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ACCC to consult further on proposed extension of Virgin Australia and Alliance Airlines charter alliance agreement

The ACCC is seeking submissions on a draft determination issued today proposing to deny authorisation to an extension of a Charter Alliance Agreement between Virgin Australia Airlines, Virgin Australia Regional Airlines (VARA) (together Virgin Australia) and Alliance Aviation Services (ASX:AQZ) and Alliance Airlines Pty Ltd (together, Alliance Airlines).

“At this stage, the ACCC is not satisfied that the public benefits likely to result from the Charter Alliance Agreement in the next five years will outweigh the public detriment that is likely to result from VARA and Alliance Airlines coordinating their fly-in fly-out (FIFO) services,” ACCC Deputy Chair Mick Keogh said.

The Charter Alliance Agreement enables Virgin Australia and Alliance Airlines to cooperate, coordinate and jointly bid for, and provide, FIFO and value-added services to corporate customers.

“The proposed extension of the Charter Alliance Agreement would continue to eliminate competition between VARA and Alliance Airlines in providing FIFO services to corporate customers,” Mr Keogh said.

In May 2017, the ACCC granted authorisation for the Charter Alliance Agreement for a period of five years.

“The ACCC seeks further submissions to assist it to understand whether the public benefits claimed to result from the agreement by the applicants five years ago have actually been realised, and also how market conditions have changed in that time. This will help to inform our forward-looking assessment of the likely public benefits and detriments,” Mr Keogh said.

“At present, the ACCC is not satisfied that the public benefits claimed to arise from combining Virgin Australia’s charter fleet and national regular passenger network with Alliance Airlines’ national charter network are likely to result from the extension of the agreement to the extent claimed by the applicants.”

The ACCC accepts that the Charter Alliance Agreement is likely to result in some operational efficiencies, such as integrating VARA’s and Alliance Airlines’ equipment and fleets, and enhanced services such as access to frequent flyer programs.

“It is unclear whether the likely benefits are sufficiently significant to outweigh the anti-competitive detriment, and whether they will be substantially passed through to or realised by customers,” Mr Keogh said.

“The ACCC wishes to test the public benefit claims made by the applicants further, particularly with FIFO customers.”

“The test for authorisation requires that the ACCC must not grant authorisation unless it is satisfied in all the circumstances that the proposed conduct would result in a benefit to the public that would outweigh the likely detriment to the public from the proposed conduct,” Mr Keogh said.

The ACCC will make its final decision after considering submissions from interested parties on the draft determination. The draft determination and more information on how to make a submission are available on the ACCC public register at [Virgin Australia and Alliance Airlines](#).

The ACCC is seeking submissions on the draft determination by 4 November.

Further information is available at [Virgin Australia and Alliance Airlines](#).

Background

The applicants, Virgin Australia and Alliance Airlines, have sought authorisation for the extension of Charter Alliance Agreement because the agreement contains provisions which raise concerns under the cartel and other restrictive practices provisions of the Competition and Consumer Act.

Virgin Australia operates a network of domestic and international regular passenger transport services from its main hub at Brisbane Airport in Queensland.

Virgin Australia Regional Airlines (VARA) operates from a base at Perth airport, primarily providing charter flights throughout Western Australia. VARA also has access to Virgin Australia's national network of regular passenger services.

Alliance Airlines has a national network of charter services but only offers limited regular passenger services.

On 8 June 2022, the ACCC granted interim authorisation to enable VARA and Alliance Airlines to enter into and give effect to an extension of the Charter Alliance Agreement, while the ACCC considers the substantive application for authorisation.

The interim authorisation will remain in place until the date the ACCC's final determination comes into effect, the application for authorisation is withdrawn, or until the ACCC decides to revoke the interim authorisation.

Media enquiries: 1300 138 917

Email: media@acc.gov.au

acc.gov.au/media