



# Air New Zealand / Singapore Airlines 2018 Reauthorisation - Final Advice

<b>Reason for this briefing</b>	Air New Zealand and Singapore Airlines have applied for reauthorisation of their airline alliance. This briefing accompanies our final report containing our analysis regarding the proposed reauthorisation.
<b>Action required</b>	Agree to reauthorise the alliance for a period ending 28 March 2024.
<b>Deadline</b>	5 October 2018.
<b>Reason for deadline</b>	The current authorisation expires on 6 January 2019. The airlines have asked for a decision well in advance of this date, as the decision influences their business planning.

### Contact for telephone discussion (if required)

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

### MINISTER'S COMMENTS:

<b>Date:</b>	26 September 2018	<b>Briefing number:</b>	OC180829
<b>Attention:</b>	Hon Phil Twyford	<b>Security level:</b>	Commercial: In Confidence

### Minister of Transport's office actions

- |                                       |   |  |
|---------------------------------------|---|--|
| <input type="checkbox"/> Noted        | <input type="checkbox"/> Seen                 | <input type="checkbox"/> Approved            |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Referred to          |  |
| <input type="checkbox"/> Withdrawn    | <input type="checkbox"/> Not seen by Minister | <input type="checkbox"/> Overtaken by events |

## Purpose of report

1. Air New Zealand and Singapore Airlines (the Applicants) have applied for reauthorisation of their airline alliance, under their Strategic Alliance Agreement (the Alliance).
2. This briefing seeks your agreement to reauthorise the Alliance and its supporting Code-Share 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. Our detailed analysis, which was summarised in an earlier briefing to you (see OC180829) is attached to this report. **The Alliance, the Code-Share Agreement and the Applicants' application are also attached for your reference.**

## We recommend that the Alliance is authorised

4. We consider the Alliance has, and will, provide real benefits to New Zealand. It provides greater international airline capacity (number of seats and flights) into New Zealand and improved connectivity for passengers travelling between New Zealand and key markets in Europe, India and Southeast Asia.
5. There are risks that alliances can reduce competition in some markets. However, we consider that in this case these risks are outweighed by the public benefits described above.
6. We also conclude that the Alliance and Code-Share Agreement meet the statutory conditions allowing them to be authorised under section 88 of the Civil Aviation Act.

## Amendments and supporting documents

7. Authorisation of the Alliance also includes its associated amendments, addendum and its supporting Code-Share Agreement.

### *The first amendment to the Alliance (done 4 August 2014)*

8. The first amendment was made prior to the Alliance being authorised in 2014. The amendment provides for amendments to exclusivity provisions, and assurances regarding Christchurch services which were discussed in our previous briefing to you. It also contains a clause which limited the term of the first authorisation to four years.

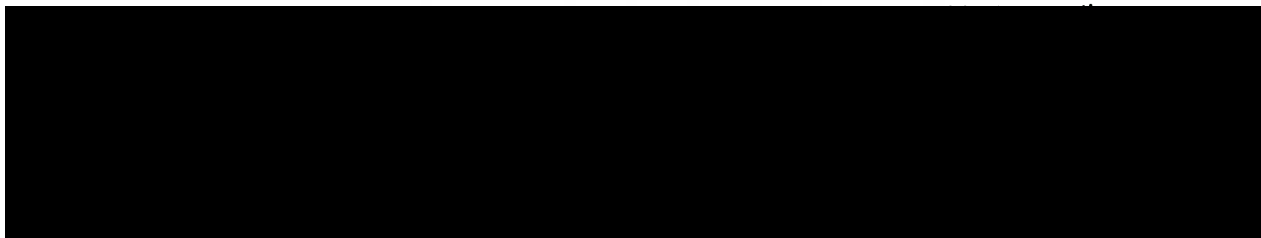
### *The addendum to the Alliance (done 26 August 2016)*

9. In September 2016, Singapore Airlines began a new service on a route between Wellington and Singapore via Canberra. The Applicants subsequently agreed an addendum to the Alliance, incorporating the Wellington – Singapore service into the Alliance.

### *The second amendment to the Alliance (done 3 April 2018)*

10. In early 2018, Singapore Airlines announced that the stop in Canberra on the Wellington service would be replaced by Melbourne. The second amendment accounts for this change.

11.



*The third amendment to the Alliance (done 19 September 2018)*

12. The third amendment limits the term of this proposed reauthorisation to a period ending 28 March 2024 (see paragraph 14 to 16 below).

*The Code-Share Agreement*

13. The Applicants have also asked for reauthorisation of the Code-Share Agreement. This supporting document covers the Applicants' conduct in relation to their code-sharing activities (selling seats on each other's flights).

**The Applicants have agreed to limit the term of authorisation**

14. As noted in our earlier briefing, the Applicants had applied for reauthorisation for a seven-year term, which we were concerned was too long.
15. With your agreement, we have conveyed these concerns to the Applicants, who have since agreed to amend the Alliance to reflect a term ending 28 March 2024.
16. This represents a term just over five years from the date which reauthorisation is due, on 6 January 2019. In order to aid their business planning, we agreed that the Applicants could align the term with the end of the Northern Winter Airlines Scheduling Season, which ends each year in late March.

**Authorisation is under section 88 of the Civil Aviation Act**

17. 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".
18. We have concluded that the provisions of the Alliance and Code-Share Agreement fall within the scope of section 88 of the Civil Aviation Act, except for clauses 4.1(b)(vi) and 4.9 of the Alliance, [REDACTED]. The Applicants are not seeking your authorisation of these provisions.
19. We have determined that all other provisions under the Alliance and Code-Share Agreement meet the statutory conditions allowing them to be authorised under section 88 of the Civil Aviation Act 1990.

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

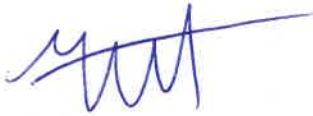
20. Consistent with our approach to previous alliance applications, we intend to publish a copy of our detailed analysis on our website, along with the initial advice we provided to your office on 31 August 2018. This will provide transparency to interested parties on the decision-making process and 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**

21. We intend to publicise your decision regarding authorisation on the Ministry of Transport website, and advise relevant stakeholders.
22. For some previous authorisations, we have organised an accompanying media release advising the public of the decision. If you would like us to arrange a media release for this authorisation, please advise in the recommendation section below.

**Recommendations**

23. The recommendations are that you **authorise** pursuant to section 88(2) of the Civil Aviation Act 1990:
- (a) the provisions of the Strategic Alliance Agreement between Singapore Airlines and Air New Zealand dated 16 January 2014 (except for clauses 4.1(b)(vi) and 4.9 for which the applicants are not seeking authorisation), as amended by the First, Second and Third Amendments to the Strategic Alliance Arrangement Yes/~~No~~
  - (b) the Addendum to the Strategic Alliance done 26 August 2016 Yes/~~No~~
  - (c) the provisions of the Code-Share Agreement between Air New Zealand and Singapore Airlines dated 16 January 2014 Yes/~~No~~
24. **agree** that we publish a copy of this briefing, 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~~
25. **indicate** whether you would like us to arrange a media release regarding your decision Yes/~~No~~



Tom Forster  
**Manager International Connections**

**MINISTER'S SIGNATURE:**



**DATE:** 30.9.18