON
11	AKL-BIO	24	AKL-BHX
12	AKL-IBZ	25	AKL-CWL
13	AKL-PMI	26	AKL-EDI

**ATTACHMENT A: CONFIDENTIAL JOINT BUSINESS AGREEMENT BETWEEN  
BA AND QR**

Attached.

**ATTACHMENT B: CONFIDENTIAL AMENDED JOINT BUSINESS AGREEMENT  
BETWEEN BA AND QR**

Attached.

**ATTACHMENT C: BA'S FACT SHEET**

Attached.

**ATTACHMENT D: QR'S FACT SHEET**

Attached.

**ATTACHMENT E: CONFIDENTIAL COMPLETE DATA SET FOR ALL AIRLINES  
ON THE ROUTES REFERRED TO IN SCHEDULE 1**

Attached.

**ATTACHMENT F: ROBERT J CALZARETTA JR, YAIR EILAT, AND MARK A  
ISRAEL "COMPETITIVE EFFECTS OF INTERNATIONAL AIRLINE CO-  
OPERATION" (2017) 13(3) JOURNAL OF COMPETITION LAW & ECONOMICS  
501**

Attached.