



1 June 2021

PUBLIC REGISTER VERSION

Mr Gavin Jones
Director – Competition Exemptions
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By Email: gavin.jones@accc.gov.au

Dear Gavin

Qantas-JAL: Response To ACCC Draft Determination

We refer to the Commission's draft determination dated 6 May 2021 (**Draft Determination**)¹ in which it proposes to decline authorisation of the proposed Joint Business Agreement (**JBA**) between Qantas Airways Limited (**Qantas**) and Japan Airlines Co Limited (**JAL**) (together the **Applicants**). Under the JBA and associated commercial agreements, the Applicants seek to work together to rebuild air services across a range of routes between Australia/New Zealand and Japan as demand recovers post-Pandemic (**Proposed Conduct**).

The Applicants strongly urge the Commission to revise its assessment, having regard to the reality of passenger travel and competitive dynamics in what is a dire demand and operational environment for the international aviation industry.

If the Draft Determination is not revisited, Japan will be the first of Australia's key inbound tourism markets to suffer an early and significant setback, with repercussions for the tourism sector's broader economic recovery. Put simply, without the Proposed Conduct, passengers will have reduced choice and will be less likely to fly to Australia, with tourism and related industries suffering for longer.

Several assumptions and assertions in the Draft Determination are addressed below. Specifically, the Applicants wish to address two points which are key to a more appropriate and pragmatic application of the authorisation test, namely:

- the Commission's theory of potential competitive detriment would not manifest in practice, in circumstances where international recovery will be slow and highly variable and where demand will be difficult to stimulate, particularly among Japanese consumers who are likely to be very hesitant to resume international travel; and
- the Proposed Conduct would deliver meaningful and immediate public benefits to consumers, businesses and the airlines themselves, compared to a future without it, and these need to be given more appropriate weight consistent with similar recent authorisations in the aviation industry. These benefits – including faster, more sustainable and diversified capacity reinstatement, new Qantas services between Cairns and Tokyo, plus expanded codesharing and frequent flyer benefits beyond the existing **oneworld** proposition – would all *only* become possible through the 'metal neutral' joint

¹ ACCC [website](#)



business, resulting in customer benefits.

Importantly, in response to the Draft Determination, the Applicants have also revised their joint network plan so that, if the Proposed Conduct is authorised, *both* Qantas and JAL will operate from Melbourne to Tokyo (Haneda and Narita Airports, respectively) when borders re-open and demand recovers, with both carriers growing towards a double daily offering through the joint business support.

The insights into the reality of international travel set out below will assist the Commission to further understand how the Proposed Conduct would work in practice. Further, JAL has provided separate confidential information to the Commission regarding why the Proposed Conduct should be authorised.

In the Applicants' view, the final determination should be re-framed as positive and unconditional.

However, in the event the Commission has any residual concern about potential future detriment, the Applicants propose three important commitments for the duration of any authorisation:

- monthly reporting of performance on the Sydney and Melbourne routes for Qantas and JAL (separately and in aggregate), indicating seats, loads, revenue, route profitability and average fares by cabin class. Consistent with existing reporting in the context of other alliances and the domestic monitoring regime, this would provide full transparency and enable the Commission's in-house team with its existing skillset to track capacity and price behaviour in real time; and
- when borders re-open and demand returns to sufficient projected thresholds, Qantas and JAL will formally commit to:
 - Qantas commencing the new Cairns-Tokyo service (4 weekly frequencies); and
 - growing Sydney-Tokyo and Melbourne-Tokyo services by a further weekly frequency if load factors on reinstated capacity reach [REDACTED - CONFIDENTIAL] per cent and route profitability indicates a positive net margin of [REDACTED - CONFIDENTIAL] until capacity reaches pre-COVID levels.

To be clear, these commitments are not offered lightly and are not considered necessary or appropriate in this instance given the highly variable and weak demand environment. Nevertheless, the Applicants offer these commitments for the sake of achieving regulatory certainty and the ability to implement important public benefits.

Potential Competitive Detriment Would Not Manifest In Practice

Market Dynamics Have Fundamentally Changed

The Draft Determination gives too much weight to a theoretical risk of competitive detriment (based on pre-COVID market dynamics which have fundamentally changed) and makes unrealistic assumptions about demand recovery.

The international travel situation is dynamic and continues to evolve quickly. Since the Draft Determination was issued, the Federal Government has revised its anticipated timeline for the completion of Australia's vaccine rollout to end-2021 and (based on Budget estimates) its timeline for significantly re-opening the international borders to mid-2022. As a result, this has further delayed the restart of Qantas' international network (with the exception of the Tasman).

Despite this backdrop, and its own multiple references to the fact that market uncertainty will persist, the Commission has transposed the Applicants' pre-COVID market position to its assessment of future competitive effects and placed unreasonable weight on the theory that Qantas and JAL could exercise combined power to artificially restrict capacity and increase prices without constraint. This is not what is intended by the Proposed Conduct and simply will not occur in practice – as discussed further below.

Any suggestion that international travel will essentially be back to 'normal' before mid-2024 is, unfortunately, misconceived. While the Commission correctly notes that the timing and extent of demand

recovery between Australia and Japan will be uncertain/non-linear² and that demand is 'significantly lower' than pre-COVID, it nevertheless bases much of its theory of potential detriment on the assumption that there will be a 'material' recovery within three years.³ The Commission believes – without reference to any supporting data on consumer sentiment – that, currently, the '*dominant barrier to international travel is not a lack [sic] consumer demand, but rather an inability for airlines to provide services to meet consumer demand due to international travel restrictions.*'⁴ The Commission also predicts that although there is '*likely to be a reluctance on the part of some people to travel internationally in the short term*' if travel bubbles open then demand is likely to be '*strong*'.⁵

The Applicants, too, remain optimistic that passenger traffic will recover and eventually normalise after an initial surge of pent-up demand. But the reality is that recovery will take a long time, be incredibly patchy in nature and be highly variable between countries due to differences in economic conditions, political environment and culture.

Even once vaccination programs have been sufficiently rolled out in Australia to permit border openings, and even if other travel bubbles commence during 2021-2022, there will be inevitable outbreaks, potential border shutdowns and ongoing adjustment of entry conditions such that consumer confidence will continue to be shaken and subdued. While the Commission correctly points out that Qantas identified Japan as a potential travel bubble option, this indication was given in mid-April and the situation in Japan has already changed for the worse since then, as outlined below. This underlies the fact that circumstances continue to change rapidly, making predicting likely bubbles difficult, as Qantas has more recently stated.⁶

The Applicants believe that international travel demand recovery will be slower and even more sensitive to external shocks than domestic demand recovery (which itself is still characterised by demand fluctuations and sudden lockdowns and changes to border policies). Consumers will be unwilling to risk being caught out of Australia in the event of an offshore lockdown or Australia re-closing its borders to specific countries. The recent experiences of Australia temporarily banning all inbound flights from India, coupled with New Zealand closing its borders to New South Wales and Victoria during May 2021, has likely exacerbated consumer nervousness.

Practical Experience Of The Tasman Travel Bubble

The unpredictable and setback-prone nature of border re-openings has already been evident on the Tasman. When the travel bubble between Australia and New Zealand first opened on 19 April 2021, there was natural optimism and initial pent-up demand with family and friends in particular rushing to take up the opportunity to fly again (which may have inspired the Commission's robust view of a similar future for Australia-Japan travel).

However, the reality during April and May is that Qantas and Jetstar have been enduring – and are continuing to endure – ongoing operational and commercial challenges on a day to day basis, threatening the viability of many of the reinstated services.

Since publishing its original schedule when the bubble was announced on 6 April 2021, Qantas has already been forced to cancel over 800 flights over four rounds of cancellations and capacity reductions. Due to poor load factors outlined below, Qantas' Tasman operations **[REDACTED - CONFIDENTIAL]**.

The Applicants urge the Commission to observe this experience, which is taking place in real time in respect of travel between Australia and one of its closest neighbouring countries where there is, usually, natural demand for ongoing travel and where COVID outbreaks have been largely successfully managed, akin to Australia.⁷

Stark indicators that demand will not simply 'snap back' on the Tasman include:

² Draft Determination, para 4.10.

³ Draft Determination, page 1.

⁴ Draft Determination, footnote 9.

⁵ Draft Determination, para 4.13.

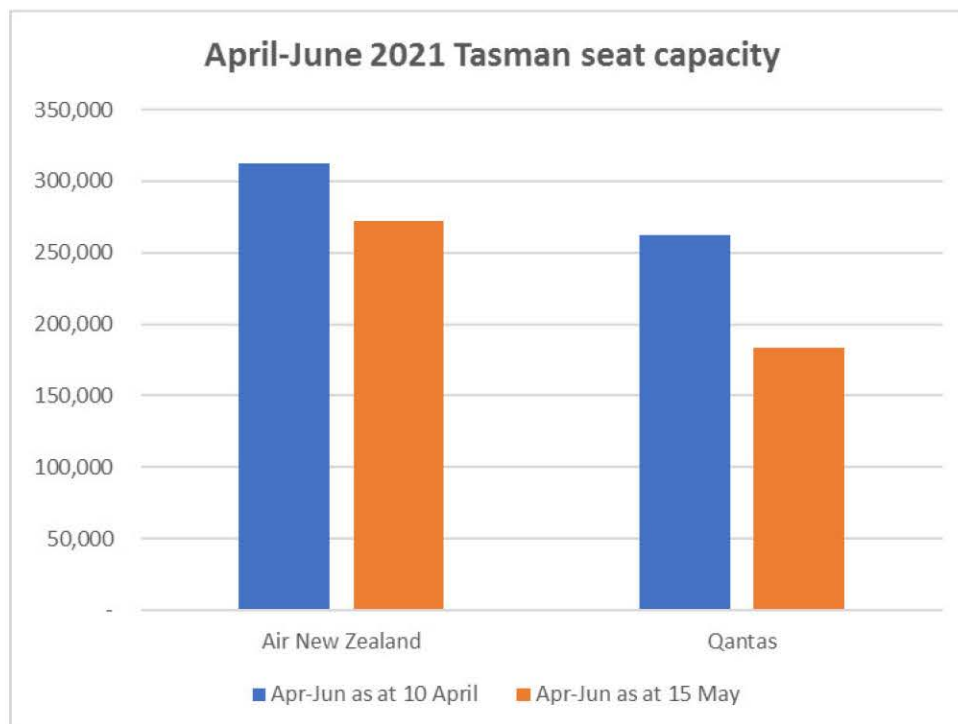
⁶ Qantas [media release](#), 12 May 2021.

⁷ See further: 'COVID-19: Trans Tasman travel still at less than a third of pre-coronavirus levels despite bubble', [NewsHub](#), 13 May 2021.

- there have been three 72-hour suspensions of the bubble in the past 6 weeks in respect of travel to/from New South Wales, Victoria and Western Australia – which have impacted consumer confidence and demand;
- Qantas' load factors **[REDACTED - CONFIDENTIAL]**;
- demand in point of sale New Zealand continues to be very weak, particularly given warnings from the New Zealand Government and employers advising against travel to Australia. This has produced asymmetry in demand and route performance – with a disproportionate reliance **[REDACTED - CONFIDENTIAL]** on ticket sales in Australia to support the routes;
- demand is proving difficult to stimulate, even with very low sale fares and multiple marketing campaigns. For example, Qantas ran its first proactive sale campaign post bubble commencement in point of sale New Zealand. This six day sale between 6 and 11 May ran longer than the typical 48 hour sale pre-COVID, yet it failed to attract any significant take-up. The Auckland-Gold Coast sale return price point of NZD349 was one of the lowest fares ever offered by Qantas in recent years. On a route that traditionally attracts 60 per cent of its traffic from point of sale New Zealand, and even with the exit of Air New Zealand, Qantas has been unable to avoid losses, due to weak traveller confidence in New Zealand. As a result, Qantas has already had to suspend the Auckland-Gold Coast route, at this stage until 1 July 2021; and
- an expected surge in demand over the April school holiday period did not materialise. Sale fares helped to attract some point-of-sale Australia bookings, but otherwise take-up has been low. In some cases, lack of knowledge about the travel bubble may have contributed to poor performance – an indication that longer lead times to publicise the existence of the bubble and available travel options will be necessary to restore confidence and awareness.

It is not only Qantas that is suffering on the Tasman – Air New Zealand has also been forced to cancel a significant number of flights since publishing its bubble schedule in April, as shown in Figure 1 below, whilst Virgin Australia has announced it will not even resume on the Tasman until 'at least December; due to the 'underwhelming' passenger uptake in the bubble.'⁸

Figure 1: April-June 2021 Tasman Seat Capacity As Published 10 April 2021 vs 15 May 2021



⁸ With the exception of Queenstown. See further: <https://www.executivetraveller.com/news/virgin-australia-delays-return-to-new-zealand-bali-fiji>

	Air New Zealand	Qantas
Capacity change since restart	-14%	-33%

Source: *Diio Mi schedule and capacity tool*, retrieved 19 May 2021

Some lessons can already be taken from this experience on the Tasman. For example, marketing resources, budgets and plans must be in place well in advance of the first flights operating. Even with these process improvements, however, the fundamental issue is that consumer confidence is very low. It is also clear that there will be asymmetry in demand, and that Qantas will face ongoing challenges in offshore marketing without a strong distribution partner. Having an attractive loyalty scheme offering in all relevant points of sale will also be an important part of demand re-stimulation.

As set out below, having a metal neutral joint business would significantly assist the Applicants to rebuild the market in the face of these ongoing challenges.

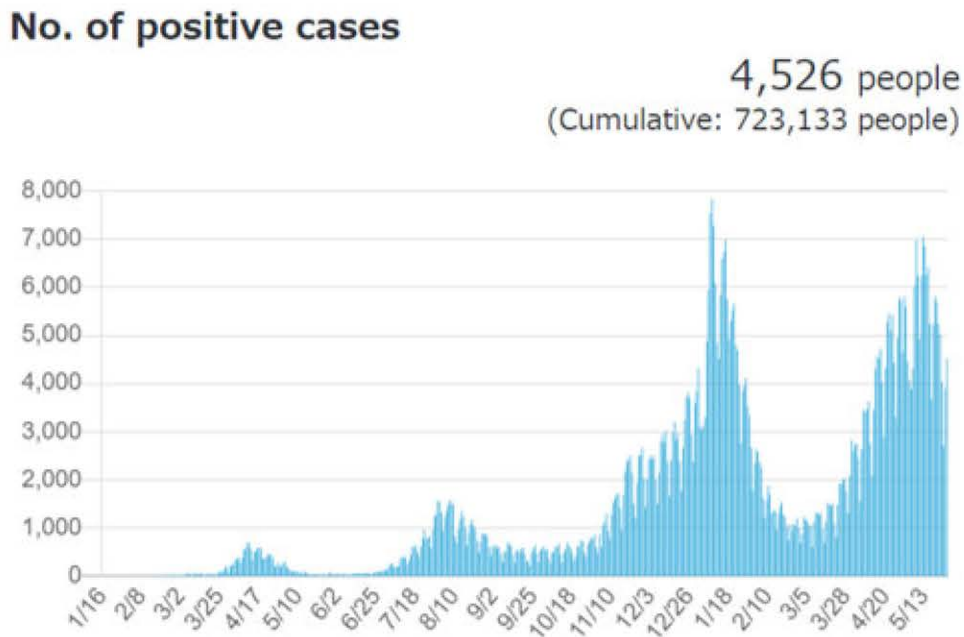
Demand Ex Japan Will Be Severely Weakened

In the Japan context, the level of demand is expected to be *even weaker* than it has been on the Tasman. For example, demand on the Tasman is characterised by far higher levels of leisure travel for the purpose of visiting friends and relatives, particularly given that there are some 564,000 New Zealand born residents living in Australia – but this compares with only 47,000 Japan born residents in Australia.⁹ In other words, the 'natural' demand that usually exists on the Tasman to support a reasonable underlying level of demand, plus the initial surge in passenger volumes associated with border reopening, does not pre-exist on Australia-Japan.

Moreover, while Australian travellers may take up the opportunity to visit Japan once borders are lifted and local COVID outbreaks in Japan are managed, the likelihood of Japanese consumer demand rebounding quickly is very low. This is a product of several factors, including the recent significant outbreaks of COVID in Japan with ongoing high infection rates – on 25 April 2021, a state of emergency was declared for the third time in several prefectures including Tokyo and Osaka and as at 27 May, the total number of COVID infections in Japan was well over 720,000 cases and there have been 12,601 deaths.¹⁰ The recent spike in infections is reflected in Figure 2 below.

⁹ ABS.Stat Estimated resident population, Country of birth, age and sex as at 30 June 1996 to 2020. Retrieved 24 May 2021.

¹⁰ See: [Japan Ministry of Health, Labour and Welfare](#).

Figure 2: Positive COVID Cases In Japan: 27 May 2021

Source: Japan Ministry of Health, Labour and Welfare

Delays in the vaccine rollout and reluctance on the part of elderly citizens to take up the vaccination, on top of an historic conservatism among the Japanese population, indicate that Japanese travellers are likely to be very reluctant to fly, particularly overseas, in the short and medium term.

As of 30 May 2021, only 6 per cent of the Japanese population has completed the first dose of the vaccine. Although the Japanese Government originally aimed to complete vaccination of the entire population by around November 2021, the process is taking longer than expected and it is unclear when it will be completed. Like Australia, Japan's international borders essentially remain closed to entry from foreigners and quarantine/testing measures have been strengthened.¹¹ Entry from certain countries has been banned since mid-May as a result of new COVID variants emerging in Japan.

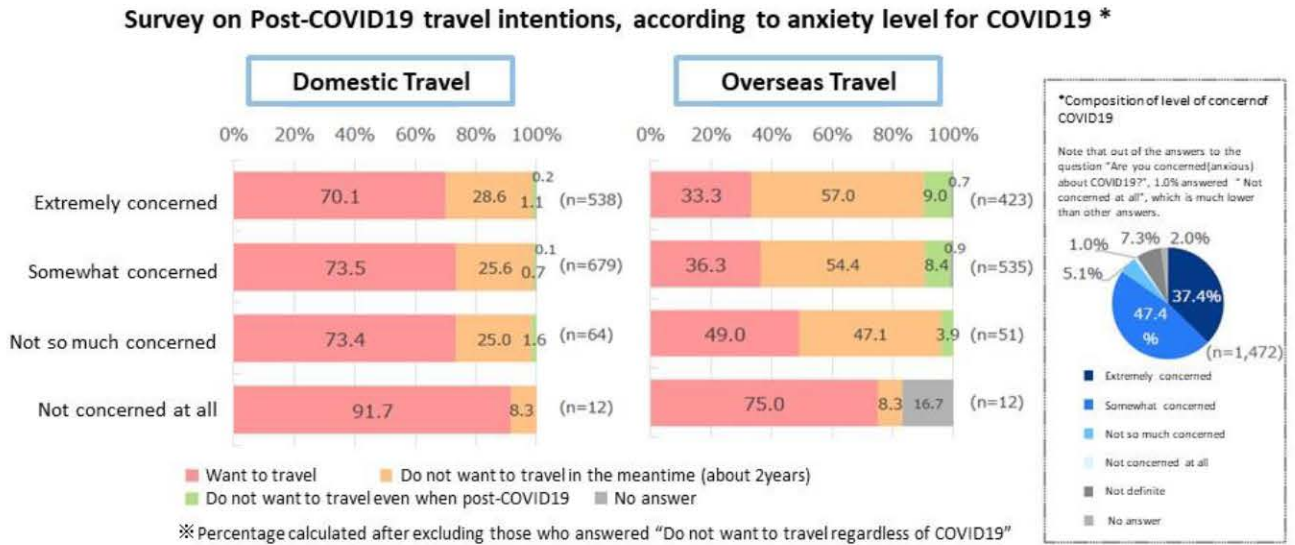
Japan's experience with 'travel bubbles' mirrors some of the themes outlined above for the Tasman. The Japanese Government has approached several countries in the Asian/Oceania region, with discussions on the conditions of opening bubbles taking several months before agreement has been reached. A travel bubble between Japan and Vietnam commenced on 29 July 2020, with travel bubbles implemented in another 10 countries since. However, the number of foreign people entering Japan via travel bubbles has remained very small (averaging approximately 1,500 people per day from November 2020-January 2021) and mainly comprised long term residents and expats coming to Japan (with only a very small proportion of corporate travellers taking up the ability to enter and no tourists permitted¹²). Since the state of emergency was declared in Japan on 13 January 2021, the travel bubbles have been suspended.

Even if the Australian and Japanese Governments can reach agreement on commencing a new travel bubble in months to come, demand will still be very slow to return. The tendency for Japanese demand to be particularly soft in the wake of a crisis is set out in Figure 3 below.

¹¹ Some entry is permitted on the basis of 'special circumstances.' Particular entry visas must be obtained. All travellers entering are required to obtain a certificate indicating a negative COVID test result conducted within 72 hours prior to departure and are also required to sign an affidavit, agreeing to refrain from using public transportation, to stay 14 days at home or designated accommodation, to retain location data, and to provide the location data to health care centers and institutions if required.

¹² See further: [Immigration Agency Services of Japan](#).

Figure 4: Extract From Japan Travel Bureau Foundation Survey Results, August 2020



【Survey Outline】

Title: JTBF Awareness Survey
 Conductor: JTBF (Japan Travel Bureau Foundation)
 Target: Males and females aged 18-79 nationwide (selected from a survey company panel*)
 Method: Self-administered survey by mail*
 Period: 20MAY ~ 05JUN 2020
 Number of respondents: 1,472

*Based on the population at time of the census, households were extracted from housing map database, and individuals were assigned. In this way, the survey targets were selected without bias in terms of region, gender and age. The survey was sent by mail, and respondents filled in the questionnaire by themselves.

Source: https://www.jtb.or.jp/wp-content/uploads/2020/08/covid-19-japanese-tourists-5_JTBF20200814.pdf

As set out below, a working assumption that international travel markets will soon return to pre-COVID dynamics is clearly premature. The severely depressed demand, particularly out of Japan, makes capacity deployment particularly high risk. In turn, this makes it essential that Qantas and JAL can work together to rebuild – to maximise limited sales and marketing resources to stimulate demand to help fill reinstated capacity and ultimately plan for further growth.

While the Commission acknowledges this broader context¹⁵ and calls out the uncertainty of the current environment multiple times in the Draft Determination, the Applicants submit it nevertheless goes on to give too much weight to theoretical concerns about detriment and too little weight to genuine and immediate public benefits that would help resolve that very uncertainty.

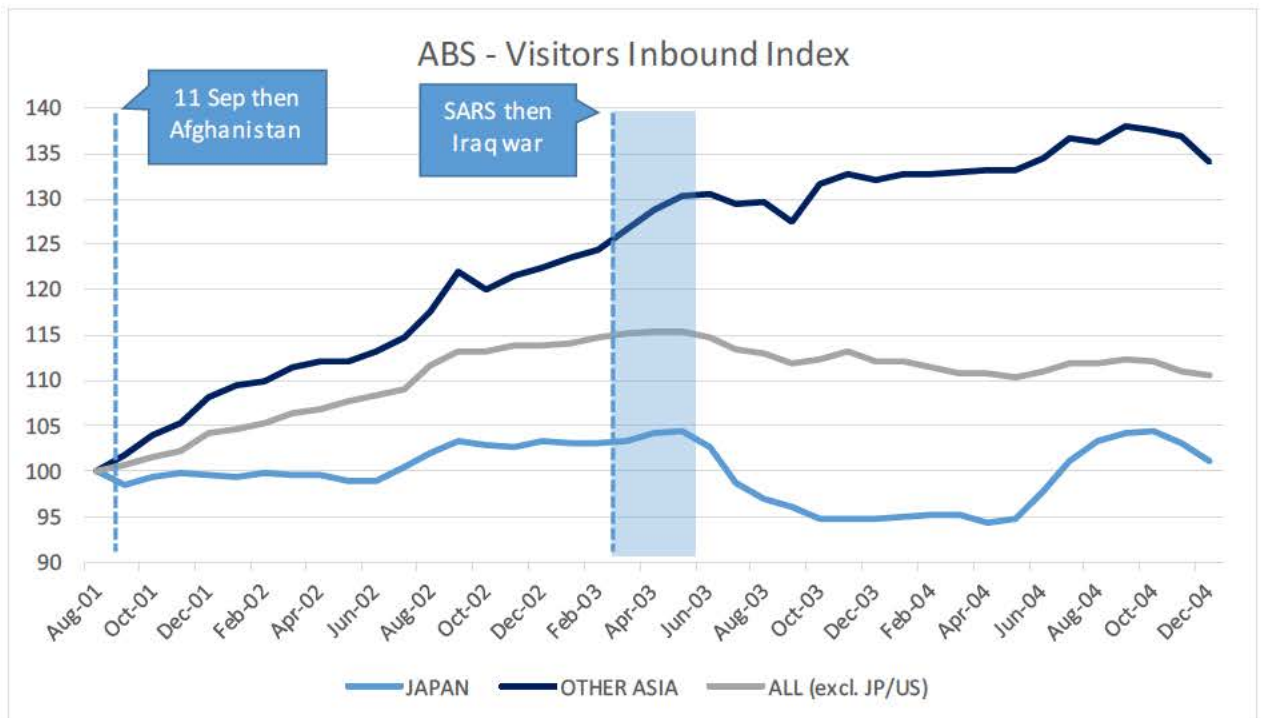
The Applicants Have No Incentive Or Ability To Artificially Restrict Growth Or Increase Fares

In this severely weakened demand environment, the Commission's suggestion that the Applicants could have an ability or incentive to artificially slow down or limit capacity¹⁶ – and therefore risk passengers abandoning the flights and routes due to unreasonable pricing – is clearly fanciful.

In practice, it is not even a remote possibility over the short term of the authorisation being sought. More than ever, airlines have no choice but to be price takers. The majority of Japan-Australia passengers are price sensitive leisure travellers (72 per cent travelling for holiday purposes or 83 per cent when including those travelling to visit friends and relatives¹⁷), with a large proportion of tour/school groups who may be even more cautious to resume travel. Travellers with this profile will take up other options or simply won't

¹⁵ Draft Determination, para 4.14.
¹⁶ Draft Determination, page 1.
¹⁷ ABS immigration data, CY2019.

Figure 3: Impact Of Historical Shocks On Japanese Visitors To Australia



Source: ABS, rolling 12 month view

As Figure 3 above shows, when the 9/11 crisis and Afghanistan war impacted international travel in August 2001, Australia experienced a general increase in visitor numbers, including from 'other Asia' inbound markets. Japanese visitor levels remained flat, however, only increasing some 12 months later. Similarly, after the SARS outbreak in early 2003, visitors to Australia from 'other Asia' continued to increase overall but levels of Japanese visitors decreased by some 10 points and took over a year to recover.

A survey undertaken by the Japan Travel Bureau Foundation in August 2020 indicated that 85 per cent of Japanese people were concerned about COVID infections and of those respondents, 60 per cent indicated that they do not want to travel overseas for the time being (approximately two years) or at all (even if COVID infections subside).¹³ An extract from the survey results is set out in Figure 4 below. While there was apparent demand (at that time) to resume domestic travel, this was not the case for international travel (and, in any event, domestic travel in Japan has not rebounded since¹⁴).

¹³ See further: [Japan Travel Bureau Foundation](#) research.

¹⁴ JAL's passenger demand for domestic travel in Japan is only around 20-40 per cent of pre-COVID levels based on passenger numbers and Available Seat Kilometres. See further: <https://press.jal.co.jp/en>

travel at all should the product, frequency or price not be attractive or schedules too uncertain.

The Applicants have no incentive to make it any more difficult than it already is for consumers to choose to travel again. If the Commission's theoretical concern were to ever eventuate, passengers would simply not travel on the Applicants' services – they will either switch to competitive alternatives (including ANA, indirect operators or new entrants), choose a different leisure destination or not fly at all.

As set out in earlier submissions, in addition to ANA, Singapore Airlines and Cathay Pacific are particularly strong indirect operators who impose constraint on the Applicants and who price competitively and offer schedule diversity via hubs to attract leisure passengers. As the Commission is aware, Australia-Japan traffic is unique amongst major traffic flows between Australia and Asia for the relatively high proportionate contribution of indirect (via third country) carriers. Indirect carriers carry 24 per cent of total passengers, with Singapore Airlines and Cathay Pacific assuming 7 per cent and 6 per cent of traffic (almost as large as ANA, a direct operator, at 8 per cent).¹⁸ The Commission's overall contention that ANA and the indirect operators provide insufficient constraint on the Applicants¹⁹ is simply incorrect in practice, as the data and a history of aggressive price competition pre-COVID shows.

The Commission also states: *'The ACCC does not consider that the option, particularly for leisure passengers, to fly to alternative destinations or not at all is an option that is likely to be exercised to an extent that would place any meaningful competitive constraint on the Applicants.'*²⁰

This view is, respectfully, out of touch with the fact that Australia's tourism industry is already losing inbound traffic to other regions – particularly countries with advanced vaccination rollouts and softer travel restrictions, such as the US and Canada – and is currently unable to attract inbound tourists from what is already a depleted pool of willing and able travellers.

This is, again, why the faster, more sustainable and more diverse reinstatement of capacity that would happen with the Proposed Conduct is so critical to recovery. As the Applicants have made clear, the commercial terms of the JBA facilitate expansion of capacity, by enabling risk and revenue to be shared. A comparison of the Applicants' (confidential) independent network plans compared with the speed and breadth benefits of the proposed joint network plan highlight this fact.

Moreover, any theoretical concerns would be addressed by the Applicants' commitments described further below.

Any Anti-Competitive Conduct Would Be Detected And Addressed

The Commission states – without any foundation whatsoever – that the Applicants could engage in anti-competitive behaviour even when any authorisation has ceased.²¹ It is claimed that the Applicants could use information shared while any authorisation is in place to *'likely reduce the extent to which Qantas and JAL competed vigorously with each other....in the future.'*²²

These contentions have no basis and are rejected entirely. The Applicants each take compliance with competition laws extremely seriously. Any concern about inappropriate future coordination is unwarranted and inconsistent with the Commission's own earlier observation that without authorisation the Applicants would not engage in commercial coordination.²³

The Commission also raises the theoretical risk of coordinated effects between the Applicants and ANA on the Sydney-Tokyo route, identifying this as a 'significant public detriment' in a situation where capacity growth was limited below market demand. This position, again, has no foundation and should not be accorded such disproportionate weight in the balancing test. As stated earlier, there is simply no practical basis for claiming the Applicants could have an ability or incentive to artificially restrict capacity or increase prices, whether together or via any form of coordinated conduct with a competitor – and this is even more

¹⁸ Australia-Japan Passengers 2019 Calendar Year, all Points of Sale, IATA DDS. See further Applicants' submission to Commission dated 31 March 2021.

¹⁹ For example see: Draft Determination, paras 4.35 and 4.58.

²⁰ Draft Determination, para 4.41.

²¹ Draft Determination, paras 4.49 and 4.51.

²² Draft Determination, para 4.49. The Commission makes this claim about both the Melbourne-Tokyo and Sydney-Tokyo routes. See also para 4.60.

²³ Draft Determination, para 4.9.

distant a prospect in the actual demand environment faced.

Instead, this application for authorisation should be treated consistently and pragmatically, in line with the Commission's previous determinations which allowed competitors to work together in response to the Pandemic during 2020-2021 and beyond. Whereas some other industries – particularly those with a domestic focus – may now be able to resume operations with more of a sense of normalcy than during 2020, this is not the case for the international aviation industry. The international aviation industry was one of the first to be affected by the global Pandemic and will be one of the last to recover.

As noted previously, the Commission has already endorsed the delivery of public benefits through international airline partners working together to rebuild post-Pandemic (including recent extensions of the Qantas-China Eastern alliance²⁴ and the Qantas-American alliance).²⁵ Some extracts from the Qantas-China Eastern determination in January 2021 sit in stark contrast to the Draft Determination, for example:

*'In the context of the significant disruption to international travel resulting from the COVID-19 pandemic, the ACCC considers that the extended [Joint Coordination Agreement (JCA)] is likely to result in a public benefit by assisting the Applicants to reinstate flights, and potentially grow the capacity they operate between Australia and China as travel restrictions ease, more quickly and in a more sustainable way than would otherwise be the case.'*²⁶

*'The ACCC considers that under the JCA, the Applicants are likely to reinstate capacity, and potentially grow capacity, more quickly and in a more sustainable way than would otherwise be the case by allowing the Applicants to combine load volumes and undertake joint marketing initiatives which could potentially stimulate additional passenger traffic.'*²⁷

*'The payment terms of the JCA also lessens the commercial risk for the Applicants in undertaking capacity expansion relative to them each individually undertaking expansion.'*²⁸

*'...current demand for flights between Australia and China is low and there is uncertainty about the extent and timing of a recovery in demand that is likely to occur. Further, it is not apparent that if Qantas and China Eastern were operating independently of each other, there would be sufficient recovery in demand to fuel a strong return to the route for both airlines between now and March 2022. As noted, the ACCC considers that the extended JCA will assist Qantas and China Eastern in reinstating services as demand picks up.'*²⁹

Similarly, in March 2021, when the Commission re-authorised the Qantas-American Airlines joint business, it adopted a pragmatic outlook:³⁰

'The ACCC recognises that there is significant uncertainty about when the global aviation industry is likely to recover from the effects of the pandemic. In this context, and having regard to the current and past assessments that the alliance is likely to deliver a net public benefit, the ACCC re-authorises the Proposed Conduct for five years. The ACCC considers that this period of authorisation is likely to give the Applicants sufficient certainty to progress the alliance, and notes that the timeframe is also consistent with international regulatory approvals.'

There has not been a positive turn of events since these determinations which would justify a radically different analysis of the benefits of the proposed arrangements between Qantas and JAL – in fact, if anything, the situation has become worse (in Japan in particular) which amplifies the need for collaboration. This is also borne out in the respective counterfactual positions which the Applicants have

²⁴ Commission [Determination](#) on Qantas-China Eastern, dated 29 January 2021. Among other benefits, the Commission granted a term for an additional 12 months beyond what the parties had originally sought, acknowledging that the recovery of international travel will be even longer and slower than first anticipated.

²⁵ Commission [Determination](#) on Qantas-American Airlines, dated 25 March 2021, para 2.15. Among other benefits, the Commission noted that the ability to combine with Qantas' existing services and share revenue was likely to significantly mitigate the risks that American would face as a standalone operator of Trans-Pacific services.

²⁶ Commission [Determination](#) on Qantas-China Eastern, p 1.

²⁷ *ibid*, para 4.22.

²⁸ *ibid*, para 4.23.

²⁹ *ibid*, p 2.

³⁰ Commission [Determination](#) on Qantas-American Airlines, para 4.80.

each confidentially put to the Commission and which are critical to a realistic assessment of competitive detriment.

Having said all this, the Applicants respect that regulatory scrutiny of arrangements between competitors should be rigorous and that – just like for other industries seeking to collaborate to generate public benefit outcomes during the Pandemic – anticipating likely effects may be difficult given current uncertainties.

Indeed, in anticipation of this, the Applications sought a limited period of authorisation of only 3 years – specifically designed to cover the initial market recovery process – notwithstanding that the commercial agreements span 5 years. In the broader market context described above, and taking into account the Australian Government’s latest indications of timing for international border opening, the term sought in fact gives the Applicants very limited scope to work together.

The Applicants appreciate they would need to return to the Commission (and other relevant regulators) to seek a further approval for any long-term coordination before the initial 3 year term expires. This already places the onus on the Applicants to deliver and plan for genuine public benefits in a short period of time and gives the Commission an in-built checkpoint to assess market structure and dynamics at that time.

Finally, notwithstanding all of the above, the Commission always has the statutory ability³¹ to review and revoke an authorisation at any time, should its theoretical concerns about potential future detriment actually manifest in practice.

For all these reasons, it is clear that a theoretical risk of competitive harm has been given disproportionate and undue weight in the Draft Determination, yet little weight has been given to the actual and immediate public detriment which would occur without the Proposed Conduct. The corollary of this position is that the public benefits of the Proposed Conduct have not been considered and valued appropriately or consistently with previous determinations regarding airline alliances.

Public Benefits Of The Proposed Conduct Are Meaningful And Immediate

Significant and timely public benefits – all of which have been set out extensively by the Applicants in the Application and in subsequent submissions – have been duly noted but given inappropriate weight by the Commission.

The Draft Determination appears to mark a sudden and unexplained departure from the consistency of prior assessments of the benefits that are offered to consumers through metal neutral joint business arrangements between international carriers (even when such assessments have been done as recently as March 2021, in the case of the re-authorisation of the Qantas-American Airlines alliance).

While it is true that the competitive dynamics of different markets and effects of different alliances will always require separate consideration and careful analysis, that is not a reason to discount the actual value to be derived from the Proposed Conduct – particularly at a time of crisis for the international aviation industry.

The Draft Determination notes that capacity reinstatement and growth will be facilitated across a range of routes, yet fails to give any real weight to the fact this would bring immediate, tangible improvements for consumers, tourism and trade industries and the airlines themselves. This is despite the Commission already being familiar with the fact – as proven over time – that metal neutral joint business arrangements facilitate capacity expansion and other customer benefits. For example, the Commission has previously noted:³²

‘The ACCC considers that the [Qantas-American joint business] has facilitated significant capacity growth and introduction of new routes by the Applicants during the previous periods of authorisation. The ACCC considers that, compared to the likely future without the [Qantas-American joint business], continuation of the alliance provides a greater likelihood of increased capacity and new routes in future as the airlines benefit from passenger feeds arising from their complementary networks. The ACCC

³¹ Section 91B(3) of the Act.

³² Commission [Determination](#) on Qantas-American Airlines, para 4.39.

considers that this constitutes a material public benefit.'

In this case, with metal neutrality a key feature of the Proposed Conduct, the Applicants are incentivised to not only reinstate and grow capacity sooner and with shared risk but also to:

- expand the codeshare, which will maximise customer connectivity, convenience and choice including in the event of any disruptions/cancellations; and
- enhance frequent flyer benefits, which will be particularly important to re-stimulate demand in both points of sale.

These benefits – which go beyond what is possible under an arms-length codeshare or through the existing **oneworld** alliance – are outlined below.

Speed And Breadth of Capacity Rebuild

As the network plans provided confidentially to the Commission show, the speed, sustainability and spread of capacity reinstatement across Sydney, Melbourne and Brisbane to Tokyo routes is far improved with the Proposed Conduct than without it – and this becomes even more critical now that the Australian Government has revised its position on border openings and vaccine rollout and as customer confidence requires rebuilding.

Specifically, again, the Applicants confirm that the Proposed Conduct would enable them to offer a number of important benefits.

- **Sydney-Tokyo:** together, the Applicants could offer a more sustainable, certain and efficient reinstatement of services operated by both carriers on the Sydney-Tokyo route.

Operations would be supported by joint sales and marketing which will be essential – particularly in point of sale Japan – to re-stimulate demand to maximise the likelihood of achieving sufficient loads in both directions. As set out earlier, the experience on the Tasman has shown that this kind of joint support in both points of sale will be key in a volatile demand environment.

The JBA and the Applicants' joint network plan has always been designed to more sustainably reinstate appropriate levels of capacity – growing ahead of, but still proportionate to, expected demand – while also ensuring that the most suitable carrier operates that capacity (for example, one carrier may achieve scale and operational efficiencies allowing it to grow frequencies faster on a particular route, which would in turn deliver greater public benefits than evenly splitting operations between the carriers).

Specifically on Sydney-Tokyo, when borders re-open and demand recovers, Qantas intends to **[REDACTED - CONFIDENTIAL]**. Similarly, when borders open and demand recovers, with the Proposed Conduct JAL will also **[REDACTED - CONFIDENTIAL]**

Joint operations by Qantas and JAL on the Sydney-Tokyo route would mean that reinstated capacity is not only better matched to actual demand, but also more sustainable – meaning that services are less likely to be cancelled due to poor loads otherwise being spread thinly across competing services in the same time channels. In the event that loads were still poor or there are other unexpected disruptions, having a codeshare on this direct route would also at least enable the swifter and more seamless re-accommodation of passengers on to the other airline's service – thereby minimising disruption.

By contrast, as the Commission has acknowledged, without the Proposed Conduct the Applicants are likely to concentrate all their respective resources on this single city pair (rather than diversifying the capacity reinstatement across Melbourne and Brisbane routes).

Without the Proposed Conduct, each Applicant will be less able to support loads with sales and distribution capability in the other carrier's local point-of-sale Japan, which is likely in turn to lead to higher levels of service cancellation and therefore increased and ongoing uncertainty.

- **Melbourne-Tokyo:** the Proposed Conduct will produce a positive outcome for consumers seeking to travel between Melbourne and Tokyo. It will facilitate an accelerated reinstatement of daily services operated by both Qantas and JAL, with the ability to offer complimentary schedules giving consumers more choice.

Despite this, the Commission has raised concerns about potential competitive detriment on this route. For the reasons set out earlier, the Applicants do not believe that such concerns will manifest in practice. Nevertheless, to reinforce the public benefits specific to the Melbourne-Tokyo route, the Applicants have now further enhanced their joint proposition from Melbourne (achieved by redeploying some Qantas capacity initially otherwise directed to Brisbane). Importantly, if the Proposed Conduct is authorised, *both* Qantas and JAL will operate to together provide a daily service from Melbourne to Tokyo when borders re-open and demand recovers, with both carriers then growing towards a double daily offering through the joint business support.

With the Proposed Conduct, when borders re-open and demand recovers Qantas now intends [REDACTED - CONFIDENTIAL] Similarly, JAL intends to [REDACTED - CONFIDENTIAL]

By contrast, without the Proposed Conduct, Qantas' reinstatement of initial capacity from Melbourne will be slower, with reduced frequency, and less sustainable, given there will be reduced sales, distribution and marketing support in point-of-sale Japan where demand is expected to be particularly weak as outlined above. It is also likely that Qantas will feed Melbourne traffic via its Sydney services, in order to try and make the latter more sustainable, therefore diluting the prospect of the direct Melbourne services growing. At a minimum, without the Proposed Conduct, Qantas would be forced to delay any resumption of daily services, bringing further delay and detriment to Melbourne passengers and the Victorian tourism industry more generally.

- **Sydney-Osaka:** working together, the Applicants would fast track the return of Qantas' flying on this route [REDACTED - CONFIDENTIAL].
- **Sydney-Sapporo:** similarly, the Proposed Conduct would enable a faster return of Qantas services on this route [REDACTED - CONFIDENTIAL]

While the joint plan is already something the Applicants have committed to each other to deliver, as set out below, the Applicants are prepared to offer a formal commitment to not only implement the joint plan but to bring forward capacity growth on the Sydney-Tokyo and Melbourne-Tokyo routes if certain triggers are met, in order to allay any residual concerns of the Commission.

Introduction Of New Cairns-Tokyo Services Will Not Occur Without The Proposed Conduct

The Applicants again confirm that the introduction of new services between Australia and Japan, being a 4 weekly new Cairns-Tokyo service (commencing during 2022) will not occur without the Proposed Conduct being authorised.

The Commission has commented that it does not have sufficient evidence to conclude that launch of the Cairns-Tokyo route is likely with the Proposed Conduct.³³ The Applicants have not been able to discuss this route in detail with JAL in the absence of interim authorisation, which was not granted by the Commission. The Applicants have also obviously not taken any steps towards implementing this new route in the absence of the Proposed Conduct being authorised.

What is clear, however, is that with such heavy reliance on point-of-sale Japan support to make this service viable, Qantas will not proceed without the Proposed Conduct. As already pointed out, passenger demand for a new Cairns-Tokyo service is expected to be highly driven from point-of-sale Japan, with approximately 84 per cent of passenger demand for Cairns-Japan travel sourced from Japan.

To provide further context, Qantas expects that the majority of demand will be sourced from price sensitive leisure passengers from Japan, travelling primarily in groups as part of package tours. Hence scheduling will be likely to be based on package tour durations and relationships with travel agencies and tour distribution partners in Japan will be key to making sure the target traffic pool is attracted and

³³ Draft Determination, para 4.88.

retained. A consistent schedule, with sustainable capacity, will be critical to delivering services on this route on a year-round basis. To make the new service successful, Qantas would need to be able to access JAL's distribution, sales and marketing channels in Japan to ensure sustainable take-up and loads on the service and work together with JAL on effective local sales and marketing.

Despite strong support for the proposal from tourism bodies and representatives, the Draft Determination disappointingly does not give any weight to the various benefits of this new service. To reiterate, these benefits include:

- additional choice in flying between Cairns and Japan, with the new Qantas operated service complementing Jetstar's existing presence and enabling passengers to choose between both full service and low cost service brands, products and services;
- rejuvenating tourism in far north Queensland and beyond, attracting a new cohort of premium travellers from Japan to Queensland and providing more opportunities for frequent flyer redemptions. In 2019-2020, Cairns attracted over 3.3m international visitor nights;³⁴
- improving connectivity to and from Cairns, which would boost Cairns' potential as a 'mini hub' for other Qantas and Jetstar services. For example, Qantas could offer convenient new 'triangulated' itineraries for inbound Japanese tourists (particularly catering to the likely journey type sought by package tour groups ex Japan), such as Tokyo-Cairns onward to Brisbane, Sydney or Melbourne while also, importantly, facilitating further connections on the Qantas and Jetstar network to other cities and regional destinations including Uluru, Darwin, Perth and Canberra. Other destinations not previously listed include Weipa, Horn Island and Townsville.
- strengthening business cases for new international routes supporting a Cairns 'mini hub', specifically **[REDACTED - CONFIDENTIAL]**. These new services would have the potential to grow aviation employment and economic activity in the region;
- new freight capacity to the important export market of Japan, bringing new trading opportunities out of Cairns and northern Australia. Importantly, this includes new capability offered through a Qantas operated A330 aircraft to uplift live animals including fish, lobster and crabs – which is important for the Cairns market. Furthermore, the potential growth of the Cairns 'mini hub' provides export opportunities for other parts of Australia beyond Queensland; and
- potentially increased frequencies and/or gauge operated by Qantas on the Tasman and potentially other new services in the longer term, depending on a sustainable level of demand recovery and growth.

With the Proposed Conduct, consumer choice is maximised, more capacity will be added and demand will be better targeted and stimulated. Moreover, the Applicants can work together on sales and marketing in Japan to help attract Japanese tourists back to Australia and reinvigorate the industries and businesses within Australia that rely on these inbound flows. This capacity growth – particularly when it is possible other key markets like China, which contributed 1.4 million international arrivals into Australia in Calendar Year 2019, may not return to the same levels – must be given increased weight by the Commission in making its final determination.

As set out further below, the Applicants are prepared to formally commit to commencing this route if the Proposed Conduct is authorised.

Codeshare Expansion Would Not Otherwise Occur

Despite the Draft Determination acknowledging the concept of metal neutrality in driving incentives to share and open up access to inventory and expand codeshares³⁵ (thereby expanding capacity and enhancing the sustainability of reinstated flights), the Commission has incorrectly suggested that, even without the Proposed Conduct, the Applicants may still expand their existing codeshare.³⁶

³⁴ [Cairns Tourism Visitor Summary](#), Cairns Regional Council.

³⁵ Draft Determination, para 4.84.

³⁶ Draft Determination, para 4.98.

The Applicants have previously set out the fact that with the Proposed Conduct, consumers will experience seamless connectivity and increased schedule choice on routes between Australia and Japan and to more destinations 'behind and beyond' the major city gateways. Qantas customers will have access to 14 new codeshare ports in Japan and JAL customers will have access to 15 new codeshare ports in Australia and New Zealand. This will include expanded codesharing on the Tasman, facilitating new routings between New Zealand and Japan via Australia, and bringing associated frequent flyer and customer re-accommodation benefits.

This is a marked improvement on the current proposition (in place since 2009), which is limited to connectivity over Singapore to avoid overlapping direct routes, as shown in Figures 5 and 6 below.

Figure 5: Current Qantas-JAL Codeshare Scope

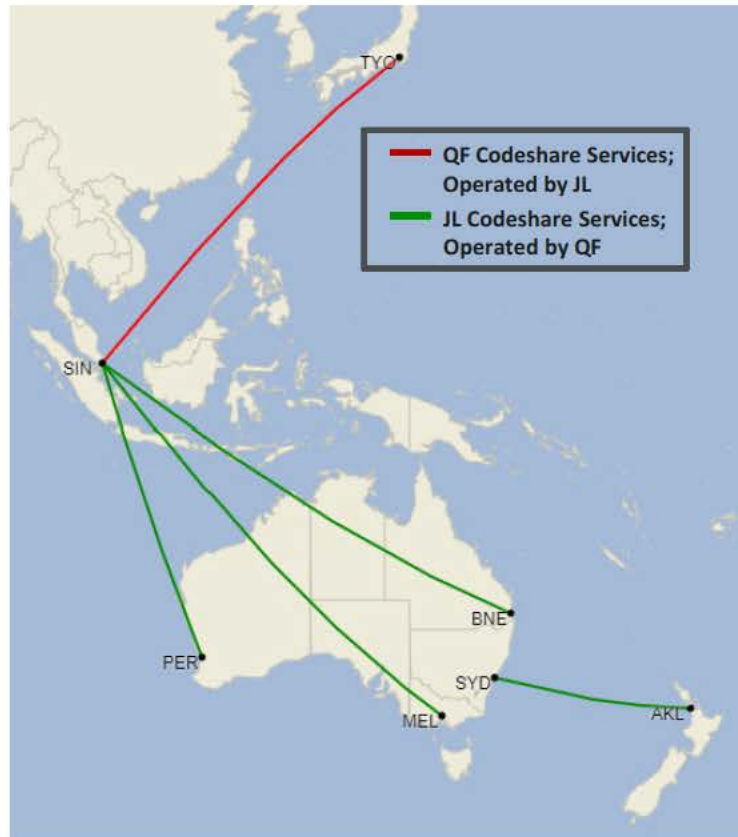


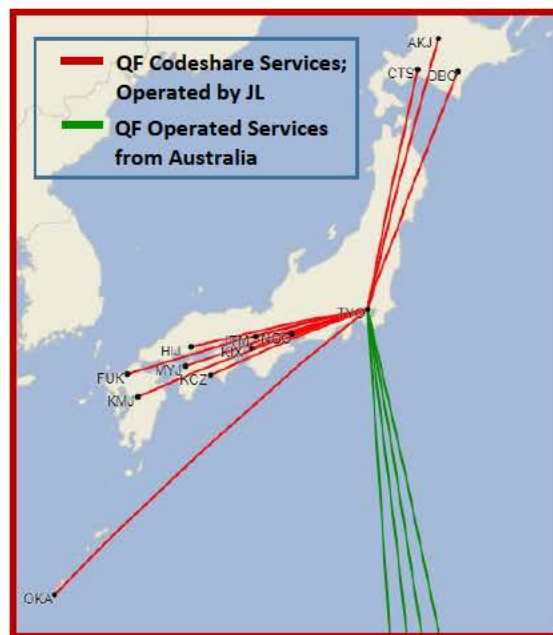
Figure 6: Proposed Expansion of Codeshare With Proposed Conduct

JAL Codeshare Ports on Qantas	Qantas Codeshare Ports on JAL
Adelaide	Asahikawa
Auckland	Fukuoka
Uluru	Hiroshima
Brisbane	Kōchi
Cairns	Kumamoto
Canberra	Matsuyama
Christchurch	Nagoya

JAL Codeshare Ports on Qantas	Qantas Codeshare Ports on JAL
Darwin	Obihiro
Gold Coast	Okinawa-Naha
Hobart	Osaka-Itami
Melbourne	Osaka-Kansai
Perth	Sapporo
Queenstown	Tokyo-Haneda
Sydney	Tokyo-Narita
Wellington	

This will provide passengers with significant access, booking convenience and expanded frequent flyer entitlements. Importantly for Qantas, it will also facilitate reach into other ports within Japan to help stimulate outbound demand to fly to Australia. This is shown in Figure 7 below.

Figure 7: Extended Reach For Qantas In Japan



For the avoidance of any doubt, without the Proposed Conduct, the Applicants would have no commercial incentive to expand their existing limited codeshare, which has been in place since 2009. Without authorisation of the Proposed Conduct, the codeshare would not expand to include direct services between Australia-Japan or any domestic services in Australia or Japan or additional routes across the Tasman. Arms-length codeshare partners who do not pool revenue will always have an incentive to fill seats on flights that they operate themselves, where they will receive and retain the full fare instead of just the portion of a fare received from a codeshare sale. This limits codeshare partners' willingness to share capacity and fails to capture integrative efficiencies that are achieved with metal neutrality. This is a principle that has been recently acknowledged by the Commission in its approval of the Qantas-American alliance in March 2021 – where for instance the various benefits for consumers of online

connectivity, made possible through the joint business, were outlined.³⁷

Frequent flyer enhancements are meaningful and would not happen otherwise

In the Draft Determination, the Commission noted that the attractiveness of the Applicants' loyalty programs are likely to be enhanced under the alliance, primarily by increased access to each airline's existing frequencies and destinations and that this is likely to result in 'some public benefit' given the large number of frequent flyer members.³⁸ The Applicants welcome this position, but feel that the benefits should be given greater weight.

As the Commission is aware, the oneworld alliance – of which both Qantas and JAL are members – already provides certain entitlements to frequent flyers who travel on services operated by other member airlines. However, it is important to understand that in this arrangement airlines are still incentivised to provide the maximum level of benefits only when passengers travel on their own operated services.

Put another way, it is only with a metal neutral joint business that airlines are incentivised to provide the same (highest) value to members of another carrier's frequent flyer program. This played out in practice in July 2019, when the Qantas-American alliance received final regulatory approval in all relevant jurisdictions, the two carriers immediately moved to extend entitlements beyond their existing oneworld arrangements.³⁹

This concept is shown in Figures 8 and 9 below – where there is a clear difference in benefits for Qantas frequent flyers travelling on Qantas code compared to JAL code.

Figure 8: Base Points Earn and Top Tier Bonus Points Proposition For Qantas Frequent Flyers Travelling on Sydney-Tokyo Route

Earn Category	QF Marketed		JL Marketed	
	Points	Status Credits	Points	Status Credits
Discount Economy	2,600	30	1,200	15
Economy	3,900	40	2,400	15
Flexible Economy	5,200	60	4,800	30
Discount Premium Ec	5,200	60	n/a	n/a
Premium Economy	6,500	65	5,300	30
Flexible Premium Ec	7,200	70	n/a	n/a
Discount Business	7,800	120	n/a	n/a
Business	8,450	125	6,000	60
Flexible Business	9,100	135	n/a	n/a
First	10,400	180	7,200	90

Top Tier Bonus Points %⁴⁰

Tiered Member	QF Marketed	JL Marketed
Silver	50%	0%
Gold	75%	0%
Platinum +	100%	0%

³⁷Commission [Determination](#) on Qantas-American Airlines alliance, para 4.42.

³⁸ Draft Determination, para 4.100.

³⁹ Qantas [media release](#), 10 October 2019. The significant improvements included Qantas Frequent Flyer Members being able to earn up to 3.5 times more Qantas Points and up to 4.5 times more Status Credits on American operated flights between Australia and the US and up to 4 times more Status Credits on American operated flights within the US/Canada.

⁴⁰ The Status Bonus is applied to the actual Qantas Points earned when travelling in Economy cabins; for travel in premium cabins the Status Bonus is applied to the Flexible Economy Earn rate.

Figure 9: Classic Redemption Points Proposition for Qantas Frequent Flyers Travelling on Sydney-Tokyo Route

Cabin	Qantas Flight	JAL Flight
Economy	31,500	37,800
Business	82,000	90,000

With the metal neutrality that is fundamental to the Proposed Conduct, Qantas will be incentivised to increase points earn, increase status credit earn, increase top tier bonus earn and consider reducing the points required to redeem for seats on JAL marketed services. These enhanced customer benefits would not otherwise be made available.

Incentives to improve customer services and product:

The Commission has queried how the Proposed Conduct would incentivise greater investment by the Applicants in customer service and in-flight product.⁴¹

As has also been the case with multiple other airline alliances, metal neutrality is the key to this best practice learning and information exchange occurring – without the incentive to share and attract the same passenger base with a high level of service consistent across both brands, airlines will simply not extend the privileges of its own offering to passengers of other carriers. The Commission has previously found that metal neutrality drives the extension of customer benefits – for example, in authorising the Qantas-Emirates alliance, the Commission observed:

*'In alliances where the parties' incentives are fully aligned - to a point where each carrier is not concerned with making sure that a passenger flies on their airline (metal neutrality) - they tend to be very focused on synchronising their operations and activities and sharing the financial rewards and risks so as to make their products and services as appealing as possible to passengers.'*⁴²

This principle has not changed. Working closely with a local partner airline is also the best way to ensure in-flight product is tailored to appeal to cultural preferences – and in the current demand environment, having the ability to work with JAL to attract local traffic ex Japan will be critical to the success of Qantas' services.

Better options for corporate travellers

The Commission believes the Proposed Conduct will not result in a better offering for corporate travellers,⁴³ on the assumption that without the Proposed Conduct passengers will still be able to choose between two independent operators. This ignores the benefits of Qantas and JAL being able to offer a combined proposition to corporate travellers. As well as additional seats, which would be made accessible under existing agreements with corporates (rather than customers having to enter separate agreements with each airline), the Proposed Conduct will give corporate customers access to a better range of destinations, schedules, connectivity and frequent flyer benefits. Without the Proposed Conduct, corporates who have a deal with Qantas but not with JAL would not be able to access Qantas' discounted prices on JAL operated flights.

As set out earlier, in respect of a route such as Sydney-Tokyo, a reciprocal codeshare on this route – which would only be made possible with the Proposed Conduct – would also mean that in the event of flight cancellations or disruption there is an easier way to re-accommodate passengers onto the other airline's flights – which helps minimise inconvenience for time sensitive corporate travel in particular.

⁴¹ Draft Determination, para 4.104.

⁴² ACCC Determination on Qantas-Emirates alliance, para 88.

⁴³ Draft Determination, para 4.108.

Tourism recovery

The Commission has placed very little value on the Applicants' ability to stimulate inbound tourism.⁴⁴ As already outlined, in practice, the Proposed Conduct is critical to this objective. To this end, the Applicants refer the Commission to the numerous submissions from third party Government bodies/departments, airports and tourism operators who are best placed to judge likely impact. As the Commission is already aware, submissions pointing to the benefits to tourism include those from Tourism Tropical North Queensland, the Premier of South Australia, the Department of Jobs, Precincts and Regions (Victoria), North Queensland Airports, Accor, the Australian Export Tourism Council, Tourism Australia and the Australian Tourism Industry Council.

While the Applicants agree that broader dynamics affecting inbound tourism will always be at play too, it is clear that there will be important benefits for the tourism industry that would not happen or would not happen as quickly without the Proposed Conduct. There are real strategic benefits for having two airlines work together to reinvigorate tourism and consumer confidence across a wide range of routes, compared to a situation where each struggles individually to make capacity profitable and all efforts are concentrated on a single route only (Sydney-Tokyo).

Commitments: Regular Reporting, Launch of Cairns-Tokyo And Triggered Capacity Growth

The Applicants urge the Commission to revisit its reasoning, having regard to the reality of international aviation outlined above and the genuine public benefits the Proposed Conduct would deliver. In the Applicants' view, this should result in the Commission making a positive, unconditional final determination.

However, in the event the Commission still harbours any residual concern about potential future detriment, the Applicants propose three important commitments to give the Commission even more comfort for the duration of any authorisation:

- monthly reporting of performance on the Sydney and Melbourne routes for Qantas and JAL (separately and in aggregate);
- when borders re-open and demand returns to sufficient projected thresholds, Qantas and JAL will formally commit to commencing the new Cairns-Tokyo service (4 weekly frequencies) and to growing Sydney-Tokyo and Melbourne-Tokyo services if certain triggers outlined below are met.

To be clear, these commitments are not offered lightly and are not considered necessary or appropriate in this instance. Regulatory burden, complexity and cost would be imposed on the Applicants at a time when regulators should instead be facilitating market rebuilding and the preservation of short and long term customer benefits. Nevertheless, the Applicants offer these commitments for the sake of achieving regulatory certainty and the ability to proceed to implement important public benefits.

A draft condition is attached as Confidential Annexure A to this letter, for the Commission's consideration.

Regular route reporting

The Applicants to provide the Commission with regular confidential reporting on both the Sydney-Tokyo and Melbourne-Tokyo routes (being the two routes where the Commission identified potential concerns⁴⁵). This reporting would be done 'in real time' on a monthly basis, throughout the term of any authorisation.

The reports, provided confidentially to the Commission, would include:

- updates on the anticipated dates for commencement of the Reinstated Capacity and reasons for any delay in reinstatement; and
- for each month after operations have re-commenced on Sydney-Tokyo and/or Melbourne-Tokyo routes, information (both for Qantas and JAL separately and for both in aggregate) on route performance, including data on operated seats, passenger numbers, load factor, revenue, route profitability and

⁴⁴ Draft Determination, para 4.116.

⁴⁵ Draft Determination, para 4.19.

average fares by cabin.

These reporting requirements largely mirror Qantas' reporting undertaken as part of the domestic market monitoring regime⁴⁶ as well as the conditions already in place in respect of the Sydney-Christchurch route operated by the Qantas-Emirates alliance, where the Commission noted that the regular reporting of revenue, cost and load factor information would assist in gauging whether capacity growth was being artificially reduced or limited to raise airfares in a way that did not match changes in demand.⁴⁷

The same oversight would be achieved here. This reporting would provide full transparency and enable the Commission's in-house team with its existing skillset to track capacity and price behaviour in real time to swiftly identify any concerns.

Commencement of new Cairns-Tokyo route

If the Proposed Conduct is approved, the Applicants would formally commit to commence the new Cairns-Tokyo service operated by Qantas on a four per week basis. As explained earlier, this new service would only commence if the broader joint business is in place.

The Applicants would commit to commencing the new service when borders for two-way international travel between Australia and Japan are both open on terms which would reasonably enable leisure and corporate passenger travel to re-commence and when demand is projected to return to a pre-determined threshold of [REDACTED - CONFIDENTIAL] per cent of pre-COVID demand, measured by reference to data provided by BITRE.⁴⁸

Triggered capacity growth

The Applicants would also formally commit to reinstate and grow capacity on the Melbourne and Sydney to Tokyo routes, as already envisaged under the joint network plan, as set out in Confidential Table 1 below.

[REDACTED - CONFIDENTIAL]

The Applicants will make available the reinstated capacity above when borders for two-way international travel between Australia and Japan are both open on terms which would reasonably enable leisure and corporate passenger travel to re-commence and where a threshold level of demand (starting at a minimum of [REDACTED - CONFIDENTIAL] relative to pre-COVID demand, measured by reference to BITRE Data) is reasonably projected to exist on the relevant route in both points of sale (Australia and Japan).

Further, the Applicants would agree to a condition under which the Commission has the ability to mandate additional capacity reinstatement (an additional weekly frequency) – even faster than contemplated by the joint network plan – in certain circumstances, until capacity reaches 100 per cent of pre-COVID levels. The proposed triggers for such mandated growth would be if and when load factors on reinstated capacity reach [REDACTED - CONFIDENTIAL] and route profitability indicates a positive net margin of [REDACTED - CONFIDENTIAL] or more.

We are happy to discuss the proposed conditions in further detail with the Commission. The Applicants strongly believe that they will provide further assurance to the Commission that the potential detriments will not occur in practice and, critically, should not be used as a reason to deny significant public benefits.

⁴⁶ See further: [ACCC Airlines Monitoring](#).

⁴⁷ See [ACCC Determination on Qantas-Emirates alliance](#), 23 March 2018, paras 266-268.

⁴⁸ This would be based on a combination of the data for 'Pax In' and 'Pax Out' passenger travel between Australia and Japan provided by the Bureau of Infrastructure and Transport Research Economics.

If you have any questions about the matters referred to above, please contact me on [REDACTED -
CONFIDENTIAL]

Yours sincerely



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Qantas Airways Limited