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**20 March 2023**

Mr David Hatfield  
Director  
Competition Exemptions  
Australian Competition and Consumer Commission  
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**Public register version – restriction of publication claimed in relation to part**

Dear Mr Hatfield

**AA1000615-1 - Virgin Australia & Alliance Airlines - Response to submission from ConsMin**

We refer to:

- the joint application for authorisation of the Charter Alliance between Virgin Australia Airlines Pty Ltd, Virgin Australia Regional Airlines Pty Ltd (**VARA**) (together, **Virgin Australia**), Alliance Airlines Pty Limited and Alliance Aviation Services Ltd (together, **Alliance**) (the **Applicants**) lodged with the Australian Competition and Consumer Commission (**Commission**) on 27 May 2022 and the submissions in support of that application (**Authorisation Application**);
- the Applicants' supplementary submission dated 10 March 2023 which set out a proposed condition which would not deliver the significant public benefits available under an unconditional authorisation but would result in better outcomes for customers than the denial of authorisation altogether; and
- the submission of Pilbara Manganese Pty Ltd, a wholly owned subsidiary of Consolidated Minerals Pty Ltd (**ConsMin**) dated 8 March 2023 (**ConsMin Submission**).

We thank you for the opportunity to respond to the ConsMin Submission and set out Virgin Australia's response below.

## **1 Background**

ConsMin has been a customer of Virgin Australia since November 2014. Prior to switching to Virgin Australia, ConsMin's FIFO services were provided by Network Aviation (a Qantas Group Airline). ConsMin is listed as a Pre-Existing Charter Customer in Schedule 2 of the Charter Alliance Agreement.

ConsMin operates the Woodie Woodie manganese mine and owns the airstrip near the mine site. As noted in the ConsMin Submission, the airstrip is limited in terms of the aircraft type that it can receive resulting in its focus on F100 access – “*We note that the use of alternative aircraft available in the*

Western Australian market would require ConsMin to upgrade its airstrip at significant financial and operational cost". For example, Virgin Australia currently operates the three scheduled weekly return services and any required ad-hoc services between Perth and Woodie Woodie using F100 aircraft. Virgin Australia's understanding is that **[RESTRICTION OF PUBLICATION CLAIMED]**.

**[RESTRICTION OF PUBLICATION CLAIMED]**, ConsMin carried out a competitive informal tender process for these services and Virgin Australia was awarded this contract. The contract commenced on **[RESTRICTION OF PUBLICATION CLAIMED]**.

Virgin Australia's understanding is that the competitive informal tender process was shortlisted to Cobham providing the services using E190 aircraft and Virgin Australia (with support of Alliance under the Charter Alliance) providing the services using F100 aircraft.

Under the agreement between Virgin Australia and ConsMin:

Virgin Australia provides the three weekly services from **[RESTRICTION OF PUBLICATION CLAIMED]** as set out in the table below, subject to slots and as varied from time to time and agreed by both Parties.

Weekly Service	Aircraft	Seat Capacity	Flight Number	Dep (PER)	Arr (WWI)	Dep (WWI)	Arr (PER)
Monday	F100	100	VA9467 / VA9466	05:15	07:15	07:45	09:45
Thursday	F100	100	VA9465 / VA9464	05:05	07:05	07:40	09:40
Friday	F100	100	VA9467 / VA9466	05:15	07:15	07:45	09:45

Also, as a value-add under the agreement, ConsMin elected to pay for its employees to receive Velocity Points for travel on charter flights.

## 2 The ConsMin Submission acknowledges the public benefit of access to Alliance's fleet

In its submission, "ConsMin recognises that the ability to source alternative aircraft under the Charter Alliance Agreement is attractive, however ConsMin has not required the use of the cross hire service during the past 5 years."

The ability to source alternative aircraft under the Charter Alliance does not just refer to alternative aircraft types but also the increased flexibility provided by access to both Applicants' F100 aircraft capacity.

The fact that to date, Virgin Australia has managed to service this contract without having to call upon Alliance's F100 capacity does not remove the benefit to ConsMin of having that capacity available to ensure business continuity in the event of disruptions and to cover changes in operational requirements. **[RESTRICTION OF PUBLICATION CLAIMED]**. Further, it does not take away from the benefit this access provides to other customers.

ConsMin was aware of the Charter Alliance partnership which had been in place since 2017. Alliance's support has not been required to service CosMin's contract to date as there has not been the need to use Alliance aircraft for recovery support or to meet ad hoc requirements. However, if

such a need had arisen, Virgin Australia would have been more easily able to meet ConsMin's needs through access to the Charter Alliance.

### 3 Access to F100s

The ConsMin Submission mischaracterises Virgin Australia and Alliance as the “two main proponents” of the Fokker 100 aircraft” and overlooks other suppliers which operate a charter F100 fleet. In fact:

- the operator with the second largest fleet of F100s after Alliance is Network Aviation, a Qantas Group Airline which previously supplied services to ConsMin;<sup>1</sup>
- Skippers also operates F100s<sup>2</sup> and is understood by Virgin Australia to have submitted a bid for the ConsMin work in the 2021 process; and
- as the ACCC is aware, Virgin Australia is in the process of phasing out its F100 fleet and transitioning to a fleet comprising of B737 series aircraft (being B737-800s and B737-700s).

Virgin Australia currently has 8 F100s in operation (which is less than half of Network Aviation's F100 fleet). **[RESTRICTION OF PUBLICATION CLAIMED]**

Under the Charter Alliance, Virgin Australia has access to Alliance's F100 capacity such that ConsMin can continue to benefit from Virgin Australia's value-added services including its loyalty program and the ability for ConsMin employees to burn points on the broader Virgin Australia network (including with partner airlines) while also having access to Alliance's larger F100 fleet capacity for ad-hoc services and disruption recovery.

In summary, Virgin Australia and Alliance are not the only, or the even the main, proponents of F100 aircraft. The implication in the ConsMin Submission that the Charter Alliance results in ConsMin being left without access to alternative F100 operators is factually incorrect.

Importantly, Network Aviation has more than double Virgin Australia's current F100 fleet, Virgin Australia is transitioning out of the F100 aircraft, Skippers also operates F100s and Virgin Australia understands that ConsMin previously shortlisted Cobham who provided a proposal using E190 aircraft. As such, ConsMin is capable of conducting a competitive tender process for these services and can therefore benefit from the price-service offering available under the Charter Alliance in the process.

Virgin Australia would be happy to discuss further the information in this responding submission.

Yours faithfully  
**Gilbert + Tobin**

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<sup>1</sup> <https://www.networkaviation.com.au/our-fleet/>

<sup>2</sup> <https://www.skippers.com.au/our-aircraft/>