Advancing the interests of our members and the profession

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General Manager
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Dear Mr Dolman,

COMMENTS ON THE COMPETITION POLICY REVIEW FINAL REPORT

The Australian & International Pilots Association (AIPA) is the largest Association of professional airline pilots in Australia. We represent nearly all Qantas pilots and a significant percentage of pilots flying for the Qantas subsidiaries (including Jetstar Airways Pty Ltd). AIPA represents over 2,100 professional airline transport category flight crew and we are a key member of the International Federation of Airline Pilot Associations (IFALPA) which represents over 100,000 pilots in 100 countries.

From the outset, AIPA would like to acknowledge the complexity and breadth of the task that Professor Harper and his team undertook and congratulate the Panel on what we believe to be an exceptional achievement.

We also accept and understand that the timeline for the Review was never going to provide the time and space for the Panel to fully inform themselves on the complexities of every suggestion or proposal put to them by respondents to the Review. Nonetheless, we are concerned that, regardless of whatever external constraints may have pragmatically required a very superficial coverage of a very complex space, both the public and the Government may not recognise those inherent limitations in some of the Panel's recommendations.

We previously advised the Panel that they may well benefit from referring to a very recent contribution to the OECD[1] (which AIPA understands was provided by the ACCC) that reflects the status quo for airline competition in Australia as best we understand it. Separately, the geopolitics of air service agreements have generated a significant amount of literature since the beginnings of economic regulation in 1944 by the International Civil Aviation Organisation (ICAO) and there is certainly much more to the nuances of international air service agreements (ASAs) than that put forward in many of the submissions or in the Panel's views.

AIPA considers that the Panel's treatment of ASAs and the related "freedoms of the air" (including cabotage) is simplistic, lacking in broader national interest considerations and

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1 Commonwealth of Australia 2014, *Airline Competition- Note by Australia*, Competition Committee, Directorate for Financial and Enterprise Affairs, OECD, (DAF/COMP/WD(2014)24, 20 May

susceptible to being held up as a much stronger policy statement than either the submissions or the arguments can reasonably sustain.

We believe that ASAs are primarily about protecting sovereign rights far beyond the limited anti-competitive shielding of Australian carriers and the Panel should explicitly qualify its view accordingly. Similarly, we believe that the Panel should better inform itself of Australia's performance as a world leader in the liberalisation of air services and acknowledge that the unilateral liberalisation of access to Australia will have far greater social detriment than merely taking a few cents off an international airfare of already dubious viability as a representative cost of production.

It seems highly likely that the quality of the other areas of the Review may well lead the public and potentially the Government to misconstrue the Panel's views on these complex subjects as being as fully researched and authoritative as the subject areas with which the Panel was more expert. In our opinion, the Panel's views on these aviation subjects are demonstrably neither of those things.

While AIPA cannot verify the veracity of the source material that led to the 06 May 2015 report in the West Australian newspaper[2] which stated that the Expenditure Review Committee "has discussed allowing international carriers to fly direct to airports north of the Tropic of Capricorn and then fly freely between northern airports", we were dismayed by the possibility of Government action being initiated in the absence of any informed and specific debate on the true costs and benefits of such an approach.

While we clearly lack the resources to influence the public perception of the aviation-related parts of the Final Report post-publication, we welcome the opportunity to provide some balance for any future consideration by Government.

For clarity, we will present our detailed commentary to follow the structure of the Panel's Final Report by separating what normally would be the closely related subjects of ASAs and cabotage.

INTERNATIONAL AIR SERVICES AGREEMENTS

What did the Competition Review Panel have to say about International Air Services Agreements and Barriers to Entry?

It appears that the Panel has a simplistic and superficial view of the management of the international trade in aviation market access. In the first instance, they state:

> Air service restrictions
>
> International air services to and from Australia are regulated by air service agreements. These follow the processes set out under the 1944 Chicago Convention on International Civil Aviation, restricting airlines to operating within agreements developed by countries on a bilateral basis.[181]
>
> Air service agreements amount to an agreement with another country regarding which airlines can service a particular route. They have the effect of constraining how responsive providers can be to consumer demand.
>
> Complexity is added given other countries' need to negotiate 'beyond rights'. For example, for Qantas to fly to London via Dubai, Australia needs the United Arab Emirates to negotiate 'beyond rights' on behalf of Qantas with the UK. Australia therefore uses air service

[2] Andrew Probyn and Nick Butterly 2015, 'Northern Australia could be opened to foreign airlines', *The West Australian*, 06 May

agreements, as do other countries, as a negotiating chip to obtain 'beyond rights' for Australian flagged carriers in exchange for access to the Australian market.

An Australian carrier granted an allocation of capacity must be designated by Australia before it is able to operate an international air service. As a result, air service agreements act to regulate capacity and who can service particular international air routes. This has been thought to raise prices on some routes. As a consequence, some air service agreements may protect Australian carriers from competition or act as barriers to new carriers entering particular markets.[3]

The AIPA View on Air Services Agreements

ASAs are pilloried as restrictive trade practices by economists in their fundamentalist pursuit of a borderless, market-based world where resources circulate freely seeking market equilibrium, just as they are by airports and tourism operators whose profit from the direct and ancillary offtake from visitors relies predominantly on volume. Yet even proponents of open borders and "free" trade must take pause when watching the European experience and realise that one of the fundamental tenets of the Chicago Convention on International Civil Aviation, the protection of sovereign rights, remains very much in the forefront of world trade.

ASAs, while predominantly bilateral but not exclusively so, are the treaty-level outcome of negotiations for the trade in aviation market access that abide by the Chicago Convention principles. The key principles in this context are found in the Convention Preamble:

> "…THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically…"[4]

and Article 1:

> **Article 1**
>
> *Sovereignty*
>
> The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.[5]

The articles of the Convention that follow establish not only the "freedoms of the air" but the international standards for safety, customs and excise, security, environmental protection, biosecurity, navigation, air traffic management, etc., all of which are considerations in ASA negotiations. Importantly, because ASA negotiations are conducted between sovereign nations or groups of sovereign nations, the issue of designating one or more airlines to exercise the negotiated air rights of a nation is a vital part of the compliance structure of the ASA.

To the extent that gaining formal designation limits which airlines can exercise their nation's air rights, that process does have "the effect of constraining how responsive providers can be to consumer demand" and does "act as (a) barrier(s) to new carriers entering particular markets" as the Panel opines, although not to the level implied and not unreasonably so. Designation is a 'fit and proper' licensing activity entirely similar to many forms of licensing where public health, safety and welfare are placed at some level of risk. In our view, to abandon these processes in the fundamentalist pursuit of unconstrained responses to consumer demand is simply to replicate the environment that led to the so-called 'Pink

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3 Competition Policy Review 2015, *Final Report*, March, Canberra, pages 154-155

4 ICAO 2006, Doc 7300/9, *Convention on International Civil Aviation*, Edn 9, Montreal, page 1

5 ibid., page 2

Batts' debacle. On the other hand, the recent acceptance by the Department of Infrastructure and Regional Development (DIRD) of the Virgin Australia restructure suggests that the barriers to designation are not at all high.

In regard to 'beyond rights' or 'fifth freedom' rights, the Panel's use of the phrase "other countries' need to negotiate" is worthy of some clarification. 'Fifth freedom' rights allow an airline to pick up additional passengers from a country in which they stop on the way to the final destination, thereby improving the economics of that flight. However, those additional passengers are then removed from the potential pool of passengers available to carriers of the intermediate and destination countries. This market contraction is simply an outcome of competition, which fundamentalist economists would expect to be unilaterally embraced, but the real value of the 'bargaining chip' is to ensure an opportunity for a competitive *quid pro quo* in the source country's market.

What did the Competition Review Panel have to say about International Air Services Agreements and 'Open Skies'?

In continuing their discussion of ASAs, the Panel went on to say:

> Other parts of the world have moved to a less regulated approach. For example, within Europe international air services effectively operate under an 'open skies policy'.[182]
>
> Australia also has a policy of seeking 'open skies' on a bilateral basis, for example, the agreement with New Zealand.[183]
>
> Unilaterally allowing open skies to Australia would severely disadvantage Australian airlines, so long as the bilateral system remains entrenched in the rest of the world.[184]

The AIPA View on 'Open Skies'

The Productivity Commission in 1998 defined an 'open skies' agreement as:

> An agreement to remove restrictions on the ability of airlines to operate services between two countries[6]

It must be recognised that, although the typical commentary about 'Open Skies' implies that all such agreements are essentially homogenous, the reality is quite different.

For example, the Australian-New Zealand Single Aviation Market (SAM) arrangements finalised in 2000 are to the best of our knowledge the most complete active 'Open Skies' agreement in the world, despite Seventh Freedom rights not being exchanged. [7] New Zealand has exchanged all nine freedoms, for example the 2005 New Zealand–United Kingdom ASA, but as far as we are aware none of the bilateral partners are exercising either Eighth on Ninth Freedom rights.[8]

We think a short description of the SAM arrangements will provide an appropriate basis for distinguishing between our version of 'Open Skies' and the 'More Open Than Previously' Skies agreements that are constantly pushed forward as the benchmark to which we should aspire:

> The main components of the agreement included the opening of ownership and control regulations in the bilateral market, the introduction of unlimited frequencies for Trans-Tasman services and a provision that allowed airlines of either country to operate domestic flights within the other country. While the SAM agreement opened up many new opportunities within the

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6 Productivity Commission 1998, *International Air Services Inquiry Report*, Report No. 2, Canberra, page XVI.

7 David Duval 2011, *The Principles of Market Access- A primer on air rights*, Winnipeg, page 6

8 *Ibid*., p7

> Trans-Tasman market, it did not address beyond markets to third countries. Those markets were still under the original 1961 Australia – New Zealand Air Services Agreement and the subsequent 1992 Memorandum of Understanding. Two different definitions of air carriers were created from the agreement: the "Domestic" and the "SAM" airline. The Domestic airline designation allowed carriers to fly domestic services in each other's domestic market and the SAM designation harmonized ownership, control, technical and safety certifications from each countries regulatory agencies.
>
> The importance of the Single Aviation Market agreement was that it broke barriers in the carriage of cabotage traffic, created ownership and control flexibilities, and deregulated capacity, designations, and frequencies. More importantly, the SAM agreement established the foundation for a more liberal agreement that, in the future, would open markets beyond the Trans-Tasman.[9]

Our understanding of the various US 'Open Skies' agreements is that they do not go beyond Fifth Freedom rights. As Button observed:

> In 2007, the United States and the European Union signed an "Open Skies" agreement, which liberalized competition and ownership restrictions, but the supply of domestic air services (flights between two points within the United States or within the EU) is still limited to national carriers, and foreign ownership is still restricted to minority status.[10]

Importantly, the European Union (EU) 'Open Skies' was a necessary by-product of the growing federation of European states and the establishment of supranational bodies such as the European Commission and its subordinate agencies. We think it is important for everyone raising EU 'Open Skies' as a model to be emulated that they clearly understand the context of the geography, population density and politics of the EU. Notwithstanding the positive economic benefits that ensued, the aviation outcome owed as much to rationalisation from a command, control and communications perspective as it did to any economic agenda, given that the EU was dealing with the equivalent of each state in the US or Australia having its own airlines and a range of bilaterals to conduct interstate trade. To further illustrate the problem, the current 27 members of the EU occupy a land area barely over half that of Australia with a population 22 times greater than ours.

Furthermore, we believe that many of the proponents of rushing towards 'Open Skies' conveniently ignore the vastly dissimilar geography, population and market distribution, infrastructure and regional politics that Australia faces, while consistently underestimating the difficulty in negotiating such agreements in the absence of broader national alliances.

It has been said that 'Open Skies' within the EU took nearly 20 years to achieve and it appears that the ambitious introduction of ASEAN-SAM is facing a number of delays as member states are stumbling over Fifth Freedom liberalisation[11] or even holding out on Third and Fourth Freedoms.[12]

Of course, the significant question is: to whom will we open our skies?

We think it is important to recognise that Australia's policy:

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9 InterVISTAS-ga2 2006, *The Economic Impact of Air Service Liberalization*, Washington, page ES-19

10 Button K., 2014, "Opening the Skies - Put Free Trade in Airline Services on the Transatlantic Trade Agenda", *Policy Analysis*, No 757, 15 Sep, the CATO Institute, Washington, page 1

11 Ross, D., "How ASEAN's open skies works", *TTR Weekly*, 27 March 2015, accessed at http://www.ttrweekly.com/site/2015/03/how-aseans-open-skies-works/

12 Sritama, S., "Many obstacles to ASEAN's 'Open Sky' goal, meet told", *AsiaOne*, 18 March 2015, accessed at http://news.asiaone.com/news/asia/many-obstacles-aseans-open-sky-goal-meet-told/

> …to move to a new generation of liberalised air services agreements with like-minded partners. These include agreements that go further than the traditional exchange of traffic rights to include open capacity, beyond and intermediate rights, safety, security, environment, competition and investment provisions.[13]

and that:

> …the Government recognises that in order to secure a comprehensive open skies agreement with a like-minded, significant trading partner, it may be necessary and in Australia's interests to consider allowing nationals of that partner an opportunity to own a greater stake in Australian international airlines, other than Qantas.[14]

is recognition that practical working agreements must be underpinned by partners who share more than just similar economic ambitions. For example, broadly compatible socio-economic and institutional development, legal systems, market size and demographics, safety and welfare cultures, etc., or major trading partnerships too big to leave stagnant all act to facilitate the implementation and maintenance of agreements while also maintaining public confidence in the aviation system. Every significant and effective 'Open Skies' agreement operating today shares those characteristics, as well as being quite limited in scope compared to the Australia-New Zealand SAM.

While the Panel quite properly gave exposure to the submissions by the airports that are highly critical of ASAs, we do not believe that those submissions should go unchallenged. While we are aware that a number of capacity expansion negotiations had become protracted and consequently that capacity was approaching the limits, the airports offered no evidence to show that the potential constraint actually occurred.

As the Panel is undoubtedly aware, the Victorian Competition & Efficiency Commission published on 01 June 2011 their final report[15] on a major Inquiry into Victoria's tourism industry that extensively canvassed these same issues. Actual constraint could not be established, merely suggested[16], as was the potential for constraint. Qantas provided some clarity in this regard:

> Foreign carriers currently enjoy a high level of access to the Australian market. Some 48 international carriers are currently operating to Australia, while a further 17 serve the market via code share arrangements.
>
> The perception that capacity constraints in existing bilateral air services agreements are precluding tourism growth in those markets is not accurate. There are currently approximately 150 Boeing 7 47 equivalent units of weekly capacity unused by foreign carriers under Australia's air services agreements with Australia's top 20 origin/destination passenger markets where capacity is limited. Qantas would therefore argue that additional capacity will not lead to increased inbound tourism from these markets as current capacity is not being utilised.[17]

Separately, in a submission to the Productivity Commission Research Project into Australia's International Tourism Industry, Virgin Australia made a most relevant comment:

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13 Commonwealth of Australia 2009, *The National Aviation Policy White Paper: "Flight Path to the Future*, page 7

14 *Ibid*., page 47

15 Victorian Competition & Efficiency Commission 2011, *Unlocking Victorian Tourism: An Inquiry into Victoria's tourism industry*, June, Melbourne

16 *Ibid.*, page 155

17 Qantas 2011, Submission DR109 to Victorian Competition & Efficiency Commission Inquiry into Victoria's tourism industry, 20 April, page 2

> It is important to note in this regard that requests for capacity by airlines are not confused with actual economic demand for air services.[18]

We are also concerned that the airports' submissions seem to imply that the Australian Government is unilaterally engaging in impeding the tourist volumes that those airports seek as income generators. Those implications should be treated with considerable scepticism. Capacity allocations require bipartisan agreements and many, if not most, of our bilateral protagonists are reluctant to compromise in negotiations, particularly if we are perceived to be needier than them. Hong Kong has long been renowned as difficult to negotiate with, particularly in protecting the interests of Cathay Pacific. Even the fabled EU can be intransigent when external airlines seek what was previously inter-EU Fifth Freedom capacity:

> Australia has been in discussion with Europe on several occasions, most recently in 2008 and 2009, concerning the creation of an 'open skies' agreement to replace the nineteen agreements that Australia has with countries in Europe. There are two major differences between the parties.
>
> The first relates to traffic rights and the notion of a fair trade for intra-European rights. Whilst Australia may retain the fifth freedom rights it has from one European country to another, in order to gain additional fifth freedom rights between European countries it would be necessary for Australia to recognize that the [European view of] fair trade involves a grant of cabotage to foreign carriers.[19]

What was the final view of the Competition Review Panel on International Air Services Agreements and 'Open Skies'?

The Panel's view

The Panel considers that air service agreements should not be used to protect Australian carriers. The Australia Government should take a proactive approach on air service agreements to ensure sufficient capacity on all routes to allow for demand growth, including by pursuing bilateral open skies policies with other countries. This will ensure that agreements do not act as barriers to entry in the provision of services to and from Australia.

Where air service agreements act to restrict capacity, the costs will be borne by travellers through higher prices and fewer options, and by the economy more broadly, for example, though lower tourism growth.

Governments should only create exclusive rights for regional services where it is clear that the air route will only support a single operator. Where exclusive rights are created, they should be subject to competitive tender.[20]

The AIPA View on ASAs and 'Open Skies'

AIPA does not believe in protectionism. On the other hand, we certainly do not believe in a regulatory 'free-for-all' and gifting Australian market access for no return. We also do not believe that Australian aviation's role could conceivably be diminished to that of merely creating an international tourist stream while ignoring the complementary contribution to our domestic economy.

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18 Virgin Australia 2014, Submission 16 to Productivity Commission Research Project into Australia's International Tourism Industry, November, page 4

19 King J.M.C., 2009, *European aviation liberalization: A view from afar*, Institute of Transport and Logistics Studies Working Paper ITLS-BoA-WP-09-01, September, Sydney

20 Competition Policy Review 2015, *Op. cit.*, pages 154-156

We are concerned that the Panel has failed to adequately recognise that airlines, their workforces and their suppliers are all stakeholders that deserve to have their interests properly considered.

As Virgin Australia recently told the Productivity Commission:

> Virgin Australia supports the Commonwealth Government's policy objective of promoting aviation liberalisation, and the role of this policy in facilitating growth in the tourism industry and Australia's economic development more broadly. In particular, we recognise the importance of ensuring that capacity available under Australia's air services arrangements is sufficient to cater for future passenger and freight flows. We would, however, highlight that the outcomes reached in bilateral negotiations with countries in settling new or expanded air services entitlements, must balance the interests of all stakeholders, including those of Australian airlines. It is important to note in this regard that requests for capacity by airlines are not confused with actual economic demand for air services.
>
> As noted above, the competitiveness of Australia's tourism sector depends on the existence of strong local operators, particularly for transporting international visitors to regional areas, where 45 cents of every tourism dollar is spent3. The sustainability of air services provided by Australian airlines depends in part on the ability to access new sources of revenue through an increased network footprint. Consistent with our comments above in relation to current tourism trends, Australian airlines are increasingly choosing to pursue cost-effective network expansion opportunities by offering code share services on flights operated by other airlines, in preference to own-aircraft operations. It is therefore imperative that requisite code share rights are secured for Australian airlines as part of any bilateral air services negotiations. With many countries, code share rights are of much greater value to Australia carriers than an expanded capacity entitlement for own-operated services.
>
> In some cases, foreign carriers are seeking increased access to the Australian market for own-aircraft operations, while at the same time being unwilling to concede rights which would enable Australian airlines to offer code share services to their country. Without these rights, the competitiveness of Australian carriers will be eroded over time – not only in the international context, but also domestically, as the viability of international and domestic networks is inextricably linked. Weak or uncompetitive Australian airlines will be far less able to play a meaningful role in supporting the development of the tourism industry.
>
> From time to time, some segments of the tourism sector have called on the Australian Government to conclude unilateral 'open skies' air services arrangements, providing unlimited rights for foreign airlines to serve Australia. This view is based on the expectation that such arrangements will result in more flights to Australia. This is a short-sighted perspective which fails to recognise the substantial contribution that Australian carriers make to the nation's tourism industry…[21]

CABOTAGE

Cabotage, as a feature of aviation law, has been debated ever since the commercial potential of aviation was first realised. According to Professor Dr Pablo Mendes de Leon in his 1992 book "Cabotage in Air Transport Regulation", the first international conference on aerial navigation was held in Paris in 1910 and the draft treaty was supplemented by a provision allowing the reservation of cabotage. Apparently:

> …The Swiss delegation observed that states which were eager to proclaim the Freedoms of the Air immediately proceeded to exclude cabotage from this freedom…[22]

He observed that there was a realisation that air transport could reach all parts of a nation rather than just its coastline, and that:

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21 、 Virgin Australia 2014, *op. cit.*, pages 4-5

22 Mendes de Leon P.M.J., 1992, *Cabotage in Air Transport Regulation*, Kluwer Academic Publishers, the Netherlands, page 8

> …This may explain why the subject has been dealt with as part of the principle of sovereignty in international civil aviation at a multilateral level from the very beginning. In international civil aviation, safety and security have traditionally been an international concern. International law has thus played an essential role in defining the scope and limits of the concept of cabotage, which can hardly be compared with the term as it is still used in maritime law and practice.[23]

Many years later, the 1944 Chicago Convention included a specific article on cabotage which remains in place to this day:

> **ARTICLE 7**
>
> *Cabotage*
>
> Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.[24]

Almost every single nation reserves cabotage for its national carriers, including the EU.

A significant proportion of Mendes de Leon's 265 pages deals with the interpretation and application of the second clause of Article 7 which, *prima facie*, means 'one in-all in' if cabotage is permitted. The prospect of any airline in the world being free to pick over the spoils of a state's domestic market has clearly proved to be more persuasive than the theories of the fundamentalist economists, given that cabotage is not a negotiable option in almost every instance of bilateral arrangements between independent states.

By way of contrast with most of the world not permitting cabotage, a very relevant counterfactual is unfolding in Nigeria (which does not reserve aviation cabotage) where an apparently prominent human rights lawyer and aviation and maritime consultant is suggesting that the lack of reservation of cabotage is resulting in an annual revenue loss of 200 billion Naira (approximately $A 1.274 billion)[25] and the complete absence of a domestic airline industry.

What prompted the Competition Review Panel to raise the topic of cabotage?

It appears that the strong issues raised in regard to coastal shipping and the effect of cabotage reservations in that context served as the segue to cabotage in aviation.

While the Draft Report made it quite clear that the topic was not raised in submissions[26], thus denying any public examinations of the quality and rationality of the argument, the Final Report refers to "representations" apparently aimed specifically at the inability of Darwin domestic passengers to embark on transiting foreign carriers. The Final Report also adds that the same rule does not apply to Australian carriers:

> Similar to coastal shipping, Australia also prevents foreign-flagged airlines from picking up domestic passengers on a domestic leg of an international flight. The Panel received

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23 *Ibid*., page 5

24 ICAO 2006, *op.cit.*, page 5

25 Mikairu L., 2015, "Aviation Cabotage will save N200bn annual revenue loss — Agbakoba", Vanguard, 27 April accessed at: http://www.vanguardngr.com/2015/04/aviation-cabotage-will-save-n200bn-annual-revenue-loss-agbakoba/

26 Competition Policy Review 2014, *Draft Report*, September, Canberra, page 133

representations during its visit to Darwin that aviation cabotage prevents domestic passengers from embarking on foreign-flagged international flights that transit through Darwin.

For example, a foreign-flagged flight originating in Malaysia and travelling to Darwin and then on to Sydney cannot embark domestic passengers for the Darwin to Sydney leg, yet an Australian international carrier flying the same route could embark passengers for the Australian leg.[27]

The AIPA View on the Domestic Passenger Uplift Restrictions

It is not clear to what extent the Panel went beyond the semantic similarities to look at the differences between cabotage in maritime law and in aviation law. Certainly in the Australian context, there is a demonstrable difference between the palliative care afforded by Government to the terminally-ill Australian coastal shipping industry and the multilaterally determined and applied international aviation law of which the reasonably healthy Australian aviation industry is merely a compliant participant. We are also persuaded that there is examinable literature in the aviation law space that more broadly distinguishes the differences.[28]

At the very worst, it appears that neither those making the "representation" nor the Panel were prepared to put before the public a reasoned argument beyond the perceived inconvenience to some Darwin passengers in not being able to board whatever aircraft of whatever nationality suited them at the time.

While that perceived inconvenience may prove to be peripheral to the Panel's intentions in raising cabotage as an issue, it doesn't seem to be fully supported by the NT Government. The NT Department of Transport published an Issues Paper titled "Propelling the Territory Forward as Australia's Northern Aviation Gateway" seeking submissions by 24 September 2014 in which it said:

> …For its population of just over 231,000 the Northern Territory can be regarded as being well serviced by domestic and international air services…[29]
>
> …For a city of 130,000 people, Darwin is well served by international air services…[30]

As for the practicality of domestic passengers embarking on international flights transiting Darwin, we are unaware of any public examination of the numbers of domestic passengers who took up the opportunity to travel on the so-called 'tag' flights from Darwin with Jetstar, although that would seem to be useful data for the current debate. For the responsible Government agencies, there are additional costs as well as risks involved in mixing domestic and international passengers.

All international flights are potential sources of security, pandemic, biosecurity, immigration and customs and excise risks. Answers to Questions on Notice from Senate Estimates[31] as well as evidence provided to the Rural and Regional Affairs and Transport Legislation Committee 2012 Inquiry into the Air Navigation and Civil Aviation Amendment (Aircraft

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27 Competition Policy Review 2015, *op. cit.*, page 209

28 Mendes de Leon P.M.J., 1992, *op. cit.*, page 5

29 NT Government 2014a, *Propelling the Territory Forward as Australia's Northern Aviation Gateway*, Issues Paper, August, page 9

30 Ibid., page 13

31 Answer to Question 41 to the Australian Customs and Border Protection Service, Senate Standing Committee on Legal and Constitutional Affairs, 29 May 2012 accessed at http://www.aph.gov.au/~/media/Estimates/Live/legcon_ctte/estimates/add_1112/ag/QoN41_ACBPS.ashx

Crew) Bill 2011 showed that a number of special procedures are required to handle placing domestic passengers on international flights and that segregation/clearance issues remain.

Due to the close scrutiny and control of Australian designated international airlines, particularly those employing Australian cabin crew, many of those risks are mitigated (although not removed). If the Australian Government policy on granting cabotage for this purpose/convenience was reversed, not one of the individuals, organisations or Government bodies proposing such a course of action (including the Panel) has provided any commentary on where the compliance and risk management costs would fall.

As for the implication that somehow it is unfair for Australian international carriers to be able to pick up Australian domestic passengers, AIPA is somewhat bemused. Australian international carriers are invariably domestic carriers as well and there has never been a question in international air law about preventing any national carrier from operating in its own domestic market.

Not one shred of rational argument has been provided to support the notion that the perceived inconvenience to a few is necessary or sufficient grounds to upset our international air law obligations or compliance.

What prompted the Competition Review Panel to raise the topic of cabotage permits?

Maintaining the simplistic equating of maritime and aviation cabotage, the Panel said:

> Air cabotage restrictions in Australia are stricter than those in shipping. Generally foreign-flagged ships can apply for permits to engage in coastal shipping where there is no Australian-flagged vessel to undertake the task, but this is not available to foreign-flagged airlines.
>
> Lateral Economics notes:
>
> > Banning foreign carriers everywhere is a blunt instrument for assisting domestic operators who care mainly about protecting their east coast custom. (DR sub, page 4).[32]

The AIPA View on the Aviation Cabotage Permits

As mentioned previously, we accept the views of the aviation law experts that the differences between maritime and aviation cabotage far outweigh the similarities. We also believe that the functionality of the Australian coastal shipping fleet is very distant from that of the Australian aviation industry and is largely incapable of sustaining any comparison.

We would also draw the Panel's attention to sections 15 to 15F of the *Air Navigation Act 1920*, which provide for permissions to conduct certain non-scheduled flights. Although the reporting criteria and format have changed, the following extract from the 2001-2002 Annual Report for the then Department of Transport and Regional Services is not supportive of the Panel's assertion:

> The Department provides a 24-hour service for urgent cabotage dispensation requests. We processed 23 requests during the 2001–02 reporting year. In addition, to ensure minimum disruption to the travelling public following Ansett's suspension of services in September 2001, the Department granted temporary dispensations to foreign carriers to allow them to carry passengers over domestic sectors of their international services. Sixteen international airlines were granted approval to transport domestic traffic under these temporary arrangements, which expired on 31 December 2001.[33]

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32 Competition Policy Review 2015, *op. cit.*, page 209

33 Department of Transport and Regional Services 2002, *Annual Report*, September, Canberra, page 57

If on the other hand, the Panel was thinking of some form of permanent scheduled approval (notwithstanding the problems of Article 7 of the Chicago Convention), then the immediate difficulty that arises is how to identify an ideal schedule against which to identify any shortfall as a basis for approving cabotage. Presumably such a schedule would have to meet some financial viability criteria, noting that the history of the NT routes has not been particularly stable from that perspective.

We offer a word of caution about the Lateral Economics quotes, since Lateral Economics provides very fundamentalist economic advice and is a serial aviation cabotage advocate, at least since 2001[34] when they were advocating cabotage as a weapon to break what they saw as a Qantas domestic monopoly. Of course, there was no analysis of the cost to Australia if the proposed 'open door' cabotage became a barrier to survival of the domestic industry.

Importantly, the discussion that preceded the first Lateral Economics quote was in the context of Recommendation 26 of the Joint Standing Committee on the National Capital and External Territories in the very specific case of trying to improve aviation services to the Indian Ocean Territories (IOT)[35]. AIPA is of the view that the difference in context between the IOT, which is not a viable aviation market in the absence of extensive Government subsidies, and extant Darwin services couldn't be more stark.

What did the Competition Review Panel have to say about Cabotage and Safety?

It appears to us that the Panel leaned heavily towards the Lateral Economics submission on the Draft Report, including on safety considerations:

> The Department of Infrastructure and Regional Development considers that reducing restrictions on air cabotage could compromise safety.
>
> > The Draft Report's proposal is likely to be seen as winding back some of the safety arrangements applicable to domestic aviation. (DR sub, page 5)
>
> However, it is not clear what additional safety considerations emerge from allowing flights that are already transiting Australia or allowed to fly to Australia to embark domestic passengers or cargo.
>
> As Lateral Economics notes:
>
> > While no supranational body exists for ocean travel, safety, security, environmental standards for air travel are already set by the International Civil Aviation Organisation. Expectations and legal frameworks around labour conditions for foreign workers servicing short stay planes are also less contentious than for longer stay coastal ships. (DR sub, page 5)[36]

The AIPA View on the Cabotage and Safety

The Panel's commentary, whether parallel or consequential to the Lateral Economics' view, highlights a significant problem in the public perception of aviation risk. In essence, observations of the relative safety of air travel in what is often called the first world of socio-economics are for the most part incuriously applied to all air travel, an entirely inappropriate

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34 Lateral Economics 2001, *Down with the empty seat syndrome*, March, Melbourne.

35 Joint Standing Committee on the National Capital and External Territories 2010, *Inquiry into the changing economic environment in the Indian Ocean Territories*, Final Report, March, Canberra, pages xix and 149

36 Competition Policy Review 2015, *op. cit.*, page 209

perception that AIPA has long referred to as the travelling public's 'unknowing acceptance of risk'[37]. The reality is quite different.

We briefly raised this issue with the Senate Rural and Regional Affairs and Transport References Committee during their 2010 Inquiry into Pilot Training and Airline Safety:

> …We are also seeing a regulatory system worldwide that is not as robust as Australia's. Senator Xenophon mentioned this morning the Indian government's director-general of civil aviation **reviewing their ATPLs because they think there might be some people falsifying their licences.** I think I testified previously that Nancy Graham, who is head of the air navigation bureau of ICAO, said in a regular presentation she gives that **49 per cent of the contracting states of ICAO have limited to no capability to implement a full regulatory system**. So we will see hull losses around the world.[38] [emphasis added]

In October 2010, AIPA published a paper that sought to warn of the consequences of diminishing flight standards. While the context was not identical, the warning remains apposite to the current debate:

> AIPA is concerned about the impact on flight standards of culture, language and training (both initial and recurrent) for this mixed Jetstar crewing organisation, particularly as the ICAO USOAP (2008) audits and analyses of global accident statistics indicate that regulatory oversight and flight standards vary substantially across different States.
>
> Barnett (2010) estimates that, compared to the 22 nations (including Australia and New Zealand) in his "first world" group, the death risk per flight is seven times worse for the 22 "advancing" nations (including China, India, Malaysia, Philipines and Singapore). The "least developed" group (including Indonesia and Vietnam) has a death risk per flight that is a further 2.5 times worse than the "advancing" nations. While Barnett's analysis does not seek to identify the underlying causes for these risk assessments, it makes little sense to import any of the causal elements into our ultra-safe Australian system.[39]

In reporting Barnett's original study[40], (e)Science News included the additional observations:

> While the study ends in 2007, the patterns it depicts continue to persist. So far in 2010, there have been eight fatal accidents on scheduled passenger flights. All eight of them occurred in the Developing World.
>
> Prof. Barnett questioned why the economically-advancing countries in the Developing World did not have safety records closer to those in the First World, given that they approach First-World standards in life expectancy and per capita income. He cites research that indicates that, in terms of deference to authority and "individualism," the economically advancing Developing-World countries are on average far from those in the First World but almost identical to other Developing-World countries. Prof. Barnett concedes that he should "not get too caught up in speculation," but notes that one possible explanation for why the economically-advancing countries did not fare better is that "their economic shift towards the First World has not been accompanied by a corresponding cultural shift." [41]

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37 Captain R.N Woodward, Senate Hansard, 18 March 2011, Page RA&T 39

38 *Ibid*, page RA&T 41

39 AIPA 2010, A Statement Of Concern On Diminishing Flight Standards - Are We Handing the Keys of the Ferrari to a Bunch of "P-Platers"?, October, Sydney, page 41

40 Barnett, A.I., 2010. "Cross-National Differences in Aviation Safety Records", *Transportation Science*, August; Vol. 44, No 3: pp322 - 332.

41 (e)Science News 2010, *Airline passengers in developing countries face 13 times crash risk as US: INFORMS study*, accessed 20 September 2010 at: http://esciencenews.com/articles/2010/09/01/airline.passengers.developing.countries.face.13.times.crash.risk.us.informs.study

In short, while ICAO compliance is largely 'bread and butter' for Australia and its airlines, in many cases it remains aspirational for many of our neighbours. While many were surprised at the extent of the Indian pilot licence fraud[42], exposed as a result of a rash of domestic accidents, no one really suspected that China had already uncovered a similar issue.[43] Without wishing to overstate the differences within what broadly remains a very safe industry, there has been a fairly recent spate of accidents throughout South East Asia that demonstrate that these concerns are not only real but remain current.

There also seems to be a misconception shared by both the Panel and Lateral Economics that, even if there is some remote possibility that foreign airlines servicing Australia aren't equally as safe as Australian airlines, then the approval process that allows them to fly here somehow endows them with equivalent compliance and safety characteristics. That is not the case.

The reality of international access approvals is that due respect must be paid to sovereign nations and their assertions of ICAO compliance. The management of the relevant risks within Australia must reflect that those Australians choosing foreign airlines to enter or leave the country have made a considered decision to so travel, that within Australia the foreign aircraft operate on limited routes with limited exposure for underlying Australian territory and that the small number of international airports allows reasonably effective border and biosecurity protection. The approval process for a so-called Foreign Aircraft Air Operator's Certificate (FAAOC) is a considerably less stringent process than that applied to applicants foir Australian Air Operator's Certificates. The practical application of Australian law to foreign operators is often problematic, particularly extra-territorially.

Given the difficulties surrounding Jetstar's exploitation of Thai cabin crew employed under extra-territorial conditions, we are at a loss to understand what Lateral Economic's statement:

> …expectations and legal frameworks around labour conditions for foreign workers servicing short stay planes are also less contentious than for longer stay coastal ships…

actually means within the context of Australian employment law. We are confident that the existing arrangements for transiting crew are not suitable for the employment of foreign crew on cabotage activities.

What did the Competition Review Panel have to say about when Cabotage might be appropriate?

The Panel said:

> The Panel sees considerable benefits flowing from removing air cabotage restrictions for remote and poorly served domestic routes and regards the current blanket air cabotage restrictions on foreign-flagged carriers as inefficient.
>
> Consideration should be given to removing cabotage restrictions for all air cargo, and for passengers for specific geographic areas, such as island territories, and for poorly served routes.[44]

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42 ABC 2011, *Fears grow over India's fake pilots*, accessed 25 March 2011 at: http://www.abc.net.au/news/2011-03-24/fears-grow-over-indias-fake-pilots/2645216

43 China Daily 2010, *Many airline pilots have fake credentials*, accessed 20 September 2010 at: http://www.chinadaily.com.cn/china/2010-09/07/content_11265252.htm

44 Competition Policy Review 2015, *op. cit.*, page 209

The AIPA View on when Cabotage might be appropriate

In 2008, the Attorney-General's Department made a submission[45] to the National Aviation Policy statement in the specific case of the IOT. The submission related to the fact that flights between Christmas and Cocos Islands by foreign aircraft require the grant of cabotage. There was no suggestion of flights by foreign aircraft between the IOT and mainland Australia.[46] As mentioned previously, the Joint Standing Committee on the National Capital and External Territories recommended in 2010 extending the grant of cabotage to mainland Australia, entirely consistent with Australia's 2009 National Aviation Policy:

> The Government may consider unilateral cabotage in some exceptional circumstances: for example for operational reasons when domestic services are temporarily unavailable, or on a more long-term basis when a foreign carrier may seek to operate on a route which is not currently served by scheduled domestic airlines or which requires a government subsidy (such as routes between some of Australia's external territories and the mainland).[47]

AIPA considers what we call 'exceptional circumstances' cabotage as entirely appropriate, notwithstanding the complexities that may arise. However, the Panel's discussion represents a significant extension of existing policy by introducing the concept of a "poorly served domestic route" with no clarification of what or how it might be determined and by who.

In our considered view, approving Eighth or Ninth Freedom cabotage on the mainland would create a regulatory nightmare. This is particularly likely when the Australian public expects an identical safety outcome between foreign and local carriers without appreciating the difficulty of dealing with a mix of sovereignty for aircraft and crew, notwithstanding the attendant security and immigration issues. Achieving a practical outcome will inevitably invoke considerable costs, both in developing and applying effective compliance schemes in a large number of government portfolios, while the benefits alluded to by the Panel are undefined, uncosted and, we suspect, uncertain.

We are concerned that the Panel can choose to label a policy like the reservation of cabotage as 'inefficient', but feels no obligation to explain what and how much is being lost and to whom. There is also no discussion about which inherent characteristics of foreign carriers are going to create greater efficiency in the Australian domestic context.

Politically, we see considerable risk for the Government in approving cabotage in contested markets. If, for instance, the only reason that a foreign carrier can successfully contest a market is a significantly lower cost base, then the lower costs are likely to come from compliance, maintenance and crew costs and the spectre of reduced safety or the exploitation of a third world workforce will inevitably emerge.

Two other problems arise: firstly, the response of incumbent domestic carriers in a contested market; and second, the revenue leakage associated with foreign entities maintaining their headquarters offshore.

If the Panel was relying on the presumption that foreign airlines are inherently lower cost and that domestic carriers are somehow maintaining monopoly rents, then it is unlikely that domestic carriers will be able to respond in any significant way on the cost side. Given that the foreign airline will presumably gain some semblance of market share from the incumbents, the reduction on the revenue side is likely to result in the withdrawal of services

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45 Attorney-General's Department 2008, Aviation Policy and the Indian Ocean Territories, submission to the National Aviation Policy Statement, June, Canberra

46 *Ibid*., paragraph 17, page 5

47 Commonwealth of Australia 2009, *op. cit.*, page 44

by the domestic carriers. That seems to us to be a 'careful what you wish for' outcome, particularly if it results in lower domestic connectivity amid accusations of Government using foreign aircraft and crews to undermine the domestic operators' profitability and their workforce's standard of living.

Even under existing bilateral tax arrangements, the granting of cabotage in contested markets means the transferring of economic benefit offshore. Even though the lost revenue is likely to be small, the political cost might be much higher if the Government can't shake off the suggestion that it is facilitating a loss of Commonwealth revenue in much the same way as it is complaining about Google and BHP doing, albeit on a much grander scale. Certainly from our perspective, we do not believe that it is the role of the Australian Government to make foreign operators more viable at the expense of Australian operators.

As a final comment, the suggestion about removing cabotage restrictions for all air cargo, in the absence of any explanation, seems to be a somewhat disingenuous repetition of the existing National Aviation Policy:

> Recognising the benefits to the Australian economy of pursuing a liberal market for dedicated cargo services, the Government will continue to seek the removal of limits on all cargo capacity in our bilateral agreements and in multilateral forums.[48]

If, on the other hand, the Panel believes that we should unilaterally grant air cargo cabotage without seeking reciprocation from our bilateral partners, then they should expressly argue that view.

What was the final view of the Competition Review Panel on Cabotage?

The Panel's view

The Panel considers that reform of coastal shipping and aviation cabotage regulation should be a priority.

Consistent with the approach the Panel recommends for other regulatory reviews, the Panel considers that restrictions on cabotage for shipping and aviation should be removed, unless it can be demonstrated that the benefits of the restrictions to the community as a whole outweigh the costs and the objectives of the policy can only be achieved by restricting competition.

This approach should guide the current Australian Government consultation process in relation to coastal shipping.

The Panel sees considerable benefits flowing from removing air cabotage restrictions for remote and poorly served domestic routes and regards the current blanket air cabotage restrictions as inefficient..[49]

The AIPA View on Cabotage as recommended

AIPA sees no compelling argument to grant cabotage beyond what the Australian National Aviation Policy already allows. We do not believe that there is any justification to divert resources to address the considerable practical difficulties that will arise. Neither the benefits nor the enabling economic theories/mechanisms have been defined or explained. It seems abundantly clear that the costs to Government and to incumbent domestic carriers have not been considered, let alone assessed.

We are also concerned that the Panel has sought to escape any accountability for justifying its recommendations by reversing the onus and requiring someone in Government to create

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48 *Ibid.*, page 44

49 Competition Policy Review 2015, *Op. cit.*, page 210

a 'no' case for the proposed policy of economic unilateralism, which may best be described as an experiment whereby we might achieve some sort of efficiency without too many unintended effects. Given the debates that still rage about the actual benefits derived from our current free trade agreements and noting that they are generally bilateral, how are we to measure the 'benefit' that accrues from a unilateral grant of cabotage over any contested route?

Cabotage as an economic stimulus has become something of a standard proposal for airports and some tourist bodies, for example the NT Government has identified the need to generate greater tourist and business visitor flows "to stimulate economic growth in Northern Australia"[50]. In their response to the Green Paper on Developing Northern Australia, the NT Government continued the theme of cabotage acting as an impediment to foreign operators and "sees national merit in incentivising greater access to the Australian market by international carriers, and particularly carriers servicing the Asian tourism market."[51] Even more bizarre is the North Queensland Airports proposal that effectively abandons any concept of sovereignty or nationality or multilateral treaty compliance:

> The international connectivity, and by extension the economy, of northern Australia could benefit greatly by the airports in northern Australia having the freedom to pursue the establishment of a foreign carrier's operations base for international operations, without the requirement for the carrier to establish an Australian subsidiary in accordance with the current ownership and control provisions. Australia's bilateral agreements could be renegotiated to provide this carrier with Australian designation to operate international services (effectively unlimited seventh freedom rights) only from specified airports in northern Australia. Further to that, the government could consider granting restricted ninth freedom (cabotage) rights to the carrier, conditional upon the service originating from or terminating at the airport in northern Australia that the airline is using as a base. This would allow the airline to feed traffic into its international services from a large catchment.[52]

What characterises these proposals is the same absence of any examination of how/why/when this magic transformation might occur. At least the NT Government:

> …recognises the need to take into consideration the potential impact on Australian carriers and services operating within the Northern Territory, along with other border protection requirements…[53]

What struck us as the most relevant feature of the discussions was that both the NT Government and North Queensland Airports provided detailed explanations and adequate evidence of unsatisfied international capacity and marginal viability in both international and domestic markets. There are clearly deficiencies and underinvestment in infrastructure, both for inbound tourists and outbound cargo, compounding the future problems.

Unfortunately, none of this is new and the granting of cabotage "field of dreams'[54] approach does not have many supporters outside of the economic entrepreneurs who rarely have 'skin in the game'. There have been studies that provide some depth in the debate, for example, the Department of Resources, Energy and Tourism, on behalf of the Tourism Access Working Group, commissioned the "Regional Airports Project" as part of a:

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50 NT Government 2014b, Submission 92 to the Joint Select Committee on Northern Australia Inquiry into the Development of Northern Australia, February, page 9

51 NT Government 2014c, *Northern Territory Government Response to the Green Paper on Developing Northern Australia*, August, pages 29-30

52 North Queensland Airports 2014, NQA Response to Green Paper on Developing Northern Australia, 15 August, Cairns, page 37

53 NT Government 2014c, *op. cit.*, page 29

54 The central theme of the 1989 movie was "build it and they will come"

> …substantial investment into understanding how regional airports in Australia can overcome the challenges and impediments to attracting international air passenger services. Particularly, this investment has included a three stage project titled 'The Regional Airports Project', which was developed to investigate the reasons behind the limited uptake from foreign airlines of the regional bilateral air services packages (or 'The Packages') developed by the Australian Government.[55]

Most relevantly, Stage Three "focuses on factors that drive airlines to make decisions on new international air services and recommendations to regional airports and governments to overcome the challenges and impediments to attracting international services"[56]. AIPA believes that this document delivers the message that the cabotage proponents choose to ignore:

> **Core Finding**
>
> The most important finding of this Stage Three study is that the Packages are in themselves not a sufficient reason for an airline to begin a new **route but that airlines will only decide to fly to a region if the business case to do so is commercially viable.**
>
> Overwhelmingly, the airlines interviewed reinforced that unless a new route will be profitable and the destination meets certain key criteria, then it is irrelevant if the Packages exist or not. Those key criteria, determined through the interview process and essential in determining route profitability, are outlined below;
>
> 1. Does the destination have an iconic tourism appeal?
> 2. Is the destinations market catchment (population) 100,000+ people?
> 3. What is the potential for the outbound passenger market
> 4. Is there year round demand and what are the 5 year growth forecasts?
> 5. Is there a broad passenger mix (Business, Leisure, Visiting Friends and Relatives (VFR)) and potential for connecting domestic traffic?
> 6. What is the destination's geographic position in respect of a potential route, what is the appropriate aircraft type and does airport infrastructure match?
> 7. What are the airport's costs to the airline to operate?
> 8. Is there a whole of community approach to supporting a new route (airport, local government, community, State government)?
>
> Through the course of this study we have identified that the criteria listed above should from part of any Airports business proposal to an Airline. In addition, it still considered that the Packages are effectively achieving their intended role in that they are creating an environment conducive to growing international air services direct to regional airports, removing bilateral impediments and facilitating air services, **where they are commercially viable**.[57]

If the only way that an otherwise non-viable, non-exceptional circumstances route is opened is as a consequence of the granting of cabotage to a foreign operator, then the Government has effectively subsidised that operator to fly that route. The subsidy is at least the sum of the cost of such Government services as may be necessary to manage the various risks associated with foreign operations in domestic markets plus the cost of the economic activity diverted offshore. Given that the foreign operator can place capacity into that market at marginal cost if conducting consecutive cabotage or from a much lower cost employment market if conducting standalone cabotage, the ability for that foreign operator to rapidly shift from charging a monopoly price in the absence of local competition to a

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55 Airbiz 2012, *Regional Airports Project Final Report*, 16 November, page 3

56 *Ibid*., page 3

57 *Ibid*., page 4

marginal price to respond to competition constitutes a Government-created barrier for local airlines to enter that market should it develop into a more viable proposition.

The AIPA View on "Investment" Cabotage as a feature of Australia's National Aviation Policy

At the beginning of this submission, we made mention of Australia's performance as a world leader in the liberalisation of air services. Later, we expressed our support for 'exceptional circumstances' cabotage and finally rejected proposals to grant consecutive or standalone cabotage in our domestic markets.

As a closing point, AIPA believes that it is important to re-emphasise the sophistication of Australia's long-standing policy of permitting unlimited foreign ownership of our domestic airlines, the so-called 'Investment Cabotage' policy.

Permitting unlimited foreign ownership of our domestic airlines means that we can take advantage of all the available competitive forces in the global aviation industry while "ring-fencing" the negative aspects of dealing with offshore entities. The only barriers to entry are those of creating an Australian legal entity and meeting the ICAO-based entry controls of the Civil Aviation Safety Authority to gain an Air Operator's Certificate.

Importantly, the competitive environment is identical for all incumbents as they must operate in the same legal, tax, employment, supply chain and financial systems. Equally as important is the ability to ensure that Government revenue and economic benefit remains in Australia. Under our 'investment cabotage' policy, any competitive advantage flows from intellectual and management characteristics rather than the undermining of cost bases by exploiting lower socio-economic sources of labour and materials.

It is unfortunate that this particularly undesirable latter characteristic appears to be the economic tool of choice for the advocates of the traditional forms of cabotage. It may well be that the social and moral response to that choice forms part of the reasons why canbotage continues to be rejected worldwide by non-aligned states in ASAs.

OUR RECOMMENDATION

AIPA recommends that the Australian Government note the Panel's views but declines to vary the approach taken to ASAs and cabotage in Australia's current National Aviation Policy

Yours sincerely,

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