



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP13/61

Friday, 22 November 2013

Virgin Australia Holdings Limited - Panel Receives Application

The Panel has received an application from Mr Stephen Mayne in relation to the affairs of Virgin Australia Holdings Limited. The application concerns the 5 for 14 entitlement offer announced by Virgin Australia on 14 November 2013.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

On 14 November 2013, Virgin Australia announced a fully underwritten 5 for 14 pro rata accelerated non-renounceable entitlement offer at \$0.38 per share to raise approximately \$350 million. In addition to their entitlements, Virgin Australia shareholders were (under the institutional and retail offers) entitled to apply for shortfall shares up to a maximum of 40% of their entitlements.

Virgin Australia's shareholders include Air New Zealand (22.9%), Etihad Airways (19.9%) and Singapore Airlines (19.8%).

The entitlement offer is fully underwritten by UBS and Goldman Sachs. It is sub-underwritten by Air New Zealand in relation to approximately 92.5 million shares (\$35.2 million, 2.6% of the post offer shares on issue). Etihad and Singapore Airlines each committed to take up their entitlements. Also, each has committed to enter into cash settled derivatives that may result in them increasing their economic interests by a further \$30.5 million (2.3%) and \$30.4 million (2.3%) respectively. Air New Zealand, Etihad and Singapore Airlines will each be paid a fee of 0.75% in respect of their sub-underwriting and cash settled derivative commitments.

At the conclusion of the offer Air New Zealand's relevant interest in Virgin Australia will be between 22.9% and 25.5%, Etihad's aggregate exposure will be between 19.9% and 22.2% and Singapore Airline's aggregate exposure will be between 19.8% and 22.1%. Virgin Australia's announcement stated that Etihad and Singapore Airlines were seeking regulatory approvals to increase their shareholdings in the company.

The institutional component of the entitlement offer was completed on 15 November 2013. The retail component is scheduled to open on 25 November 2013 and close on 9 December 2013.

The applicant submits that the rights issue has been structured in a way that has the effect of concentrating the control of Air New Zealand, Etihad and Singapore Airlines at the expense of other shareholders. The applicant further submits that Etihad may acquire a relevant interest in Virgin Australia in excess of 20% otherwise than as permitted by Chapter 6 of the *Corporations Act 2001*. There are also disclosure issues raised in the application.

The applicant seeks final orders including to the effect that eligible retail shareholders may apply for additional shares in excess of their entitlement without limit and are guaranteed a minimum allocation of 37,500 shares (\$15,000, if they apply for at least that amount), any shares issued to underwriters or sub-underwriters are issued only after all shortfall applications are satisfied to the maximum extent possible and Etihad is prevented from obtaining an economic or relevant interest in Virgin Australia shares exceeding 20%.

Virgin Australia has informed the Panel that it disagrees with the submissions made by the applicant.

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