DRAFT DETERMINATION
and
REASONS
on
Authorisation Application
by
Air Niugini Limited
in respect of a

Freight Code-Share Agreement with Qantas Airways Limited for Port Moresby-Brisbane Route

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1. **INTRODUCTION**

1.0.1. This Draft Determination relates to an application by Air Niugini Limited (“Air Niugini” or “the applicant” or “operating carrier”) to the Independent Consumer and Competition Commission (the “Commission” or “ICCC”) for authorisation to enter into and give effect to a freight code-share agreement with Qantas Airways Limited (“Qantas” or “marketing carrier”) on flights operated by Air Niugini between Port Moresby and Brisbane.

1.0.2. Authorisation is a transparent process under the Independent Consumer and Competition Commission Act 2002 (the “ICCC Act”) where the Commission may grant immunity from legal action from conduct that might otherwise breach the ICCC Act if it is satisfied that the public benefits resulting from engaging in the conduct would, or would be likely to, outweigh the public detriment (including the anti-competitive effects).

1.0.3. In reviewing an application, the Commission conducts public consultation by inviting views from interested parties to make their submissions outlining the reasons whether or not they support the application. That process is followed by the issue of a draft determination and, under the provisions of the ICCC Act, if requested by an interested party, or if the Commission decides of its own volition to call one, a conference is held prior to a determination being made.

2. **BACKGROUND.**

2.0.1. On 28 September 2012, the Commission granted a conditional authorisation to Air Niugini to enter into and give effect to a code-share agreement with Qantas on all the flights operated by Air Niugini on the Port Moresby-Brisbane and Port Moresby-Sydney routes under Determination A2012/13. The authorisation was granted in two parts as outlined below;

a) The air passenger component of the arrangement was authorised for three years, expiring on 01 October 2015; and

b) The freight component of the arrangement was authorised for eight months from the date of that Determination as the parties were still negotiating the terms of this aspect of the agreement, and that was to expire on 28 May 2013.

2.0.2. The replacement freight code-share agreement has now been finalised between the parties and Air Niugini has now applied for authorisation to enter into and to give effect to it until 01 October 2015, to coincide with the expiry of the passenger component of the arrangement authorised under Determination A2012/13.

2.0.3. This Draft Determination contains an assessment of the freight arrangements only on the Port Moresby-Brisbane route. The Sydney leg has been excluded in the amended freight code-share agreement. Air Niugini, as a result, has withdrawn the services of the B767 on the Port Moresby-Sydney route and has replaced it with B737 services.

2.0.4. Besides this application, on 21 May 2013, Air Niugini made a request to the Commission to vary the freight component of Determination A2012/13 citing a “material change in circumstances” since the authorisation was granted in September 2012. The material change in circumstances for which the request for variation was made was that there had been an excision of the Sydney leg from the freight code-share arrangements with the replacement of Air Niugini’s B767 services with B737 services on that route. Air Niugini also requested a time extension of the freight component authorisation.
2.0.5. The Commission accepted that the excision of the Sydney leg from the freight code-sharing arrangements constituted a ‘material change of circumstances’ within the meaning of Section 80(2) of the ICCC Act and noted that the excision of the Sydney leg would reduce losses on that route and was a benefit to the public. In addition, the withdrawal of B767 services on the Sydney leg would reduce the anti-competitive effects. The Commission therefore amended its Determination A2012/13 that all air freight/cargo references in that Determination were no longer valid; the freight code-share covered the Port Moresby-Brisbane route only with the excision of Sydney leg; and extended the expiry of the freight component until a determination was made on the authorisation application to which this Draft Determination relates.

2.0.6. It is relevant to mention here that several months after the lodgement of the application, Air Niugini notified the Commission that slight changes had been made to the freight capacity split between the two carriers and the delay in the provision of the relevant information has been the reason for the delay in the issue of this Draft Determination, at the date of which the applicant had not provided the proportion of cargo space to be provided to Qantas. The Commission would like to highlight the fact that it does not grant authorisation for restrictive trade practices lightly. It gives due consideration to all factors that would have an impact on competition, hence it is the applicant’s duty to provide all the relevant information in its submission to the Commission so that the assessment can be done in a timely manner.

2.1. Parties to the proposed authorisation

2.1.1. Air Niugini Limited (Air Niugini)

2.1.1.1. Air Niugini is the largest PNG-domiciled airline, solely owned by the Government of Papua New Guinea (GoPNG). Its main business is the provision of domestic and international air passenger and airfreight services. Air Niugini has a large domestic network that covers a large proportion of the geographic area and serves 21 domestic airports and 11 international airports including Singapore, Hong Kong, Tokyo, Sydney, Brisbane, Cairns and Manila.

2.1.2. Qantas Airways Limited (Qantas)

2.1.2.1. Qantas is the world’s second oldest airline and is Australia’s largest domestic and international airline. It is also the wholly owning parent of Jet Star, a discount operator, formed to compete with discount operators on international and domestic routes. Qantas was originally owned by the Australian government but was privatised, first partially and then wholly, some years ago. It is now entirely a private sector company and is listed on the Australian Securities Exchange.

3. THE APPLICATION

3.0.1. On 25 April 2013, Air Niugini made an authorisation application pursuant to Section 70 (1) and (2) of the ICCC Act to enter into and give effect to an amended freight code-share agreement between itself and Qantas on the Port Moresby-Brisbane route for a period up until 01 October 2015 to coincide with the current passenger component authorisation. As discussed above, the amended freight code-share, to which this Draft Determination relates, excluded the Sydney leg. However, according to the applicant, the parties would seek to vary this freight code-share agreement to include freight allocations on the Sydney route in the event there is sufficient future demand for Air Niugini to recommence wide body operations on the Sydney route.
3.0.2. Nevertheless, the terms of the amended freight code-share agreement (the “freight code-share agreement”) to which this Draft Determination relates are similar to the existing code-share agreement with amendments done only to the freight component of the agreement. The application has not specified the proportion of freight capacity allocated to Qantas. The terms of the freight code-share agreement are summarised below:

(a) Air Niugini is the operating carrier and Qantas is the marketing carrier;

(b) Air Niugini operates freight code-share services with Qantas on the Port Moresby – Brisbane vv route (Brisbane); and

(c) The capacity allocation for freight services would be all on hard block basis to create a strong incentive for aggressive competition between Air Niugini and Qantas, with an additional soft block component if sought by Qantas.

4. THE APPLICANT’S ARGUMENTS IN SUPPORT OF THE APPLICATION

4.1. Rationale for the freight code-share arrangement

4.1.1. Wide-body aircraft-freight-carrying ability and other advantages

4.1.1.1. As this application is linked to authorisation Determination A2012/13, Air Niugini stated that all arguments, particular the arguments relating to the freight arrangements, indicated in its application to which the above Determination relates, are also relevant to this application.

4.1.1.2. From past authorisations, Air Niugini argued that it has traditionally used the wide body aircraft in the provision of services to international destinations. It expressed the view that the use of wide body aircraft was critical in loading and offloading freight from an aircraft quickly and efficiently as opposed to the use of a narrow body aircraft which is time consuming and inefficient. Apart from the ability to carry commercial air freight, there are other advantages of using the wide body aircraft such as the aircraft offers a greater range compared to a narrow body aircraft in providing services to distant international destinations. The wide body aircraft also provides greater passenger comfort and higher passenger loads resulting in a more efficient operation with lower costs. In stating these advantages, Air Niugini added that the sustainability of the use of the wide body aircraft is crucial to Air Niugini and PNG as a nation. This is because if Air Niugini was unable to offer the services of the wide body aircraft, it could not provide the air freight services upon which many of the sectors of the PNG economy rely.

4.1.1.3. In previous submissions, Air Niugini stated that the size of a wide body aircraft provides the advantage of range and ability to carry freight; however this also means that more passengers have to be carried for the aircraft to be economically viable. Air Niugini stated that the PNG – Australian route is thin and it has been unable to achieve sufficient loads on its own on this route to make wide body operations financially viable. In support of this argument Air Niugini stated that the operation of the wide body aircraft without the code-share arrangement is unsustainable.

4.1.1.4. In its current submission Air Niugini argued that a wide body passenger aircraft can carry a significant volume of containerised and palletised freight in addition to passenger luggage compared to a narrow body aircraft which carries a relatively small volume of additional loose freight. Air Niugini indicated that the wide body B767 aircraft can carry up to 18 tonnes of freight while the narrow body B737 aircraft carries only 1.2 tonnes of freight.

ICCC Authorisation Determination A2012/13, pp8
Apart from the advantage of transporting freight in the belly hold of wide passenger aircraft, it also has the following advantage over dedicated “freight only” narrow body aircraft.

a) Freight carried in the belly hold of passenger aircraft can be provided at a significantly lower cost than possible with dedicated freight only services because the cost of each flight can be allocated across passenger services as well as freight services.

b) PNG air freight flows are unidirectional with significantly higher volumes of freight carried north from Australia to PNG than south from PNG to Australia. In so far as a dedicated freighter is concerned, it must price its freight at a level to make up for having a lower load factor on the south bound leg of each service. Air Niugini argued that this problem does not affect a wide body passenger based service because the cost of the service is underwritten by passenger revenue which is much less directional.

c) A dedicated freighter operates a much lower frequency of service because unlike the passenger based service, for efficient operation a dedicated freighter must wait to fly until it anticipates its hold will be close to full.

4.2. Future with and without the freight code-share agreement

4.2.0.1. Air Niugini stated that when assessing the competition effects and public benefits associated with the code-share agreement it is necessary to compare the likely outcome that the proposed freight code-share agreement will have if it is granted to that if it is not granted.

4.2.1. If authorisation is granted

4.2.1.1. The applicant argued that if authorisation is granted, it will;

a) Continue to incentivise Air Niugini and Qantas to aggressively compete for the provision of freight services on Air Niugini’s high frequency wide body services on the Brisbane route which will result in lower prices and better services;

b) Facilitate the continued operation of the wide body aircraft by Air Niugini which provides for significantly higher volumes and lower cost airfreight movement. In the absence of wide body operations, Air Niugini would lose a substantial proportion of the commercial air freight services and revenue to the PNG economy; and

c) Allow the parties to continue to face a competitive constraint from a number of actual and potential competitors such as Virgin, Air Lines of PNG, Pacific Air Express, Skyforce and Hevilift.

4.2.2. If authorisation is not granted

4.2.2.1. Air Niugini argued that there is a material risk involved with this freight code-share agreement in that Qantas may withdraw from the 2012 passenger code-share if authorisation is not granted for this freight arrangement.

4.2.2.2. Air Niugini submitted that a decision not to grant authorisation would have a significant detrimental effect on competition in the Australian air freight market. Qantas could either substantially withdraw from the Australian airfreight market (except for a very small
volume of loose cargo it carries on the Port Moresby-Cairns route) or enter the Australian airfreight market with its own dedicated narrow body freighter services.

4.2.2.3. If Qantas withdrew from the Australian air freight market, freight prices would increase due to the upward pressure on price. There would also be a reduction in customer choice. Air Niugini, considers that Qantas would re-route a proportionate volume of freight for on forwarding to international destination via PNG through its substantial networks resulting in a loss in potential freight volume to Air Niugini and PNG as a whole.

4.2.2.4. In the short term, Air Niugini stated that it may continue to offer wide body air freight services to minimise losses under the current aircraft lease arrangement. However the frequency of those services and total air freight capacity available in the Australian air freight market would be substantially reduced compared to the situation that would prevail if the renewed freight code-share agreement were authorised.

4.2.2.5. In the medium to long term, Air Niugini stated that if a decision is made not to grant authorisation, this would result in the abandonment of the 2012 passenger code-share; thus PNG would be forced to rely on the entry of dedicated air freighter services for PNG’s air freight needs. Furthermore it would not be viable for Air Niugini to continue its wide body operations. Given the high cost associated with carriage of freight on narrow body freighters compared to freight carriage on wide body aircraft, air freight prices in the Australian air freight market would rise. Accordingly, this would result in not only a substantial lessening in competition in the Australian air freight market with customers facing reduced freight services and substantially higher freight prices but also substantially lessening competition in the Asian air freight market and the Australian and Asian air passenger market since the removal of the wide body operations on the Australian routes would mean that wide body operations on other profitable routes would no longer be viable.

4.2.2.6. Air Niugini argued that if Qantas entered the Australian airfreight market with its own dedicated narrow body freighter services, Qantas would incur significantly higher cost and lower frequency in the operation of its narrow body dedicated air freight services than wide body passenger services resulting in a lesser competitive constraint by Qantas in the Australian air freight market leading to higher freight prices.

4.2.2.7. Air Niugini stated that in both scenarios, PNG freight customers would be worse off and face higher freight charges if this authorisation is not granted.

5. SUBMISSIONS BY STAKEHOLDERS

5.0.1. In accordance with the authorisation process under the ICCC Act, the Commission conducted a wide consultation process by inviting comments and views from the public through the print media and by written invitations to nineteen (19) stakeholders from various organisations and agencies regarding the authorisation application by Air Niugini. However, only four (4) stakeholders reverted with comments. The Commission received comments and views from the Australian Department of Infrastructure & Transport, Qantas, the National Research Institute (NRI) and Tourism Promotion Authority (TPA).

5.1. The Department of Infrastructure & Transport (DIT) of Australia

5.1.1. DIT submitted that passengers and cargoes (freight) services on passenger flights should be treated as a single service when seeking regulatory approvals. The DIT also commented that it is the Australian Government’s policy to allow open freight and code-share arrangements so as to enable airlines to respond quickly to changing market demands for freight services.
In its concluding remarks, the DIT added that [presumably *hard*] blocked space code-sharing arrangement between airline operators adds competition to the market.

5.2. **Qantas Airways Limited (Qantas)**

5.2.1. Qantas also provided its comments detailing the brief history of the initial passenger code-sharing agreement with Air Niugini from Port Moresby-Brisbane and Port Moresby–Sydney routes. Qantas also provided a general overview of the freight market by other airline freight operators with flights into and out of Australia and the competition generated by those operating airlines.

5.2.2. Qantas submitted that freight customers of both Qantas and Air Niugini benefit from frequent scheduled wide body passenger services on the Port Moresby-Brisbane route which have the capability to transport both palletised and containerised freight which provides choice and certainty to consumers as compared to narrow body passenger services which carry loose freight only and dedicated freight services are generally less frequent than passenger services and are operated on a subject to loading basis. Qantas further added that the freight code-sharing arrangements promote competition in the freight market as each airline independently sets prices, operates its own yield management system and sells its product through its respective sales networks. This results in competitive pricing between the two carriers as they both vie to secure business on Air Niugini’s operation.

5.2.3. Qantas submitted that the freight sharing arrangements enable Air Niugini to receive a fixed stream of revenue as a set price is paid for the weekly allotment of freight capacity, regardless of the amount of capacity actually sold by Qantas thus contributing to supporting the viability of Air Niugini’s wide body services on the route which benefits the public by supporting the sustainability of a state owned enterprise.

5.2.4. Also in relation to a more internal relationship, Qantas stated that Air Niugini has access to Qantas’ established international and domestic (within Australia) sales network which provides significant selling opportunities for indirect transport of freight into PNG. Qantas noted that Air Niugini did not have a dedicated sales force in Australia and in the absence of a freight code-sharing arrangement, Air Niugini would need to establish relationships with carriers in key international markets in order to benefit from direct international freight flows.

5.2.5. Furthermore Qantas argued that in the absence of the freight code-sharing arrangement, the public benefits stated above could not be realised and that would be a detriment to the public.

5.2.6. Qantas commented that without the freight arrangements, its freight customers would have less choice in services and frequencies and be reliant on less regular dedicated freight services and Air Niugini would have the burden of selling its available freight capacity for flights into Australia; hence Air Niugini would no longer benefit from a fixed stream of freight revenue. Qantas added that in the absence of freight sharing arrangements it would reassess its customer proposition and commercial position in the PNG market in relation to the transport of passengers and cargo.

5.2.7. In concluding, Qantas commented that apart from competition, freight sharing arrangements would enhance customer choice and contribute to the overall viability of Air Niugini’s operations which maximises public benefit and will have a positive impact on the wider economy of PNG.
5.3. National Research Institute (NRI)

5.3.1. Comments by NRI also showed support for the authorisation application concluding that the perceived public benefits are more than the perceived detriments.

5.3.2. In its submission, the NRI also highlighted what it considered were some critical issues arising from the matter. These include Air Niugini’s argument that Qantas may opt out of the passenger code-sharing agreement should this freight code-share authorisation application is declined by the Commission. NRI noted that if that was the case then a submission must be made by Qantas to verify its position. In its conclusion on this issue, the NRI stated that the current application is supplementary to the passenger component of the existing code-share agreement and the argument by Air Niugini may not hold weight.

5.3.3. Furthermore, NRI observed that the freight market (between Port Moresby-Brisbane) has current high competition from various other operating airline companies, and the freight authorisation application, if granted, would result in maximising welfare gains for freight consumers and passengers.

5.3.4. It also added that the freight code-share agreement will boost Air Niugini’s revenue potential and make more revenue for its operations and perhaps payment of dividends to the GoPNG.

5.3.5. Despite being in support of the freight code share, NRI expressed its view that it is not in the spirit of authorisation Determination A2012/13 that different types of aircrafts be used on the Port Moresby-Brisbane and Port Moresby-Sydney routes in particular the exclusion of the B767 aircraft on the Port Moresby – Sydney route.

5.3.6. In concluding, NRI stated that in granting authorisation, certain conditions must be imposed by ICC. NRI recommended that ICC ensure each party set its own pricing, freight tracking and yielding management system and sale of its products through independent sales networks including websites. NRI also submitted that the ICC ensure that Air Niugini uses the services of the wide body aircraft on the Port Moresby - Sydney route.

5.4. PNG Tourism Promotion Authority (PNGTPA)

5.4.1. PNGTPA, in acknowledging the invitation to comment stated that it had no objection to the request by Air Niugini as it relates only to the freight component.

6. PRELIMINARY COMMENTS

6.0.1. Generally all four submissions received have been positive and in support of the authorisation application for freight code-sharing arrangements. The Commission notes NRI’s concern regarding the validity of Air Niugini’s claim that Qantas may opt out of the existing passenger code-share should this authorisation be disapproved. In response to NRI’s comments, the Commission is of the view that there is no basis for this claim as Qantas, in its submission to the Commission, has only indicated its stance in reviewing its position with Air Niugini should the freight code-sharing arrangement not be authorised by the Commission. No direct claims have been made in relation to the withdrawal of the existing passenger code-share agreement. However, the ability of one party to withdraw from code sharing arrangements and enter the market in its own right is always a possibility.

6.0.2. Furthermore, the Commission does not accept NRI’s view that Air Niugini should use the services of the wide body aircraft on the Port Moresby-Sydney route. In its previous
Determination A2012/13, the Commission had, in effect, emphasised that strategies causing losses to an SoE are a significant public detriment as the cost is borne by the citizens of PNG. The use of the wide body aircraft on the Port Moresby-Sydney route was generally accepted as leading to losses and Air Niugini’s replacement of the wide-body aircraft with a narrow-body one is aimed at eliminating losses on that route.

6.0.3. The Commission takes a holistic view of public benefit, rather than a narrow approach which would specify use of wide-body aircraft to provide capacity for cargo on a particular route, when that leads to losses to be borne by the public.

6.0.4. There are inconsistencies in the terms of the application itself. On the one hand, the ‘material change of circumstances’ claimed to justify variation of the original code-sharing arrangement was said to be the excising of the Sydney leg from the freight arrangements. Yet, the applicant seeks an authorisation which provides for future freight code-sharing arrangements on that leg, if a wide-body aircraft is re-introduced depending on demand.

6.0.5. The original authorisation allowed a maximum of 50 per cent capacity to be offered to the marketing carrier on a hard block basis. In this application, the proportion is not specified, but stated to be on a hard block basis. However, the option of granting further capacity on a soft block basis is said to be provided for.

7. COMPETITION ASSESSMENT

7.1. Relevant market

7.1.1. Prior to analysing competition effects of the conduct under consideration, it is necessary to define the relevant market(s) for the purposes of establishing actual and/or potential competition effects and for the purpose of assessing and testing out the public benefit claims of the applicant and other parties, if any. Accordingly, in Section 45 (2) of the ICCC Act, the term ‘market’ is defined as follows:

“A reference in this Part to the term “market” is a reference to a market in the whole of Papua New Guinea for goods and services as well as other goods and services that, as a matter of fact and commercial common sense are substitutable for them including imports”.

7.1.2. In order to identify the relevant market(s) for the purposes of assessing the actual and potential competition effects of the conduct under consideration, it would be relevant to identify the good(s) or service(s) concerned and where the trade would take place.

7.1.3. The Commission understands that Air Niugini and Qantas operate regular air services between PNG (Port Moresby) and Australia (Brisbane, Cairns and Sydney). Qantas has independent passenger services on the Port Moresby-Cairns route and code-share services on flights operated by Air Niugini on the Port Moresby-Brisbane/Sydney routes. Most recently, Qantas has been given approval by the International Air Services Commission (IASC) of Australia to operate dedicated freight services between PNG and Australia2. On those services, both carriers operate scheduled passenger and freight services as well as ad hoc charter services for passengers.

7.1.4. For the purposes of this application, the relevant service is the provision of air freight services; and the relevant geographic locations between which the trade eventuates are PNG and Australia. The types of freight carried are usually high value, highly perishable and light

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goods or those which have an urgent dimension justifying the higher cost vis-à-vis ocean freight.

7.1.5. To identify relevant market(s), it is also vital to consider substitution possibilities. Given the relevant service identified above, on the demand side substitution possibilities, the relevant service alternative would be limited to sea transport between the two countries as land transport is not possible due to the geographical constraint. The decision to use ocean liners for the provision of freight services depends on, amongst others, the time factor (urgency with which) the consignee wants his/her goods the type of freight being transported, that is whether perishable or non-perishable and the value of the cargo. Taking into consideration these factors, the Commission considers that even if there is a small but significant and non-transitory increase in price (‘SSNIP’), i.e. air freight rates, by 5 per cent to 10 per cent, it would be unlikely that consumers would react quickly and switch to ocean transport as consumers would take into consideration the time requirements for delivery of freight.

7.1.6. On supply side substitution, the Commission thinks that it is highly unlikely that air freight operators not in the market would enter the business purely as a reaction to a SSNIP as switching costs would be very high. That does not negate the possibility of new entry, which may result from increases in demand. Furthermore, existing suppliers could increase capacity and frequency in response to a SSNIP, providing regulatory barriers do not prevent them from doing so. Some such competitive constraint is likely to exist but the degree of such constraint is not easily assessable.

7.1.7. In terms of geographic substitution possibilities, through there are other services into PNG from Asia and other Pacific countries, the Commission has examined and considers that the PNG-Australia route is unique in country-directional terms. If there is a SSNIP by 5 per cent to 10 per cent in air freight rates, consumers would not easily switch to other services from either Asia or Pacific, as the goods carried need to be sourced from those alternative countries and the price/service/quality offering of goods from those countries need to be substitutable to those from/to Australia. However, there is the possibility for price sensitive consumers switching from freight services between Port Moresby-Brisbane to Port Moresby and other Australian ports, provided other freight services are available which transport the goods to their ultimate destinations or from originating points at competitive freight rates. Hence the geographic dimension could be expanded to cover such alternatives, provided regulatory constraints on capacity do not restrict such geographic substitution.

7.1.8. For the purposes of this application, the relevant service is considered to be the provision of air freight services; and the relevant geographic locations are between PNG and Australia, with the present focus on the Port Moresby-Brisbane route. Hence the Commission considers the relevant market for the purposes of assessing this application to be the market for the provision of air freight services between PNG and Australia, with a particular focus on the Port Moresby-Brisbane route.

7.2. Consideration of merger factors in Section 69(5)

7.2.1. Market share and load factors

7.2.1.1. The Commission understands from available information that, excluding Virgin Australia, whose main focus is on carrying passengers but also carries loose cargo between Port Moresby and Brisbane, there are currently four players operating freight services between Australia and PNG. Amongst the four, Air Niugini is the only PNG carrier providing the service in competition with three Australian dedicated carriers. The Australian carriers are Pionair Australia Pty Ltd trading as Skyforce Aviation (‘Skyforce’), Pacific Air Express
(‘PAE’) and Qantas through its wholly owned subsidiary Express Freighters Australia. Air Niugini provides freight services using the belly space of its B767 services; hence it is not a dedicated freight service provider on the route, although, on the limited information provided, it appears to carry more freight on that route than dedicated carriers.

7.2.1.2. Apart from vigorous competition from Qantas on the PNG/Australian route, Air Niugini submitted that competition in freight services is continuously constrained by existing competitors such as Virgin on the Port Moresby-Brisbane route as well as dedicated freight service providers such as Pacific Air Express and Skyforce who offer freight services on ad hoc basis. Virgin, however, operates a narrow-body aircraft on its passenger services with limited belly hold space for both passenger baggage and loose freight. It is difficult, therefore, to see Virgin competing vigorously. The degree of competitive constraint offered by others can be gauged from the fact that Air Niugini’s wide-body passenger aircraft carries far more freight than all other RPT carriers combined. The share of total freight carried by dedicated freight operators, however, is not known and their market shares therefore, are not known.

7.2.1.3. With the current boom in the resource sector and an increase in seafood exports, there has been a growing demand for air freight capacity. Qantas through its subsidiary Express Freighters Australia and Skyforce Aviation have both applied to the IASC for a total of 53 tonnes of freight capacity per week each way between Australia and PNG. With the proposed increase in capacity, competition would be enhanced but only to a limited extent as Air Niugini’s international freight service is offered on a regular frequency, for which dedicated freighter services which offer main deck capabilities able to haul large equipment for the resources industry, are not a perfect substitute, as they are provided only on sufficient cargo inducement, hence are offered on an irregular basis. The two service offerings, therefore, are not directly comparable, until dedicated freighter services reach such volumes as to necessitate regular frequency.

7.2.1.4. Air Freight traffic growth for the PNG /Australian route has been increasing in the last five years. Data obtained from the Bureau of Infrastructure, Transport and Regional Economics (BITRE) of Australia, showed that since 2008, freight volumes airlifted by Air Niugini and Qantas has been increasing every year. In addition, the data obtained from BITRE have also indicated a higher freight volume on the Port Moresby – Brisbane route compared to the Port Moresby–Cairns and Port Moresby–Sydney routes.

7.2.1.5. While there are no data available to separately measure freight carried by Air Niugini from that carried by Qantas, from BITRE’s data analysis, the Commission notes that the combined market share of the Air Niugini/Qantas alliance for the provision of freight services for year ended December 2012 was 94 per cent which was mostly attributed to the volume of freight uplifted on the Port Moresby – Brisbane route. Figure 1 shows that the alliance between Air Niugini and Qantas captures more than 94 per cent of the Australian Freight Market while the other 6 per cent is shared between Virgin and Airlines PNG. While Air Niugini and Qantas have been experiencing growth in their combined market share on the Australian route, the market share of APNG/Virgin alliance has slightly declined. APNG’s individual market share has decreased from 7 per cent in 2008 to 1 per cent in

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4 ibid
2012. Virgin on the other hand has had a minimal increase since 2008 and had a market share of 5 per cent in 2012.

Figure 1:

![Annual Market Share of Freight uplifted by each carrier between PNG and Australia](image)

Source: Bureau of Infrastructure, Transport and Regional Economics of Australia

7.2.1.6. Furthermore, with regards to load factors, the Port Moresby-Brisbane route has seen a moderate increase between the years 2008 to 2012 compared to slight increases and constant fluctuations in the freight load factors on the Port Moresby-Cairns and Port Moresby-Sydney routes. It was also noted that freight load factors north bound on the Port Moresby-Brisbane route has been constantly growing while freight load factors on the south bound route is declining. Freight carried north bound is high due to the boom in the resource sector in particular the PNG LNG Project.

7.2.2. **Structure of the freight code-share agreement**

7.2.2.1. Unlike previous freight code-share arrangements, this amended freight code-share agreement applies to Port Moresby-Brisbane only, with the Sydney leg excised, the services of the wide body B767 aircraft on the Port Moresby-Sydney route having been withdrawn and replaced with the services of the B737. The freight code-share arrangement is on a hard block basis with Qantas given the opportunity to purchase additional freight capacity from Air Niugini on a soft block basis.

7.2.2.2. In previous code share determinations, the Commission has expressed its view, in effect, that hard block arrangements are superior to soft block arrangements, in competitive terms, because they create a stronger incentive on the code-share partners to compete, particularly the marketing carrier, as it needs to ‘use or pay’ for the block. The operating carrier is, therefore, usually forced to compete with the marketing carrier’s offering, albeit the degree of competition is substantially muted by the fact that the operating carrier sets the ‘floor’ for pricing through the wholesale block charging structure. The Commission maintains that view.

7.2.3. **Revenue yields and freight rates in the market**

7.2.3.1. In Determination A2012/13, the Commission noted that information on freight rates were not available for the Commission to assess. However based on confidential information on aggregated revenue for both mail and cargo, Air Niugini’s average freight yields for freight movement from PNG to Australia have been decreasing whilst freight yields on the Australian to PNG route have seen increases. Air Niugini has stated that the main
contributing factor that led to these increases has been the recovery of the mining sector and consequent demand for delivery of equipment into PNG.

7.2.4. **Barriers to entry**

7.2.4.1. In its submission to the Commission, Air Niugini claimed that barriers to entry by existing air freight operators into the Australian-PNG air freight market are relatively low. Air Niugini claimed that there are *no regulatory barriers* as there is an adequate amount of freight capacity available under the air services agreement between PNG and Australia to allow either a new Australian or Papua New Guinean carrier to enter any or all of the code-share routes. Furthermore Air Niugini stated that there are no *slot constraints* at any of Port Moresby, Brisbane or Sydney airports that would be likely to hinder entry of any new carrier on any of the code-share routes. Air Niugini also submitted that freight ground handling facilities are available at all airports relevant to any of the code-share routes. Besides these reasons, there is also an active international market for the purchase or lease of appropriate aircraft. According to Air Niugini this means that a new entrant could acquire a new aircraft at competitive prices. In addition to that, the associated sunk costs are minimal as aircraft can be resold.

7.2.4.2. Air Niugini argued that a range of companies would be readily available to enter the Australian air freight market or expand their existing freight operations between Australia and PNG if there is an increase in freight rates. This claim conflicts with the applicant’s claim outlined in paras 4.2.6 and 4.2.7 above that cessation of the freight code-share because of non-authorisation, would see capacity decline and prices rise. The applicant appears to tailor its argument to the immediate point it seeks to make, without considering its consistency of approach.

7.2.4.3. The Commission does not accept Air Niugini’s argument that there are no regulatory barriers to entry and that there is adequate freight capacity available to allow new entrants into the market. Besides other barriers to entry such as high sunk costs of establishment; securing customers; and structural barriers; the Commission is of the view that regulatory barriers are a great concern. The Commission has identified them in its various past determinations. Briefly, the Commission has identified and expressed concerns that discriminatory requirements for aircraft availability before designation of, and/or capacity allocation to, a carrier and discriminatory grant of capacity under air services agreements on the PNG side create an almost insuperable regulatory barrier to entry and should be dealt with promptly by relevant authorities. Furthermore, it is of great concern to the Commission that the Air Services Agreement (ASA) between PNG and Australia contains restrictions on cargo capacity when there are no restrictions on the carriage of goods by ocean carriers. The Commission understands from the submission by the Australian Department of Infrastructure and Transport that the Australian Government is committed to freeing up such anti-competitive restrictions. However, there is no information from the PNG side; and the inference can be drawn that the PNG side is the party that is responsible for imposing such restrictions on air cargo capacity.

8. **ASSESSMENT OF EFFICIENCIES**

8.0.1. Section 46 of the ICCC Act requires the Commission, in making a determination whether or not, or the extent to which, conduct will result, or will be likely to result, in a benefit to the public, to have regard to any efficiencies that it considers will result, or will be likely to result, from that conduct.

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6 ICCC Authorisation Determinations A2012/13, pp31
8.0.2. The Commission considers that the code-share is likely to lead to some productive efficiencies arising from scale. However, such benefits need to be put in perspective in terms of their durability and the direction of their benefits. The chart below outlines the well-known ‘Williamson’s Trade-off Model’.

8.0.3. **WILLIAMSON’S TRADE OFF MODEL**

![Williamson's Trade-off Model Diagram]

\[ P_m = \text{Price under monopoly (or highly concentrated market structure)} \]
\[ P_c = \text{Price under competition} \]
\[ Q_m = \text{Quantity of output under monopoly (or highly concentrated market structure)} \]
\[ Q_c = \text{Quantity of output under competitive conditions} \]
\[ AC_m = \text{Average cost under monopoly (or highly concentrated market structure)} \]
\[ AC_c = \text{Average cost under competitive conditions} \]

*Note: Comments on the model are those of the Commission, although based on the economic literature.*
8.0.4. From the above, it can be seen that such productive efficiencies are transient; often benefit management and labour and are, therefore, quickly dissipated. Any resulting market power dissuades entry and chills dynamic competition, which is more durable and self-reinforcing, leading to positive spin-off effects. Rationalisation benefits, therefore, need to be carefully scrutinised for transience and where any benefits go, while recognising the possibility of industry structure inhibiting entry and competition.

8.0.5. A further consideration is the weight to be given to productive efficiencies arising from scale, in the context of Papua New Guinea’s Government owned carrier. If code-share routes generate such productive efficiencies, the question is whether they lead to profitable operation. Even if they reduce costs, but such cost reductions are insufficient to avoid losses, then the public bears the cost of such losses through opportunity costs of lost resources that would have otherwise been available for social programmes such as health and education.

8.0.6. Hence, the analysis of efficiencies, in this case, requires both a broader and a more profound consideration of effects. Currently, there is no suggestion that on the Brisbane route losses are incurred. However, the ‘interdependence’ of Asian routes on the operation of wide-body aircraft on the Brisbane route requires consideration of whether the ‘package’ of routes as a whole results in losses or profits. To arrive at such a result, it is necessary to analyse the profitability of each route, disaggregated by passenger and freight and the combined financial outcomes of the ‘package’ of routes.

8.0.7. On the current information, the Commission considers that no firm conclusions can be drawn about any efficiencies resulting from the air-freight code-share arrangements as a key element is unknown - the profitability of the ‘package’ of routes dependent on the use of the wide-body aircraft used on the POM-Brisbane route. If the efficiencies are claimed do lead to a profitable result, then some weight can be attributed to them, while allowing for their transient nature and the likelihood that the benefits are likely to be appropriated by management and labour over time, in accordance with the Williamson model shown above.

8.0.8. In submissions on this Draft Determination, the applicant is invited to make detailed submissions on the profitability of each of the ‘wide-body aircraft linked’ routes, disaggregated by passenger and freight classifications and the combined financial outcomes of the ‘package’ of routes.

8.1. Assessment of effect on competition

8.1.1. Overall, in light of the barriers to entry, including regulatory barriers; and the very high combined market share of the code-share partners, the lessening of competition in the air-freight market from the code-share is considered to be significant.

9. ASSESSMENT OF PUBLIC BENEFIT CLAIMS

9.0.1. In supporting its application, Air Niugini claimed that public benefits or benefits to the community would be generated. All such claims by applicants and any other claims by any interested parties, if any, will be tested against the general test for authorisation. If the Commission is satisfied that the conduct, the subject of the application, would result, or be likely to result in benefits to the community which would, or would be likely to, outweigh the detriments to the public as a result of engaging in the conduct, the conduct will be authorised.

9.0.2. Air Niugini’s public benefit claims and the Commission’s analysis of these claims are discussed below.

9.1. Freight revenues to PNG

9.1.1. Air Niugini submits that if this freight code-share agreement is not authorised, it would result in the loss of air freight code-share revenue to Air Niugini. Since Air Niugini is a national carrier, such losses to Air Niugini represent a direct loss of Government funds that would otherwise be available for welfare infrastructure or other spending for the benefit of the nation. In support of this claim, Air Niugini states that a decision not to authorise this freight code-share agreement will result in the withdrawal of the passenger component of the code-share agreement which will then result in significant losses of additional freight revenue for PNG since Air Niugini would likely need to discontinue the use of wide body services on the Brisbane route as well as the profitable Asian routes. This is because if wide body services are not sustainable on the Australian routes, Air Niugini considers that there is insufficient demand for it to justify a wide body service for Asian routes.

9.1.2. The Commission’s view on this claim as indicated in previous determinations is that the main reason for the code-share between Air Niugini and Qantas since 2002 was to ensure the financial viability of Air Niugini.8 At that time, the arrangement was supported by the Governments of the respective carriers since Air Niugini’s financial position was exerting a lot of financial strain on the PNG Government. That suggests that code-shares should be profitable to justify their continuance.

9.1.3. The Commission notes that Air Niugini’s financial position continued to be sound since 2005 although its profit levels fell in 2008; picked up in 2009; but fell again in 20109. With a sound financial position, the limited public funds available to the government could be used in priority areas such as health, education and infrastructure development rather than be used to fund a loss making airline carrier. The Commission however, is unclear about Air Niugini’s claim that disapproval of the code-share would lead to losses to the airline that translates into a direct loss of government funds. This raises the question how the code-share avoids losses if one or more routes that depend on the code-share route make losses. The Commission considers that if rationalisation benefits are shown to avoid the losses then it is in itself a public benefit; however in contrast, if the rationalisation benefits are insufficient to avoid losses as a result of the continuation of the freight code-share then it is not a benefit to the public. There is also the question whether the freight code-share with Qantas, on which is said to depend the Asian services, leads to profits or losses on the latter services, which the applicant describes as profitable; or on the combination of freight services to Asia and Australia, as discussed under ‘Efficiencies’ above. If interdependent, then the total package of services needs to be assessed for profit or losses, as they accrue to the public by virtue of Government ownership, to arrive at a conclusion whether any public benefit arises and, if so, the extent of such benefit.

9.1.4. With regards to the withdrawal of the wide body aircraft in the event that the freight code-share is not authorised, the Commission accepts that it is a possibility that the services of the wide body aircraft could be withdrawn from services on both the Port Moresby-Brisbane and Port Moresby - Asian ports as the operation of the aircraft requires sufficient passenger and freight loads to make services economically viable. The Commission also notes that the refusal of authorisation of the freight code-share could result in Qantas entering the Port Moresby-Brisbane route in its own right as it obtains high revenue yields on this route due

8 ICCC Authorisation Determination A2012/13, pp34
9 Information obtained from confidential financial information submitted by Air Niugini
to the high proportion of business and employment related traffic on the route. The Commission also takes into consideration the possibility of Air Niugini investing in dedicated freight services and operating narrow body aircraft for air passenger services if Qantas terminates the code-share agreement and notes that such restructure and reallocation of resources may be costly to the airline. Whether such restructuring is profitable in the long term is also relevant. Clearly, the current and potential revenue stream from the code-share arrangement would cease, if the code-share is discontinued as a result of this application not being authorised or if Qantas decides to terminate the arrangement.

9.2. Charges for air freight services and related effects

9.2.1. Air Niugini argues that authorisation of this application is likely to significantly lower freight rates and potentially lead to higher frequency of services on the route the subject of this application, but provides no evidence for that. The route has been operated for some time as a code-share route and nothing new appears to have occurred to suggest that costs or freight charges are likely to fall as a result of continued code-sharing operations if authorisation is granted. Air Niugini further argues that the economy of PNG is highly dependent on air freight services. Air freight is the main mode of transporting most of the country’s fresh dairy product, fruits and vegetables, seafood and other exports. With the growth in the resource sector the demand for air freight services will rise. In that aspect, the availability of efficient and frequent air freight services is critical in the growth of PNG’s economy and the welfare of its people. Accordingly, Air Niugini states that the price of air freight is important for the growth of the economy; higher cost and lower frequency air freight services will lead to higher import cost in PNG including on staple foods such as fresh diary, fruits and vegetables. According to Air Niugini, this results in consumers spending more on basic food cost than on other products or demand higher wages. The end result of this is a corresponding multiplier effect on the economy with an increase in the Consumer Price Index (CPI) which imposes a cost on the whole economy and makes PNG less competitive in the international market.

9.2.2. On the other hand, Air Niugini stated that if authorisation is granted, low cost air freight services will prevail which makes local PNG products more competitive in international markets and increases the profitability of PNG industry.

9.2.3. In response to this claim, the Commission acknowledges that air freight services are important for the import and export of perishable and high value commodities, especially fisheries products. From information before the Commission, the freight market is a growing market and has been recently attracting new entrants into the market.

9.2.4. The Commission notes that while the PNG-Australian air freight market has been serviced by the Air Niugini/Qantas alliance, there are other service providers such as Virgin, Airlines PNG and other RPT carriers such as Skyforce Aviation that service the market. Pacific Air Express has only recently entered the market. The Commission considers that authorisation of the renewed and revised freight code-share will continue to allow Air Niugini and Qantas to capture a greater share of the total freight uplifted between Port Moresby and Brisbane. The Air Niugini/Qantas alliance recorded an average of about 90per cent of total air freight movement between PNG and Australia in the last five years. This has been attributed to the air freight movement between the ports of Port Moresby and Brisbane. Air freight movement between PNG and other Australian ports such as Sydney had not contributed much. According to statistics obtained from BITRE, Air Niugini and Qantas continue to face competition from Virgin, PAE and now Skyforce. However the alliance is still dominant in terms of total freight uploaded as well as the frequency of services provided.
In the event of this authorisation being declined, the Commission considers that in the short term, the demand for freight services on the Port Moresby-Brisbane sector and the Asian air freight market will exceed supply resulting in a rise in freight rates. The Commission envisages that if freight rate rises materialise in the short term, existing dedicated freighters would be prompted to apply for additional freight capacity, which could be transferred to them, and vary their frequency to meet market demand. Sustained imbalance between demand and supply of cargo space would lead to additional capacity entering the market either in the form of increased dedicated freighter services, offering a more comparable frequency to combined passenger/freight operations and, therefore, a greater degree of substitutability. It is also possible, in such circumstances, that Virgin or a new entrant would introduce wide-body operations to offer a combined passenger/freight service. Without limitation by regulatory barriers, therefore, increased freight capacity and frequency of freight services would lead to competitive freight rates as competition intensifies.

9.2.5. Overall, the Commission acknowledges that the freight capacity offered by the services of the B767 aircraft supports PNG businesses and exports. If the wide body B767 aircraft is replaced with the narrow body aircraft, this would result in the loss of freight capacity in the short term. The Commission considers that the increase in freight services and frequencies by the existing dedicated freight carriers may, but will not necessarily, fall short of replacing the lost capacity for the short term but is likely to be corrected in the medium to long term. These benefits, however, need to be contextualised. If the code-share service either by itself, or by reason of unprofitable services which depend on the wide-body aircraft used to operate the code-share service, leads to losses, the public bears the cost. The fact that some sectors of the community, such as the businesses that export the products which depend on the service, benefit from it, is likely to be outweighed by the fact that ordinary citizens, least able to do so, bear the losses, if that is the case.

9.3. Other public benefits

9.3.1. The applicant also claims that this application has similar public benefits arguments to the previous application to which the Commission granted authorisation under Determination A2012/13. The Commission’s position in light of those benefits has been highlighted in Determination A2012/13. Therefore the Commission sees no reason for restating its views on those benefits.

10. THE SATUTORY TEST FOR AUTHORISATION

10.0.1. In order for the Commission to grant authorisation in respect of an application made under Section 70 of the ICCC Act, it has to be satisfied that the conduct, the subject of the application, would result, or would be likely to result in a benefit to the community which would outweigh the detriments to the public as a result of engaging in the conduct. Air Niugini’s public benefit claims and the Commission’s analysis of these claims are discussed below.

10.0.2. The decision to grant or decline to grant an authorisation is governed by the authorisation test under Section 77(6) of the ICCC Act. Section 77(6) states the following:

“Commission shall not make a determination granting an authorisation pursuant to an application under Section 70(1), (2), (3) or (4) unless it is satisfied that:

a) the entering into of the contract or the arrangement or the arriving at the understanding; or

11ICCC Authorisation Determination A2012/13, pp41
b) the giving effect to the provision of the contract, arrangement or understanding; or
c) the giving or the requiring of the giving of the covenant; or
d) The carrying out or enforcing of the terms of the covenant,

as the case may be, to which the application relates, will in the circumstances result, or be likely to result, in a benefit to the public which would outweigh the lessening in competition that would result, or would be likely to result or is deemed to result, from it.”

10.0.3. For the Commission to grant authorisation, it has to be satisfied that the code-sharing agreement would produce benefits to the public that would outweigh the detriments to the public resulting from the lessening of competition.

10.1. Summary of arguments, weighing process and outcomes

10.1.1. In terms of competitive detriment, the main barriers to entry and expansion are represented by restrictions on both freight and passengers contained in the bilateral ASA between PNG and Australia. In the consultation process, the Australian DIT submitted that Australia has a policy that is committed to freeing up anti-competitive restrictions on market access. The only inference available to be drawn is that the capacity restrictions emanate from the PNG side. Air Niugini has argued that there is unutilised capacity on the Australian side which has been allocated to Hevilift Cargo Airlines, which is no longer operating services between PNG and Australia and that the demise of the airline in 2012 has left nearly 80 tonnes of the freight capacity unused. Whether that capacity is reallocated is a matter for the Australian Government but the complete removal of capacity restrictions on either side would obviate such problems. The Commission is aware of the argument that the smaller scale of Papua New Guinean Industries suggests that they should be protected until they have reached sufficient size to compete on equal terms with international competitors and is often heard in the tariff context as the so called “infant industry argument”. The Commission considers that so long as “infant industries” are protected there is little, if any, incentive for them to “grow up” and become efficient especially if they are owned by the State.

10.1.2. To the extent that Sydney has been excised from the freight arrangement, the anti-competitive effect arising from continuous losses incurred on the Sydney sector which has prevented ‘competition on the merits’, will not be existent, thus eliminating the ‘below-cost’ element of the anti-competitive conduct. The change from wide-body operations on that route to narrow body operations opens up the possibility of new entry as the ‘excess capacity overhang’ which also previously deterred entry, will have been removed. The overall anti-competitive detriment to be put into the balance, therefore, is reduced, as the code-share partners dominated the Sydney route. The Brisbane route is subject to some competition from Virgin and others, although, as the concentration data appear to show, the code-share partners dominate the carriage of freight between the two countries.

10.1.3. As the Brisbane leg is now the only leg being applied for, lesser public benefit needs to be put in the balance to outweigh the reduced anti-competitive detriment, as explained in the preceding paragraph.

10.1.4. Beside the likelihood of cost reduction, the Commission could be satisfied that authorisation of this freight code-share agreement will result in greater benefits to society than detriments, subject to profitability of the ‘package’ of routes dependent on the wide-body aircraft. These increased benefits are seen in terms of the profitability that the freight code-share is likely to

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bring to Air Niugini and the economy as a whole. The continuation of the freight code-share suggests that the use of the wide body services on the Port Moresby-Brisbane route and Port Moresby-Asian routes will be likely to result in profit for Air Niugini, but that needs to be demonstrated. The use of the narrow body aircraft on the Sydney route means that there is a greater likelihood that the previously unprofitable operations on that route will now become profitable, but that is not the subject of this application.

10.1.5. The applicant’s submission that the use of the wide-body aircraft on the Brisbane route allows its use on Asian routes as well, suggests to the Commission that the demonstration of the likelihood of profitability of all such ‘interdependent’ routes using wide-body aircraft is necessary to ensure the public benefit claimed is actually delivered.

10.1.6. The argument, in essence, is that the interdependence claimed by the applicant as delivering the public benefit needs to be verified. If the routes are truly interdependent and if the routes are unprofitable in aggregate, then no public benefit results and vice-versa. Furthermore, to the extent that unprofitable routes can be rendered profitable by the use of more appropriate aircraft, then such options need to be explored, as has been done in respect of the Sydney route, by replacing the wide-body aircraft with a narrow-body one.

10.1.7. To effect such assessment, the Commission considers it necessary to require the applicant to provide financial reports that deal with the issue and, if authorisation is granted, it needs to provide half-yearly reports thereafter, on profitability for each of the ‘interdependent’ routes, disaggregated by passenger and cargo businesses as well as aggregate profitability reports on the ‘package’ of routes which depend on the use of the wide-body aircraft used on the POM-Brisbane route.

10. PROPOSED DETERMINATION

10.0.1 The applicant applied to enter into and give effect to the amended freight code-share agreement.

10.0.2 Taking into account the above analysis, based on information provided by the applicant and submissions from interested parties, and consistent with Section 77(6) of ICCC Act, if the Commission is satisfied that, among other factors, the financial viability of the route the subject of the application and those stated to be dependent on it, is sound and can be sustained, this freight code-share agreement will result, or will be likely to result, in benefits to the public and that the detriments associated with it would be outweighed by such benefits.

10.0.3 Subject to adequate supporting data to be provided by the applicant, which show that the route the subject of the application and those stated to be dependent on it, are financially sound and can be sustained, the Commission proposes to grant authorisation pursuant to Section 77(1)(a) and (2) of the ICCC Act to Air Niugini to enter into and give effect to the amended freight code-share agreement it has with Qantas.

10.0.4 On the “entering into” component of the application, the Commission proposes to grant retrospective authorisation pursuant to section 74(1) (a), as it has been entered into already. With respect to “give effect” element of the application, the Commission proposes to authorise it prospectively. The authorisation would be subjected to the following terms and conditions:

a) This proposed authorisation would expire on 1st October 2015 concurrently with Determination A2012/13;
b) This proposed authorisation would supersede Variation Determination V1/A2012/13;

c) Air Niugini operates the code-share route and any interdependent route profitably and is to submit six monthly separate passenger and freight code-share profit/loss reports to the Commission, for each of the Sydney and Brisbane routes and each of the Asian routes which depend on the operation of the wide-body aircraft which operates the Brisbane route;

d) Air Niugini must price and sell its code-share services independently of Qantas;

e) Air Niugini must not share or pool its code-share revenue with Qantas;

f) All freight space booking arrangements are to be on a ‘hard block’ basis only, without any ‘soft block’ component;

g) Freight space allocated to the marketing carrier does not exceed 50 per cent of the proportion of overall aircraft capacity for freight on every flight, in each direction, on every day of the week, throughout the year, on which the service operates; and

h) The future introduction of wide-body services on the Sydney leg and freight code-sharing on that route, envisaged by the application, is not authorised by this authorisation. Any such proposal will need to form the subject of a separate application at the relevant time.

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DR BILLY MANOKA
Commissioner/CEO

DR ERIC OMURU, PhD
Associate Commissioner (Resident)

MR. DAVID DAWSON
Associate Commissioner (Non-Resident)

Dated the 28th day of August 2013
ANNEXURE 1

List of Interested Parties the Commission invited comments from

1. Qantas Airways Limited
2. National Research Institute
3. Australian Department of Infrastructure and Transport
4. PNG Department of Treasury
5. PNG Department of Commerce, Trade and Industry
6. PNG Department of Transport
7. PNG Investment Promotion Authority
8. Airlines of PNG Limited
9. PNG Civil Aviation Safety Authority
10. PNG Department of Foreign Affairs and Immigration
11. Hevilift Limited
12. Independent Public Business Corporation
13. Hon. Richard Maru, MP – Minister for Commerce and Industry
14. Hon. Rimbink Pato, MP – Minister for Foreign Affairs and Immigration
15. Hon. Ben Micah, MP – Minister for State and Public Enterprise
16. Hon. Don Polye, MP – Minister for Treasury
17. PNG Chamber of Commerce and Industry
18. PNG Institute of National Affairs
19. PNG Tourism Promotion Authority