



## PUBLIC REGISTER VERSION

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### BY EMAIL ONLY

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Dear Mr Hilton

### **Qantas Airways Limited & China Eastern Airlines Corporation Limited (AA1000624-1) (the Application) - Submission to ACCC in response to AFTA submission dated 27 January 2023**

Qantas and China Eastern (the **parties**) appreciate the opportunity to provide a submission to the ACCC in response to AFTA's submission to the ACCC in relation to the Application dated 27 January 2023 (**AFTA Submission**).

The AFTA Submission makes a range of contentions which are inaccurate, distorted, selective and / or irrelevant to the Proposed Conduct, and the parties' response to AFTA's contentions are set out below.

Capitalised terms in this submission have the same meaning as set out in the Application.

#### **1. Introduction**

- 1.1 For the reasons set out in the Application, the Proposed Conduct will continue to result in **real and substantial public benefits** and will **not** result in any competitive detriment, particularly in circumstances where:
- (a) the parties' networks are highly complementary (only a single overlap route; Sydney-Shanghai) and the application relates to a short term 12 month extension to the existing authorised conduct; and
  - (b) there are a number of aggressive and effective existing competitors (some of which continue to receive government support) such as China Southern, Air China, Sichuan Airlines, Xiamen Airlines, Hainan Airlines, Beijing Capital Airlines, Tianjin Airlines, Donghai Airlines and indirect operators such as Cathay Pacific and Singapore Airlines.
- 1.2 For Qantas and China Eastern, the short term extension of the alliance made possible through the Proposed Conduct continues to represent the most efficient way to reinstate capacity faster and more sustainably. It would also continue to deliver other significant benefits such as codeshares arrangements, improved connectivity, increased schedule choice, reciprocal frequent flyer benefits, improved offerings (e.g. integrated customer service) to the benefit of Australian consumers and businesses, particularly the Australian tourism industry which is recovering from extended border closures during the pandemic.



## 2. No entrenchment of 'market power' in any market

- 2.1 The AFTA Submission contains a vague contention that authorisation would facilitate a significant entrenchment of market power on routes where demand is likely to grow rapidly as entry and quarantine restrictions ease. The AFTA Submission refers to no specific routes nor any evidential basis as to why the Proposed Conduct would facilitate a "significant entrenchment of market power", and the parties reject this claim.

## 3. Benefits of the Proposed Conduct

### *Benefits are substantiated and transparent*

- 3.1 AFTA attests to the benefits consumers enjoy from an integrated experience and recognises that coordination can improve convenient connections for passengers and create more attractive customer reward programs. At the same time, it contends that "the benefits of previous authorisations are often overstated and have not been appropriately quantified." While this claim seems to refer to airline authorisations generally in the context of the Qantas-China Eastern alliance, the parties have provided detailed evidence (quantified wherever possible) of a wide range of real and demonstrated benefits which arise from the alliance, in both the 2020 re-authorisation and current re-authorisation Application. For example, in the 2020 re-authorisation application, the parties provided information about the commencement of new routes, quantified increases in capacity (increased frequencies and upgauges as reflected in the CAGR of flights per day) and the significant increase in the number of flights on which each party placed its code relative to the period prior to the alliance.<sup>1</sup>

## 4. Proposed Conduct will not impede restoration and growth of international capacity

- 4.1 AFTA contentions on capacity imply that Qantas is artificially withholding or delaying capacity which it would otherwise make available. Qantas rejects this claim.
- 4.2 AFTA also notes that other carriers servicing China are reinstating capacity at the same speed or faster and queries how the Proposed Conduct is contributing to reinstating capacity. In this respect:
- (a) As the ACCC will appreciate, airlines' capacity plans are changing rapidly at this time, as they rebuild post-pandemic in a changing and challenging global environment. While Qantas welcomed the easing of restrictions in relation to China, it is still managing several operational and regulatory challenges including aircraft availability [REDACTED QF CONFIDENTIAL] – none of which is related to the Proposed Conduct.
  - (b) AFTA's comments on capacity reinstatement do not accurately reflect the difficult and variable operating conditions and constraints faced by the industry, nor that the position of airlines will differ. As the ACCC is aware, airlines have been and continue to be (to a less acute extent) subject to unavoidable, exogenous capacity constraints such as aircraft and crew supply shortages and other supply chain issues.
  - (c) Finally, for the reasons set out in the Application, the parties consider that the alliance will be the most effective way to rebuild, sustain and ultimately grow their combined network and capacity to the benefit of Australian consumers and businesses.
- 4.3 Finally, the parties note that it is inaccurate to refer to Qantas and China Eastern's 'joint' control of slots at Sydney airport. To the contrary, airlines do not 'control' (jointly or otherwise) slots at airports. To be clear, slots are not coordinated and are managed independently by each airline. Airlines hold historic precedence to slots which are administered by Airport Coordination Australia in Sydney as per the Sydney Airport Demand Management Scheme and follow the World Airport Slot Guidelines (WASG) for other Australian gateways.

<sup>1</sup> Qantas Airways Limited & China Eastern Airlines Corporation Limited (AA1000526-1) Authorisation Application 2020, page 3.

## 5. Distribution strategy and pricing

### Introduction

- 5.1 The parties submit that AFTA's contentions about distribution of the parties' fares are distorted, inaccurate and irrelevant to the Proposed Conduct.
- 5.2 However, to assist the ACCC's understanding of AFTA's contentions about distribution, the parties have set out below a brief explanation of their distribution systems and the applicable technologies, some of which is ambiguously or inaccurately described in AFTA's Submission.
- (a) **New Distribution Capability (NDC)** is a form of technology, and the implementation of NDC technology is an IATA-led initiative globally. More specifically, it is a "travel industry-supported program (NDC Program) launched by IATA for the development and market adoption of a new, XML-based data transmission standard (NDC Standard)." NDC has a range of benefits: "The NDC Standard enhances the capability of communications between airlines and travel agents and is open to any third party, intermediary, IT provider or non-IATA member, to implement and use." "NDC enables the travel industry to transform the way air products are retailed to corporations, leisure and business travelers, by addressing the industry's current distribution limitations: product differentiation and time-to-market, access to full and rich air content and finally, transparent shopping experience."<sup>2</sup> More generally, technology improves customer and agent choice, providing a greater range of products, offers and retailing experiences.
  - (b) Prior to adoption of NDC technology, the predominant technology systems used in airfare (and travel) distribution use the EDIFACT technical standards, which were developed in the 1970s as a common method for airlines and agents to share price and inventory information, and make and manage bookings (**EDIFACT**). EDIFACT technology is inflexible (e.g. limiting the number of price points on an aircraft to the 26 letters of the alphabet) and in some areas manual (e.g. requiring agents to manually revalidate tickets where a schedule changes); limiting airlines' ability to customise its product offering to customers' needs and building inefficiency into agent processes. Such technology is provided by operators of Global Distribution Systems (such providers are referred to in this response for convenience as **GDSs**). GDSs have access to content available through NDC technology depending on their individual agreements with airlines and are marketing their capabilities in relation to NDC publicly.
  - (c) **Qantas Distribution Platform (QDP)** is Qantas' NDC Offer and Order Platform (available worldwide). In other words, the QDP is Qantas' technology platform that provides NDC content. The QDP was launched in May 2018 (not November 2022 as stated by AFTA). NDC content is available to all agents who register and are approved for the Qantas Channel, subject to agents/OTAs meeting minimum customer service standards, use of Qantas brand and Qantas compliance requirements. The **Qantas Channel** (launched in 2019) is a commercial agreement (available worldwide) between Qantas and an agency that defines the terms of accessing NDC content.<sup>3</sup> Agents in the Qantas Channel can access both NDC content issued through the QDP and fares through legacy EDIFACT technology.
  - (d) China Eastern has its own NDC Offer and Order Platform, however it is not yet at scale. China Eastern has provided NDC content through API connections to agents since 2019.

### Summary

- 5.3 AFTA asserts that the "Proposed Conduct will generate less competition on the distribution of airfares" (sic). The parties submit that there is no factual foundation for this assertion. While the AFTA Submission argues this is due to "recent changes to industry commission structures, distribution standards and remuneration models", such changes are independent of the alliance and not specific or unique to Qantas, China Eastern or the alliance. At its core, AFTA seems to oppose the use of enhanced technology through NDC being adopted globally by airlines and the ability of airlines to use their own direct distribution channel in addition to distribution through

<sup>2</sup> Distribution with Offers & Orders (New Distribution Capability - NDC), IATA website [accessed 06.02.23]. Available here: <https://www.iata.org/en/programs/airline-distribution/retailing/ndc/>

<sup>3</sup> Further information is available on the Qantas website here: <https://www.qantas.com/agencyconnect/au/en/qantas-distribution-platform/qantas-channel/qantas-channel-agency-faqs.html>

agents. The parties submit that these enhance – not limit – consumer choice and competition in distribution (given that NDC enhances the ability of agents to sell and provide greater levels of service to their customers), and this will not change if the Proposed Conduct is authorised.

#### **Alliance coordination**

- 5.4 AFTA argues that the parties' ability to coordinate on price under the Proposed Conduct creates an uneven playing field with travel agents and that they should be prevented from doing so. Price coordination has been, and remains, a fundamental component of, and underpins, the alliance and the public benefits which demonstrably flow from the alliance, and this will continue to be the case.
- 5.5 Where and to the extent that distribution activities are coordinated as between Qantas and China Eastern, these do not limit consumer choice in any way. Rather, this can deliver various benefits. For example, with respect to point of sale Australian-based agents, the alliance provides an expansive network of QF-coded flights, allowing agents to provide more flight combinations to their customers across the two networks. This in turn provides the opportunity for agents to generate more backend override commission. Similarly, [REDACTED QFMU CONFIDENTIAL]
- 5.6 To the extent that AFTA views the parties' respective adoption of NDC technology as somehow limiting consumer choice, the parties note they independently determined to adopt such technology (as have most other airlines) and that NDC improves customer and agent choice, providing a greater range of products, offers and retailing experiences.

#### **Fare availability**

- 5.7 AFTA contends that the Proposed Conduct will increase the classes of fares that Qantas and China Eastern can 'reserve' for their direct channels, and more specifically reserving the cheapest fare classes to direct channels preventing agents from competing on those tickets. The parties reject this claim.
- 5.8 First, the fares that that an airline can distribute via which channels is determined under individual commercial agreements between the airline and its distribution partners (e.g. GDSs, NDC aggregators and agents), irrespective of the Proposed Conduct.
- 5.9 Second, [REDACTED QF CONFIDENTIAL]
- 5.10 For the last several years, China Eastern has provided undifferentiated fares to both indirect and direct channels. Moreover, all the China Eastern fares are made public for distribution partners (e.g. GDSs and agents), and this occurs irrespective of the Proposed Conduct.

#### **Direct and agent channels**

- 5.11 There is no basis for AFTA's claim that the parties are likely to use "renewed coordination" to grow their direct sales channel. The Proposed Conduct has no impact on the ability or extent to which either party seeks to drive an incremental share of consumers towards their respective direct sales channels and as noted above, fare availability is determined by individual commercial agreements with distribution partners.
- 5.12 AFTA implies that sales through a direct channel (or sales "diverted" to a direct channel) are at the expense of consumers or provide no consumer benefit. The parties disagree that consumers purchasing airfares via a direct channel (relative to a travel agent) are deprived of value or receive no benefit, recognising that such direct channels offer consumers greater choice in regards to the channel through which they choose to purchase.
- 5.13 AFTA contends that Qantas and China Eastern's commitment to the "local distribution model" is not as strong as at the time of previous authorisations and that this impacts the benefits to consumers because travel agents can advertise and distribute airfares "more efficiently" than carriers. While Qantas believes that travel agents provide a valuable service to Australian consumers through their expertise and service proposition, this does not mean that travel agents are able to undertake such activities *more* efficiently than carriers. AFTA has not provided any evidence that this is the case.

### **Commission and remuneration models**

- 5.14 AFTA refers to airlines reducing commissions and changing remuneration models. Neither of the Qantas commission changes cited by AFTA are related to the Proposed Conduct. **[REDACTED QF CONFIDENTIAL]** Qantas made an independent decision to reduce its base commission paid to travel agents for all Qantas international fares ticketed in Australia (excluding trans-Tasman) from 5 per cent to 1 per cent with effect from 1 July 2022.<sup>4</sup>

### **Implementation of NDC technology**

- 5.15 AFTA's contention that the adoption of NDC technology has diminished agents' profitability and passed costs on to consumers through increased service fees, without any lowering of prices by airlines, is inaccurate. Such a claim implies that NDC technology increases in costs, without delivering any benefits – this is incorrect.
- (a) As explained above, the parties' independent adoption of the NDC technology is a global IATA-led technology initiative implementation of which is independent of and unrelated to the Proposed Conduct. NDC technology seeks to enhance agents' and customers' shopping experience by providing richer content and a more seamless shopping/retailing experience, bringing benefits to customers, travel agents and airlines.<sup>5</sup> Such technology brings efficiency benefits by automating or streamlining a number of processes compared to legacy EDIFACT technology.
  - (b) Given these benefits, Qantas wishes to drive adoption of NDC content via the QDP (in order to drive realisation of the benefits of NDC technology), by ensuring that NDC fares are the most competitive fares available to travel agents. Accordingly, in November 2022, Qantas introduced a 'lower pricing initiative', through which all Qantas NDC domestic fares available via the QDP are currently up to 4 per cent lower than those available in legacy EDIFACT systems.<sup>6</sup> These lower fares have been enabled by the introduction of NDC technology, which allows Qantas to share the efficiencies of the technology to its agents and end consumers.
  - (c) With respect to costs, there are no costs imposed by Qantas for agents to use NDC technology. With respect to Qantas' NDC platform (ie the QDP), Qantas does not charge for access to NDC fares made available via the QDP, whether to agents or to GDSs participating in the Qantas Channel.
  - (d) China Eastern regards NDC as a technical methodology to enhance the products' delivery capability and provide more products for customers. There are no costs imposed by China Eastern for agents to use NDC technology or access NDC content.
  - (e) Finally, in terms of agent profitability, the parties have no visibility of the profitability of agents (whether under NDC technology or legacy EDIFACT technology), any rebates or commissions agents may receive from technology providers (GDSs or otherwise) or any revenue derived from service fees that agents choose to apply to customer interactions.
- 5.16 AFTA's claim that agents are being "forced" to use airlines "proprietary systems" to obtain access to the lowest fares is also inaccurate. With respect to Qantas, NDC fares are available to all agents who join the Qantas Channel which, as noted above, is open to any agent worldwide. Further, NDC fares are also currently available through all major GDSs, as these are all approved technology partners of the QDP. Qantas also supports a range of additional technology partners who provide access to NDC fares. Accordingly, not only are agents able to access NDC fares through either connecting to the QDP directly, or through GDS providers, but they also have an increased range of other technology providers to choose from, improving agent choice. For the same reasons, AFTA's criticism that NDC is creating "parallel airfare markets to GDSs" is flawed,

<sup>4</sup> Qantas to update international commission structure, 20 May 2021. Available here:

<https://www.qantas.com/agencyconnect/au/en/agency-news/agency-news-may-21/qantas-to-update-international-commission-structure.html>

<sup>5</sup> Further information on the benefits of NDC is available on the IATA website. For example, the Distribution with Offers and Orders (NDC) Factsheet. Available here: <https://www.iata.org/en/iata-repository/pressroom/fact-sheets/fact-sheet---ndc/>

<sup>6</sup> Lower Pricing via the Qantas Distribution Platform Agency FAQs, dated 29 November 2022. Available here:

<https://www.qantas.com/agencyconnect/au/en/agency-news/agency-news-august-22/qantas-to-introduce-lower-pricing-via-the-qdp/qantas-to-introduce-lower-pricing-via-the-qdp-agency-faqs.html#:~:text=From%20today%2C%20your%20travel%20agency,access%20Qantas%20Distribution%20Platform%20content.>



because all major GDSs currently consume and have access to Qantas NDC airfares on the QDP, at no cost.

- 5.17 AFTA's claims in relation to a Qantas \$17.50 "channel fee" do not accurately convey the nature of this fee, and in any event such a fee is unconnected to the Proposed Conduct. As noted above, agents have autonomy to choose whether to join the Qantas Channel. Even if they join the Qantas Channel, they have autonomy to choose if and when to use the QDP (since access to legacy EDIFACT technology is being maintained). The \$17.50 fee has only been charged on fares that are sold by travel agents who are outside the Qantas Channel (i.e. agents who have not entered into a Qantas Channel commercial agreement with Qantas). The fee has not been applied to any tickets issued by agents that participate in the Qantas Channel – which includes both tickets issued through the QDP, and tickets issued via legacy EDIFACT systems, contrary to AFTA's claim that only direct channels and the QDP have been benefiting from fee-free access.
- 5.18 In terms of any loss or removal of GDS segment rebate, the parties are not privy to the commercial arrangements between GDSs and agents and the rebate/commission structures under any such arrangements. In any event, this is entirely unrelated to the Proposed Conduct.

***No impact on competition in distribution***

- 5.19 For the reasons set out above, changes to industry technology and business models of which AFTA is critical in its submission are unrelated to, and do not arise by virtue of, the Proposed Conduct. It is inaccurate to describe any steps that Qantas or China Eastern have taken as 'punitive measures', or indeed any measures which have impeded or could impede agents' ability to compete on airfare distribution in any meaningful way – the Qantas- China Eastern alliance has simply not resulted in a "net loss" in competition for distribution. AFTA has provided no evidence that the alliance has impacted competition in distribution in any materially adverse way. This reflects the reality that the Proposed Conduct (has had and) will have no bearing on the ability for agents to compete in distribution and will have no impact on the parties' ability to drive an incremental share of consumers towards their respective direct sales channels.
- 5.20 As noted above, Qantas makes available [REDACTED QF CONFIDENTIAL] of its commercial fare inventory to both direct and indirect channels (ie agents), providing agents with ample fare inventory with which to compete.
- 5.21 With regards to AFTA's statements on competition in distribution, there is no evidence that the alliance between China Eastern and Qantas has affected the distribution of content to agents or the current model of GDS distribution. Currently, China Eastern has not implemented the NDC platform for agents – all agents could easily get access to its fare inventory through the GDS.

**6. AFTA requested conditions**

- 6.1 The parties maintain that the test for authorisation is clearly met and that conditions are not necessary or appropriate, including the conditions proposed by AFTA.
- 6.2 There is no foundation for AFTA's suggested conditions of authorisation given that the apparent detriments it alleges are distorted or inaccurate and unsupported by any evidence. In addition to there being no sound basis underpinning such conditions, they would also be disproportionate, administratively unworkable and unduly onerous. Further, with respect to each proposed condition:
- (a) AFTA's suggested route and price reporting condition is vague, onerous and unnecessary. Qantas and China Eastern published fares are publicly available through each party's website and pricing information is submitted to GDSs (and in Qantas' case also available through the QDP). Additional reporting on routes and price points serves no purpose and would be unduly onerous.
- (b) AFTA's suggested condition allowing agents access to all fare inventories and schedules through all distribution systems (not only through NDC technology) is unnecessary and inappropriate, having regard to the specific conduct sought to be authorised. Agents already have access to the vast majority of fare inventories, with Qantas making available [REDACTED QF CONFIDENTIAL] of its commercial fare inventory to agents and agents could similarly be able to get access to China Eastern's fare inventories through the GDS. The ACCC has not imposed conditions on any other airline authorisation under which airlines are obliged to make fare types/schedules available to travel agents.

- (c) Finally, AFTA has also suggested a condition allowing agents full and equal rights for refunds and cancellations that occur under the Proposed Conduct. No reasoning has been provided as to why such a condition is warranted or appropriate in the context of the alliance. The ACCC has not imposed conditions on any other airline alliance authorisation relating to refund and cancellation rights.

**7. Conclusion**

- 7.1 For the reasons given above the ACCC should give no weight to the AFTA Submission. As explained in the Application, the Proposed Conduct is fundamentally pro-competitive and clearly meets the test for authorisation.

Please let us know if the ACCC has any questions or requires any further information.

Yours faithfully

**[REDACTED CONFIDENTIAL]**

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