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BY EMAIL ONLY

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Dear Mr Hilton

Qantas Airways Limited & Emirates (AA1000625-1) (the Application) Submission to ACCC in response to AFTA submission dated 27 January 2023

Qantas and Emirates (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) it will allow two highly complementary networks and business models to continue to deliver significant public benefits (including as international travel recovers from the pandemic), which would not be possible in the counterfactual (as without authorisation of the Proposed Conduct, there would be no commercial agreement between Qantas and Emirates or, at best, a vastly diminished arm's length codeshare); and
 - (b) there are a number of fierce existing competitors (particularly Qatar Airways, Etihad Airways, Cathay Pacific and Singapore Airlines) providing strong and effective constraints within highly competitive markets, as well as the prospect of expansion and new entry.
- 1.2 For Qantas and Emirates, the alliance made possible through the Proposed Conduct continues to represent the most effective way to rebuild, sustain and ultimately grow their combined network and capacity to the benefit of Australian consumers and businesses, particularly the Australian tourism industry which has been crippled by extended border closures during the pandemic.



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

- 2.1 The AFTA Submission claims that the Proposed Conduct would purportedly allow the parties to "consolidate" 51.8 per cent of the Sydney-Christchurch, 18.7 per cent of the Melbourne-Singapore route, 51.6 per cent of the Australia-UK market and 36.9 per cent of the Australia-Europe market. These figures are used by AFTA to incorrectly suggest that the Proposed Conduct would lead to a significant entrenchment of market power on these routes, to a level of "concentration" not previously authorised.
- 2.2 The parties consider that AFTA's reference to and reliance on January - May 2022 market shares provided in the Application in this way is inappropriate:
- (a) While market share data since CY2020 was provided in the Application for completeness, as explained in the Application, since CY2020 the reverberations of the pandemic have led to significant variances in market share, including as a result of carriers' different approaches and capabilities to operate amid government imposed travel restrictions (including those that still exist or are only very recently lifting, particularly in Asia), rebuild capacity in the recovery stage, variable passenger numbers and operational challenges.
 - (b) The Application highlighted that, given these variables and the volatility in operating conditions, market share figures since CY2020, including *those for 2022*, are not reflective of competition dynamics and conditions going forward. At the start of 2022, for example, total market capacity on international seats to/from Australia were 81% below January 2020 levels and China based carriers were barely operating due to travel restrictions.¹
 - (c) Market shares will continue to change and evolve post COVID-19 pandemic as airlines slowly recover. More recent figures show that, as that rebuilding occurs, shares continue to shift. For example, for the period October - November 2022 (being the latest data set available):
 - (i) for Australia-UK, Qantas had a share of 28.6% and Emirates had a share of 16.1%, with a combined share of 44.7%;
 - (ii) for Australia-EU, Qantas had a share of 13.6% and Emirates had a share of 22.8%, with a combined share of 36.4%;
 - (iii) for Sydney-Christchurch, Qantas had a share of 50.8% and Emirates had a share of 1.7%, with a combined share of 52.5%; and
 - (iv) for Melbourne-Singapore, Qantas had a share of 15.5% and Emirates had a share of 0.3%, with a combined share of 15.8%.
 - (d) Relevantly, **[REDACTED EK CONFIDENTIAL]**
- 2.3 Irrespective of actual market share levels, the Proposed Conduct would not entrench 'market power' given that market shares are not themselves representative of market power and, critically, all relevant markets from Australia to the UK/Europe, New Zealand and Asia are characterised by intensely rivalrous behaviour that will not in any way be diminished or restricted as a result of the Proposed Conduct. To the contrary, it is expected that competitors, particularly Qatar Airways, Etihad Airways and Singapore Airlines (and Air New Zealand with respect to the Tasman) will continue the pro-competitive initiatives that have characterised their response to the Qantas/Emirates alliance since 2013. Such initiatives include, for example, Virgin Australia's recent commencement of its strategic partnership with Qatar Airways, United Airways and Singapore Airlines, which was authorised in 2022 by the ACCC.
- 2.4 All relevant markets are, contrary to the AFTA Submission, highly contested with a number of fierce competitors (for example, at least 32 carriers operated commercial UK/Europe-Australia flights during CY17 – May 2022) and the parties would be subject to strong, effective constraints as explained in the Application. The ACCC has itself previously recognised this – confirming for example with respect to UK/Europe (in 2013 and 2018), that Qantas and Emirates would face competition from a large number of established carriers with the ability and incentive to expand their operations in response to any attempt by the alliance to reduce or limit growth in capacity. This will continue to be the case.

¹ BITRE data (January 2022 vs January 2020).

3. No impact on domestic market

- 3.1 The AFTA Submission contends that the Proposed Conduct will also "increase barriers for other carriers seeking to operate in the domestic only market as it entrenches high frequency corporate travellers to dominant airlines." This contention is flawed and unsubstantiated. Qantas considers that the Australian domestic market is highly competitive (including in relation to corporate travellers). Qantas continues to face intense rivalry from Virgin Australia and Rex (both of which have significant expansion plans² in terms of network and fleet) and faces additional competition from new entrant Bonza. A continuation of the Proposed Conduct will not impact this, nor raise barriers for other carriers in the domestic market. This is evidenced by the fact that, while the alliance has been on foot, Virgin Australia and Rex have been successfully expanding their network and fleet, and Bonza has entered the domestic market.
- 3.2 Qantas notes that a high frequency corporate traveller will select an airline based on a range of factors including price, network breadth (destinations) and depth (frequency, seats), schedule timings, benefits/experience (inflight, lounges, loyalty) and ad-hoc international presence. While the alliance provide benefits to customers (including corporate travellers) in terms of international network breadth that Qantas cannot provide on its own (with a comparable customer experience), given the wide variety of factors a traveller will consider, it is not plausible that the alliance could 'entrench' high frequency corporate travellers to Qantas at all, let alone in a way that could raise barriers to entry for other domestic carriers.
- 3.3 In addition, in the context of frequent flyers (including corporate travellers), the AFTA Submission overlooks that other carriers are capable of and do operate frequent flyer programs and partner with other airlines (including through conduct requiring ACCC authorisation). For example, Virgin Airlines' partnership arrangements with three of the world's largest airlines: Qatar Airways, Singapore Airlines, United Airlines – which were recently authorised by the ACCC include a frequent flyer component, with benefits for members of Virgin's Velocity program. Further, the ACCC recognised frequent flyer arrangements were likely to result in some public benefit by offering a better earn rate or status credits on partner carriers compared to the counterfactual and increasing the likelihood of reaching codeshare arrangement with other airlines than in the counterfactual.³ The parties maintain that the Proposed Conduct results in significant public benefits for members of both frequent flyer programs relative to the counterfactual and reject AFTA's assertion that any public detriments could arise in the domestic market.

4. Benefits of the Proposed Conduct

Benefits are substantiated and transparent

- 4.1 AFTA attests to the benefits consumers enjoy from an integrated experience, and highlights that its members "recognise the value that consumers could derive from a continuation in their [QFEK] relationship". 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-Emirates 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 2017 re-authorisation application and current re-authorisation Application. For example, the parties have provided supporting data in a range of respects, including as to increased customer choice (in terms of numbers of new destinations added to the alliance's network⁴), quantified flight redemption and accrual activities by QFF and Skywards members across the other party's network⁵, and quantified contribution to domestic tourism.⁶ The parties reject the notion that the alliance's public benefits are "overstated" or not substantiated.

² Virgin Australia expands Boeing 737 MAX8 fleet and secures access full-flight simulator, 24 August 2022. Available here: <https://newsroom.virginaustralia.com/release/virgin-australia-expands-boeing-737-max-8-fleet-and-secures-access-full-flight-simulator>

Rex seeks to drastically expand 737 fleet from 6 to 30, Australian Aviation, 17 February 2022. Available here: <https://australianaviation.com.au/2022/02/rex-seeks-to-dramatically-expand-737-fleet-from-6-to-30/>

³ Application for authorisation AA1000608 lodged by Virgin Australia Airlines Pty Ltd in respect of proposed codeshare pricing arrangements with participating international airlines, dated 8 September 2022, [4.14 – 4.16]. Available here:

https://www.accc.gov.au/system/files/public_registers/documents/Final%20Determination%20-%2009.22%20-%20PR%20-%20AA1000608%20Virgin.pdf

⁴ Qantas Airways Limited & Emirates (AA1000625-1) Authorisation Application 2022, [4.9 – 4.12].

⁵ Qantas Airways Limited & Emirates (AA1000625-1) Authorisation Application 2022, [4.33].

⁶ Qantas Airways Limited & Emirates (AA1000625-1) Authorisation Application 2022, [4.51 – 4.56].

4.2 AFTA provides a single example in support of its suggestion that the public benefits of the Proposed Conduct are overstated, and that example is incorrect. As set out in the Application, the Proposed Conduct gives rise to (among other benefits) access to Emirates lounges for eligible QFF members. AFTA contends this benefit is limited because "Qantas passengers with Oneworld Sapphire status (gold Qantas) already have access to a variety of Oneworld lounges in 15 of the 17 locations where Emirates has a lounge". AFTA's claim, however, omits that lounge access is dependent on who is operating the next flight. A Qantas Gold member (oneworld Sapphire) can only access a oneworld lounge if their next flight is operated by a oneworld carrier/member – they *cannot* access a oneworld lounge if their next flight is an Emirates flight (even if that flight is a Qantas codeshare flight). They can, however – through the alliance – access the Emirates lounge. Accordingly, the Proposed Conduct provides a benefit to QFF members through access to an Emirates lounge that they otherwise would not have as a QFF member.

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

5.1 AFTA's contentions on capacity imply that Qantas is artificially withholding or delaying capacity which it would otherwise make available, Qantas rejects this claim.

5.2 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. Nevertheless, Qantas notes that Qantas capacity to the UK has returned to pre-COVID levels since July 2022. With the addition of the seasonal AU-Rome service, Qantas' seats to Europe/UK was 114% in July 2022 compared to July 2019. With respect to Emirates, [REDACTED EK CONFIDENTIAL] In January 2023, Emirates announced resumption of an additional three flights daily to Australia (with reinstatement of its third daily Dubai-Sydney service, second daily Dubai-Brisbane service and daily Singapore-Melbourne service). In addition, Emirates has announced it will shortly resume Sydney-Christchurch services. [REDACTED EK CONFIDENTIAL] Further, 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.

5.3 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.⁷ By way of example:

- (a) There are a number of operational challenges with bringing Airbus A380 aircraft back into service, given the aircraft's size, complexity and the fact that they have been grounded for the longest duration in line with passenger demand recovery. The recent EU Airworthiness Directive (issued by the EASA) mandates that Airbus A380s with wing boxes manufactured by a certain date (this continues to evolve) require inspection for cracks in the wing spar, which has added to maintenance downtime, hangar and resource requirements for the parties.
- (b) For Emirates, a significant challenge has been the time taken to recruit and retrain thousands of cabin crew which limited its ability to return to pre-pandemic levels throughout 2022. Other challenges include the return to service of the Airbus A380 (mentioned above) and supply chain pressures. [REDACTED EK CONFIDENTIAL]
- (c) The parties note that the fact that some (but not many) airlines have been able to keep more of their fleet in service during the pandemic is a function of, among other things, fleet composition, government support and international entry restrictions. These are unconnected and unimpacted by the Proposed Conduct.
- (d) In addition, resources throughout the supply chain, particularly airports, have an impact on the level of capacity that can be increased. For example, in Hong Kong, Qantas has been restricted to one daily frequency due to airport resource constraints, and there are currently baggage issues at Auckland airport.

5.4 AFTA also asserts that other airlines are not party to authorisations (Qatar Airways and Singapore Airlines). This is incorrect. Singapore Airlines is a party to an alliance with Lufthansa which has been authorised by the ACCC, in addition to its alliance, with Virgin Australia, while

⁷ Qantas Airways Limited & Emirates (AA1000625-1) Authorisation Application, [4.14].

Qatar Airways is party to the same authorisation with Virgin Australia and a current authorisation application with British Airways and Iberia.

- 5.5 With respect to the contention that Qantas and Emirates have joint 'control' of slots at major ports, this is incorrect. Airlines do not 'control' slots at airports, nor do airlines have 'joint' control of slots. 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. The parties disagree with AFTA's suggestion that this slot regulation hinders the ability for other airlines to increase supply. In Sydney, for example, there are slot waivers which mean that pre-COVID international slots operated by carriers not returning to the market can be re-allocated to new international carriers or to enable increased international capacity. Examples of carriers who have increased international capacity or launched flights to Australia recently which were potentially enabled by such waivers include Delta, Air Canada, Malindo/Batik, T-Way and VietJet.
- 5.6 Finally, AFTA further contends, without any evidential basis, that it is likely that pre-pandemic supply of capacity would still have kept pace with demand in the counterfactual. This is both speculative and inaccurate, having regard to the confidential information communicated to the ACCC. [REDACTED QF CONFIDENTIAL]

6. Distribution strategy and pricing

Introduction

- 6.1 The parties submit that AFTA's contentions about distribution of the parties' fares are distorted, inaccurate and irrelevant to the Proposed Conduct.
- 6.2 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."⁸ 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

⁸ 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/>

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.⁹ Agents in the Qantas Channel can access both NDC content issued through the QDP and fares through legacy EDIFACT technology.

- (d) **Emirates Gateway (EG)** is the Emirates' NDC powered gateway that provides a suite of connectivity options to its trade partners and IT providers around the world to easily and directly access the airline's rich content and other services developed in line with NDC standards. It was launched on 5 October 2020. There are three connectivity options: Emirates Booking Portal is a user-friendly web booking portal, connected directly to Emirates' reservation systems that simplifies the booking, ticketing and post-ticketing servicing of Emirates orders; Emirates Gateway Direct provides access to Emirates content through the IATA NDC Application Programming Interface (API), allowing trade partners to build applications that meet their needs with expert support from Emirates' IT teams; and Emirates Gateway Sync is a facilitated link into the Emirates reservation system provided by industry leading, IATA registered, Emirates certified technology partners. The content across all Emirates Gateway connect options are identical.

Summary

- 6.3 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, Emirates or – relevantly – 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 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

- 6.4 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.
- 6.5 Where and to the extent that distribution activities are coordinated as between Qantas and Emirates 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 QF EK CONFIDENTIAL]**
- 6.6 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.
- 6.7 Further, Qantas adopted NDC technology through QDP in 2018 (over four years ago) and the Qantas Channel in 2019 (over three years ago), while Emirates adopted its EG platform in 2020. Despite the alliance being on foot over this period, AFTA has not provided any evidence that the Qantas Emirates alliance has had (or will have) an adverse impact on the distribution of airfares to consumers.

Fare availability

- 6.8 AFTA contends that the Proposed Conduct will increase the classes of fares that Qantas and Emirates can 'reserve' for their direct channels, and more specifically reserving the cheapest fare

⁹ 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>

classes to direct channels preventing agents from competing on those tickets. The parties reject this claim.

6.9 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.

6.10 Second, **[REDACTED QF CONFIDENTIAL]** **[REDACTED EK CONFIDENTIAL]**

Direct and agent channels

6.11 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.

6.12 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.

6.13 AFTA contends that Qantas and Emirates 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

6.14 AFTA refers to airlines reducing commissions and changing remuneration models. Neither of the Qantas commission changes cited by AFTA in its submission 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 2022.¹⁰

Implementation of NDC technology

6.15 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.¹¹ 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

¹⁰ 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>

¹¹ 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/>

EDIFACT systems.¹² 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) With respect to costs, there are no costs imposed by Emirates for agents to use NDC technology. Emirates does not charge to access public and private fares made available via its Emirates Gateway connect options and to GDSs participating through the Emirates Opt-In Channel.
 - (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.
- 6.16 AFTA's claim that agents are being "forced" to use airlines "proprietary systems" to obtain access to the lowest fares is also inaccurate.
- 6.17 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, because all major GDSs currently consume and have access to Qantas NDC airfares on the QDP, at no cost.
- 6.18 **[REDACTED EK CONFIDENTIAL]**
- 6.19 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.
- 6.20 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***
- 6.21 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 Emirates 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 Emirates 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.

¹² 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>.

- 6.22 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.
- 6.23 Similarly, in respect of Emirates fare inventory, agents are able to compete, given that Emirates has provides access to [REDACTED EK CONFIDENTIAL] of its fare inventory across all channels available to agents.

7. AFTA requested conditions

- 7.1 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.
- 7.2 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 Emirates published fares are publicly available through each party's website and pricing information is submitted to GDSs and available through the QDP and EG. 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. As set out above, agents also have access to [REDACTED EK CONFIDENTIAL] of Emirates fare inventory. 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.

8. Conclusion

- 8.1 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]

Qantas
Nicole Malone
Head of Competition & Consumer
[REDACTED CONFIDENTIAL]