July 2007
English only

TRANS TASMAN SINGLE AVIATION MARKET

(Submitted by the ICAO Secretariat)

1. BACKGROUND

1.1. Since the Australia–New Zealand Closer Economic Relations Trade Agreement (known as the CER Agreement) came into effect in 1983, the Australian and New Zealand economies have become increasingly integrated. In 1988, when the CER Trade in Services Protocol was concluded, however, Australia chose to exclude international and domestic air services from its application; the only air services exclusion by New Zealand was international airlines flying cabotage. Consequently, liberalization of air services across the Tasman continued to be dealt with by a bilateral air services agreement and related understandings (for example, the 1989 understanding agreed to multiple designation for freight with no capacity constraint). It should be noted that the integration process has been significantly affected by the progress of domestic deregulation and privation of national airlines. In Australia, the domestic aviation market was deregulated in 1990, and State-owned Qantas was partially privatized in 1993 (full privatization was completed in 1995). In New Zealand, the domestic market was deregulated in 1983, and State-owned Air New Zealand (ANZ) was fully privatized in 1989.

2. LIBERALIZATION OF REGULATORY FRAMEWORK

2.1. In 1992, the two States concluded a Memorandum of Understanding (MOU), which lifted capacity restrictions across the Tasman, introduced multiple designation and a double disapproval tariff regime, and set out a phased liberalization towards full trans-Tasman market access and greater beyond rights by 1994. MOU also contained a commitment to consult on the subsequent full exchange of beyond rights and cabotage rights, but Australia withdrew its commitment in 1994. In 1996, the two States succeeded in signing the Single Aviation Market (SAM) arrangements, which was incorporated into the CER Protocol. The arrangements allowed a "SAM carrier[1]" to operate without restrictions trans-Tasman and domestic services in either State (effectively, cabotage). Excluded were unlimited beyond rights, which continued to be governed by the bilateral air services agreements and the 1992 MOU.

2.2. In 2000, the States concluded an "open skies" agreement, which was officially signed in 2002. This new agreement formalized the provisions of the SAM arrangements, eliminated the limitation of beyond rights, and allowed Seventh Freedom rights for all-cargo services. The arrangements was further relaxed by Australia in 2006 when the Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Act came into effect. In essence, the legislation enabled designated New Zealand airlines to operate domestically within Australia, subject to New Zealand safety standards.

[1] An airline at least 50 per cent owned and effectively controlled by either Australian or New Zealand nationals or both, with its head office and operational base in Australia or New Zealand.

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3. EFFECTS AND DEVELOPMENTS

3.1. In 1994-95, three new entrants started to operate international services on trans-Tasman routes: Kiwi Travel International Airlines, Freedom Air (a wholly-owned subsidiary of ANZ) and Ansett International. The entry of three airlines with lower fare levels was associated with significant traffic expansion especially in the leisure demand segment. According to Australian Government statistics, trans-Tasman passenger numbers increased annually by less than 4 per cent between 1993 and 1995, but by 22 per cent from around 1.8 million in 1995 to 2.2 million in 1996. Although growth slowed temporally after Kiwi's liquidation in 1996, passenger numbers continued to expand and reached 3.3 million in 2000 and 3.6 million in 2001. One factor in this was that Qantas allocated part of its capacity from Asian to trans-Tasman services amid the Asian economic crisis; and another that ANZ radically increased its frequencies with smaller aircraft in cooperation with Ansett.

3.2. The airline industries of the two States became highly integrated in 2000 as a result of ANZ's 100 per cent ownership of Ansett and the launch of Qantas New Zealand (formerly Ansett New Zealand) through a franchise agreement. However, such duopoly structure was short-lived. In 2001, both Qantas New Zealand and Ansett stopped operations due to financial difficulties. ANZ, which was almost driven into bankruptcy by the collapse of Ansett, was re-nationalized with the Government acquiring a 82 per cent shareholding. Although Qantas's market share in the Australian domestic market climbed to over 85 per cent immediately after Ansett's shut down, Virgin Blue (which commenced domestic operations as a low-cost carrier in 2000) has quickly captured over 30 per cent of the domestic market by 2004.

3.3. In 2003-04, there was a second wave of new entries on trans-Tasman routes, resulting in over 50 per cent capacity growth. Virgin Blue started trans-Tasman services by establishing a wholly-owned subsidiary, Pacific Blue Airlines, in New Zealand. Emirates (a Dubai-based airline wholly owned by the Dubai Government of the United Arab Emirates) commenced extensive Fifth Freedom operations between Australia and New Zealand, adopting a number of marketing and investment strategies. The combined share of these two airlines have reached 15 to 20 per cent. In response, ANZ applied a low-cost domestic Express concept to trans-Tasman routes (Tasman Express) in addition to the expansion of its low-cost arm, Freedom Air. In 2005, Qantas introduced Jetstar, its domestic low-cost subsidiary, between the two States.

3.4. Another notable development was a proposed trans-Tasman alliance between Qantas and ANZ, which would involve Qantas taking a 22.5 per cent shareholding in ANZ. In 2003, the proposed alliance was rejected by both the Australian Competition and Consumer Commission (ACCC) and the New Zealand Commerce Commission. In 2004, Australian Competition Tribunal overruled a decision of ACCC but the New Zealand High Court rejected it on appeal. In 2006, since ACCC again tentatively denied a modified agreement, Qantas and ANZ were forced to give up their tie-up.

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