



24 March 2023

OC230166

Hon Kiri Allan

Action required by:

Associate Minister of Transport

Thursday, 30 March 2023

## REAUTHORISATION OF THE QANTAS/EMIRATES ALLIANCE - FINAL ADVICE

### Purpose

Qantas and Emirates have applied for reauthorisation of their airline alliance. The current authorisation expires on 31 March 2023 and a decision is required by 30 March 2023. Without authorisation, the parties would be unable to continue to work under their alliance.

### Key points

- Qantas and Emirates Restated Master Agreement is due for authorisation on 31 March 2023.
- This briefing accompanies a report containing our detailed analysis regarding the proposed reauthorisation. This follows our initial advice provided to you on 1 March 2023 (see OC230113).
- The Ministry of Transport recommends that you authorise the Restated Agreement for a period of five years.
- We believe there are public benefits in authorising the Restated Agreement, as it will provide improved connectivity and improved scheduling for passengers travelling to and from New Zealand. We consider the alliance will assist Emirates and Qantas as they continue to re-build their networks and schedules post COVID-19 pandemic.
- We do have some concerns about the trans-Tasman market for air services, and the lack of competition on these routes. These concerns were echoed by stakeholders, and the Australian Competition and Consumer Commission (ACCC). However, we do not believe that declining authorisation will alleviate these concerns in any material way.
- On balance we have determined that the state of competition on the Tasman, particularly during pandemic recovery conditions, is unlikely to be better without the Alliance (i.e. if authorisation was declined).
- We also conclude that the Restated Master Coordination Agreement meets the statutory conditions allowing it to be authorised under section 88 of the Civil Aviation Act.

**Recommendations**

We recommend you:

- 1 **authorise** pursuant to section 88(2) of the Civil Aviation Act 1990, the provisions of the Restated Master Coordination Agreement between Qantas Airways Limited and Emirates dated 4 October 2021 (except for sub-clauses 10.1 (a), (d) and (e) which fall outside the scope of the Act) until 31 March 2028 Yes / No
  
- 2 **agree** that we publish a copy of the report containing our detailed analysis, along with our initial advice to you, on our website (with appropriate redactions in accordance with the Official Information Act 1982). Yes / No





---

Tom Forster  
**Manager, Economic Regulation**  
 24 March 2023

---

Hon Kiri Allan  
**Associate Minister of Transport**  
 ..... / ..... / .....

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

**Comments**

**Contacts**

Name	Telephone	First contact
Bronwyn Turley, Deputy Chief Executive, Strategy & Regulatory Design	s 9(2)(a)	✓
Tom Forster, Manger, Economic Regulation	s 9(2)(a)	
Sonya Van De Geer, Principal Adviser, Economic Regulation	s 9(2)(a)	

TE MANATU WAKA MINISTRY OF TRANSPORT  
 PROACTIVELY RELEASED BY

## REAUTHORISATION OF THE QANTAS/EMIRATES ALLIANCE - FINAL ADVICE

- 1 Qantas and Emirates (the Applicants) have applied for reauthorisation of their airline alliance, under their Restated Master Coordination Agreement (the Restated Agreement).
- 2 This briefing seeks your agreement to authorise the Restated 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 Without authorisation, the parties would be unable to continue to work under their alliance.
- 4 Our full analysis, which was summarised in an earlier briefing to you (see OC230113) is attached to this report (Annex 1).

### **We recommend that the Restated Agreement is authorised for a period of five years**

- 5 We recommend that the Restated Agreement is authorised. We consider that the alliance provides real benefits to New Zealand, in the form of improved connectivity for consumers travelling to and from New Zealand.
- 6 Our main focus regarding the alliance, which was echoed by stakeholders, relates to the trans-Tasman market for air services (Sydney-Christchurch is the only directly overlapping New Zealand route covered by the alliance). However, we consider that declining to authorise the alliance would not materially improve competition on these routes. We also consider that the public benefits of the alliance outweigh any potential detriments relating to the market for trans-Tasman air services.
- 7 Once approved, we will confirm with the Applicants that authorisation shall be for a period of five years, as set out and requested in their application. This allows us to reassess the alliance at an appropriate time. It also matches the period being considered by the Australian Competition and Consumer Commission (ACCC), which is the agency considering authorisation in Australia.

### **Authorisation is under Section 88 of the Civil Aviation Act**

- 8 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”.
- 9 We have concluded that the provisions of the Agreement fall within the scope of section 88 of the Civil Aviation Act, except for clauses 10.1 (a), (d), and (e) which relate to ground handling, engineering services and procurement. These provisions fall outside the scope of the Act.

- 10 We have determined that all other provisions under the Restated Agreement meet the statutory conditions allowing it 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**

- 11 Consistent with our approach to previous alliance applications, we intend to publish a copy of this report and our detailed analysis, along with the initial advice we provided to your office on 1 March 2023 (OC230113) on our website. 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**

- 12 We intend to publicise your decision regarding authorisation on the Ministry of Transport website and advise relevant stakeholders.
- 13 For some previous authorisations, we have organised an accompanying media release. We will discuss with your office regarding a media release relating to this authorisation.

PROACTIVELY RELEASED BY  
TE MANATŪ WAKA MINISTRY OF TRANSPORT

**ANNEX 1 MINISTRY OF TRANSPORT ANALYSIS REPORT**

PROACTIVELY RELEASED BY  
TE MANATŪ WAKA MINISTRY OF TRANSPORT