

12 November 2020

OC200796

Hon Michael Wood
Minister of Transport

Action required by:
as soon as possible

QANTAS–AMERICAN AIRLINES 2020 REAUTHORISATION OF STRATEGIC ALLIANCE

Purpose

To provide you with advice concerning the application by Qantas Airways and American Airlines for you to reauthorise their agreement to cooperate on air services between North America, Australia and New Zealand.

Key points

- Qantas and American Airlines have a revenue-sharing alliance for services within and between North America, Australia and New Zealand. In New Zealand, this arrangement was authorised for five years in 2015; it expired on 8 November 2020. The airlines have requested that you reauthorise the alliance for a further five years.
- We have assessed that the proposed agreement between the airlines does not violate criteria set out in Section 88 of the Civil Aviation Act. This means that you may reauthorise the alliance if you consider that it is in the public interest.
- The applicants have been providing a direct service between Auckland and Los Angeles, operated by American Airlines, which competes with the services to North America offered by Air New Zealand in alliance with United Airlines. Two further direct services were planned to begin in October but have been postponed.
- New Zealand would benefit from additional services and competition on trans-Pacific routes. We would also like to still have some trans-Pacific services after the disruption to aviation caused by the COVID-19 pandemic. All this is more likely if the alliance is reauthorised.

Recommendations

We recommend you:

1 **reauthorise** pursuant to section 88(2) of the Civil Aviation Act 1990 the provisions of the: Yes / No

Joint Business Agreement between American Airlines Inc. and Qantas Airways Limited

First Amendment to the Joint Business Agreement

Alliance Agreement between American Airlines Inc. and Qantas Airways Limited

Alliance Settlement Agreement between American Airlines Inc. and Qantas Airways Limited

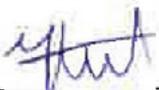
First Amendment to the Alliance Settlement Agreement

Codeshare Agreement between American Airlines Inc. and Qantas Airways Limited

Amendment no. 1 to the Codeshare Agreement

Amendment no. 2 to the Codeshare Agreement

so far as the provisions relate, whether directly or indirectly, to the fixing of tariffs, the application of tariffs, or the fixing of capacity, for five years from the date of this decision.



Tom Forster
Manager, Economic Regulation

12/11/2020



Hon Michael Wood
Minister of Transport

14/11/20

- Minister's office to complete:**
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Tom Forster, Manager Economic Regulation		✓
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QANTAS–AMERICAN AIRLINES 2020 REAUTHORISATION OF STRATEGIC ALLIANCE

Reauthorisation has been requested

- 1 Qantas and American Airlines have a revenue-sharing alliance for passenger and freight services within and between North America, Australia and New Zealand. This was approved by the then Minister of Transport in 2015 and by the Australian Competition & Consumer Commission in 2016, but not by the US Department of Transport (DoT) until 2019. The full alliance was in effect for about seven months before most international travel stopped due to the COVID-19 epidemic.
- 2 Authorisation of the alliance with respect to New Zealand operations expired on 8 November 2020. The airlines have requested reauthorisation for a further five years, until 2025.
- 3 This briefing seeks your agreement to reauthorise the alliance under the Civil Aviation Act 1990. The effect of authorisation is to exempt the airlines' arrangements from the provisions in the Commerce Act 1986 that prohibit practices substantially lessening competition.
- 4 The airlines' application, and our detailed analysis, are attached to this briefing.
- 5 Our analysis and this briefing will also be posted on the Ministry of Transport website when a decision is made.

We recommend that you reauthorise the alliance

- 6 The Minister of Transport is responsible, under the Civil Aviation Act 1990, for authorising or declining to authorise arrangements between airlines that relate to fixing tariffs or capacity. The Ministry of Transport provides advice to you on whether authorisation would be consistent with the criteria set out in the Act and whether it is in New Zealand's interest.
- 7 We consider that the Joint Business Agreement between Qantas and American Airlines meets the statutory conditions allowing it to be authorised under section 88 of the Civil Aviation Act, and is likely to increase capacity and competition on the affected routes and produce benefits to customers.
- 8 You are not able to authorise joint procurement by the applicants. [REDACTED]

The alliance benefits New Zealand

- 9 The alliance between Qantas and American Airlines is intended to give each of them access to the other's extensive regional networks, so that their trans-Pacific services can connect points throughout New Zealand, Australia and the Americas. The lack of overlap between the airlines' networks means their cooperation is unlikely to reduce competition.



American-operated network (February 2020)
 Qantas-operated network (February 2020)

- 10 In 2016, American Airlines introduced a direct service between Auckland and Los Angeles, codeshared with Qantas. Closer cooperation was not possible due to the delay in receiving DoT approval, and the service was reduced to a seasonal offering in 2017. It was suspended, along with all international services from these airlines, due to the COVID-19 pandemic.¹ The applicants state that this service, and others between Australia and the United States, depend on the coordination benefits of full metal-neutral cooperation under the terms of their Joint Business Agreement, but were retained as DoT approval was still expected.²
- 11 The only other direct services between New Zealand and the United States are operated by Air New Zealand as part of its alliance with United Airlines. This alliance is authorised indefinitely (as was practice at the time). Air New Zealand/United has consistently around a 70 percent share of this market, which comprises (most recently) a million passengers a year. Qantas and American Airlines have tended to offer cheaper fares than the market leaders. We think it likely that such competition in this market benefits consumers by constraining prices and encouraging better products to be offered.
- 12 The introduction of Qantas/American's direct service between New Zealand and the United States coincided with a large increase in air travel between the two countries. Though Air New Zealand also benefitted from growth, this service increased the capacity available in the market, allowing more New Zealanders to travel and bringing more tourists to this country.

¹ From 16 October, Australia has allowed New Zealanders that have not been in a designated COVID-19 hotspot to travel to New South Wales or the Northern Territory without undergoing quarantine on arrival. Qantas and its subsidiary Jetstar have begun flying trans-Tasman passenger services. Air New Zealand had continued to fly limited services to Australia through the crisis and has now increased its capacity.

² In a codeshare relationship, one airline buys seats on a service provided by another airline and sells them as if they were their own (with their own flight number, including the airline code). The joint venture undertaken by the applicants is a closer relationship, described as metal-neutral, whereby planning and profits are shared regardless of whose aircraft (the metal) actually provide the service.

- 13 In 2019, Qantas and American Airlines announced two further direct flights between New Zealand and the United States: Dallas/Fort Worth to Auckland, and Los Angeles to Christchurch. The latter would be the first direct flight between the United States and the South Island, while Dallas/Fort Worth is American Airlines' largest hub and one of the most connected airports in the world. It has flights to over 200 destinations. These services were due to begin in October 2020 but have been postponed because of the COVID-19 pandemic.
- 14 We conclude that American Airlines will be more likely to resume its Auckland-Los Angeles service in the future, and more likely to introduce the two planned new services, if the alliance is reauthorised.
- 15 The COVID-19 pandemic, the associated global economic crisis, and state-imposed travel restrictions, have caused an unprecedented reduction in international travel and aviation. It is unlikely that demand will recover quickly, and it is not clear what long-term damage has been done to the international aviation sector. Under these circumstances, no strong predictions about aviation markets can be made based on previous performance. Furthermore, it cannot be assumed that previously offered routes will be served in the future. We cannot guarantee that direct flights between New Zealand and North America will be feasible over the next five years (though Air New Zealand continues to operate for the time being, focussing on freight).
- 16 We consider that whatever happens to the trans-Pacific market in the next five years, New Zealand would benefit from more services being offered and effective competition. We also need to consider whether there will be any direct services available at all. These are all more likely if the alliance between Qantas and American Airlines is reauthorised.