



Virgin Australia Group submission in response to the Aviation Green Paper

Contents

Executive Summary	3
1. International competition: Bilateral agreements and foreign investment	5
2. Noise and Community Consultation	14
3. Future Industry Workforce	20
4. Safety, Security (Passengers and Cargo) and Navigation Regulation	25
5. The Role of Airlines and Airports in Supporting Regional Economies	32
6. Maximising aviation's contribution to net zero	36
7. Competition and cabotage	43
8. Consumer protections	58
9. Negotiations between airlines and airport, pricing principles and slots	68
10. Disability Access	90
11. New Aviation Technology	101

Executive Summary

Virgin Australia Holdings Pty Ltd - and its related entities (collectively **Virgin Australia**) - is a Brisbane based, privately owned airline company, operating a domestic and short-haul international passenger airline, Virgin Australia. Virgin Australia also includes charter and regional flying from our base in Western Australia through Virgin Australia Regional Airlines (**VARA**), Virgin Australia Cargo, and a loyalty program, Velocity Frequent Flyer (**VFF**).

Virgin Australia maintains a robust global network, encompassing a total of 585 destinations. Virgin Australia itself directly serves 38 ports, while customers benefit from access to an additional 547 global destinations through partnerships with leading airlines including United Airlines, Singapore Airlines, Air Canada, Hawaiian Airlines, Etihad Airways, Virgin Atlantic, South African Airways, and Qatar Airways.

Virgin Australia's ambition is to be the most loved airline in Australia, with a winning team that attracts the very best, generates extraordinary loyalty from guests, and delivers excellent returns for its owners.

As Australia's second-largest airline, Virgin Australia has experienced a strong rebound in domestic travel following the COVID-19 pandemic. The airline holds an iconic brand and offers a rejuvenated customer value proposition, underpinned by better value and improved choice for Australian travellers.

Following a significant transformation, Virgin Australia has successfully reduced debt and reset its cost base, leading to improved financial stability. Streamlining its fleet to feature predominantly Boeing 737 family aircraft has optimised operational and cost efficiency. Additionally, the company has strategically optimised its route network, focusing on domestic and short-haul international routes.

In financial year 2023, Virgin Australia achieved a milestone by reporting a statutory net profit after tax (NPAT) of \$129 million, its first profit in 11 years. This notable achievement reflects the business' successful transformation and resilience. Through its new business model, Virgin Australia has intensified competition in the Australian aviation landscape, catering to diverse customer preferences and requirements, and solidifying its position as a leading player in the industry.

Despite Virgin Australia's efforts to appeal to all passengers, the Qantas Group dominates every passenger segment, and there are significant barriers to challenging its position. The market's current structure is influenced by government policies and regulatory responses implemented over many years. To enhance competition, Virgin Australia recommends policy and regulatory changes, including strong oversight by the Australian Competition and Consumer Commission (**ACCC**), utilising Government procurement decisions to foster competition and acknowledging the connection between international competition and domestic operations.

Bilateral agreements play a critical role in Australia's aviation sector, benefiting stakeholders including the tourism and agricultural industries. These agreements are vital to support Virgin Australia's domestic network and strengthen its loyalty program, underpinning effective competition in the domestic market. It is crucial that government decisions regarding international capacity rights are made transparently, based on clear criteria, and involve broad consultation to ensure the interests of all impacted parties are considered.

Negotiations between airlines and **airports** are affected by an imbalance of bargaining power, primarily due to the monopoly status of airports. This limits the ability of airlines to influence airport investments, leading to potentially inefficient capitalisation and higher costs for passengers. The current price monitoring regime lacks effectiveness, and the Aeronautical Pricing Principles need to be enforceable through a negotiate/arbitration regime. The ACCC should possess the power to arbitrate disputes between airports and airlines when negotiations fail. Improvements in transparency

are vital, including consistent disclosure of information by airports to airlines, allowing thorough assessment of pricing proposals.

Virgin Australia is committed to fair **slot allocation** and compliance with relevant regulations, such as the Sydney Airport Demand Management Scheme. Operational complexities, rather than slot hoarding, contribute to flight cancellations. Virgin Australia supports efforts to enhance slot management efficiency at Sydney Airport but would dispute any proposed changes to the 80/20 rule. While slot availability may be concentrated during peak periods, significant availability exists throughout the week. Virgin Australia's slot holdings reflect its optimal schedule to meet customer needs and sustain competitiveness in the Australian aviation market.

Sustainability remains a central tenet of Virgin Australia's operations and future growth. Virgin Australia has a comprehensive sustainability strategy encompassing environmental, social, and governance targets. The airline aims to reduce greenhouse gas emissions intensity by 22 per cent by 2030 and achieve zero general waste to landfill by 2032. Virgin Australia has taken a multi-faceted approach to decarbonisation with the acquisition of more fuel efficient aircraft being the primary lever in the short-to-medium term. Virgin Australia's latest generation Boeing 737-8 aircraft are 15 per cent more fuel efficient and 40 per cent quieter than the Boeing 737 NG aircraft. The airline is also collaborating with The Boeing Company to explore sustainable solutions to the high-profile challenge of sustainable aviation fuel.

Virgin Australia recognises the importance of **consumer trust and confidence** in the aviation industry. While customer experience continues to be a focus for Virgin Australia, it acknowledges the need for greater clarity and certainty in complaint resolution. The existing Australian Consumer Law (ACL) provides a comprehensive framework for consumer rights and compensation, and Virgin Australia believes it remains fit-for-purpose. Industry-specific regimes, such as a Passenger Bill of Rights or a fixed compensation regime, are unlikely to meet the necessary requirements and could negatively impact customer outcomes and operational performance.

Virgin Australia supports **collaborative efforts between the ACCC and the industry** to enhance consumer awareness of ACL provisions and improve the effectiveness of the external complaint handling process through efficient changes to the Airline Consumer Advocate.

After a swift rebound in travel demand post-pandemic, the aviation industry faces ongoing challenges from economic factors such as slowing economic growth, elevated energy prices, and persistent inflation. Despite, these difficulties, Virgin Australia remains committed to becoming Australia's most loved airline, embracing both challenges and opportunities in its growth and evolution.

Virgin Australia congratulates the Federal Government on embarking upon a new Aviation White Paper, and is grateful for the opportunity to contribute its insights and perspectives on shaping the future of the aviation sector. The importance of thoroughly considering the issues that lie ahead for the aviation sector through to 2050 will ensure a comprehensive and forward-thinking approach to shaping the future of the industry. In so doing, helping to ensure that the aviation sector continues to play a pivotal role in connecting Australians to friends, experiences and opportunity both domestically and abroad.

1. International competition: Bilateral agreements and foreign investment

Key Takeaways

- International flying rights granted under bilateral arrangements are key to the interests of stakeholders across the Australian community, including in tourism and agriculture.
- For Virgin Australia, bilateral arrangements are important to ensuring the success of Virgin Australia's domestic network and the strength of its loyalty program offering, enabling it to effectively compete with Qantas.
- The importance of bilateral arrangements means that it is critical that Government decisions affecting international capacity rights should be made transparently according to clear criteria, with broad consultation and published reasons.
- Given the lead time involved, the ability of an airline to add new or increased international services is best supported by a policy of providing capacity ahead of demand.

1.1 Bilateral Agreements

(a) Overview: Virgin Australia's interest in bilateral agreements

Virgin Australia's experience and observations of the recent Government decision not to enter into negotiations with Qatar for the grant of further flying rights has highlighted the need for increased transparency, consultation, and certainty around bilateral agreements. In particular, a clearer focus on the impact of bilateral decisions on competition in international and domestic aviation markets, as well as the industries that depend on these services.

Virgin Australia agrees with the key recommendations of the Senate Select Committee on Commonwealth Bilateral Air Service Agreements (**Bilaterals Senate Committee**) that the Australian Government should:

- o immediately review its decision not to increase capacity under Australia's bilateral air services agreement with Qatar; and
- o consult widely with key stakeholders on such decisions.

Virgin Australia agrees that the ACCC is a key stakeholder, but this consultation should also extend to other Australian airlines, airports, tourism bodies, State Governments, and relevant industry bodies.

Given the wide-ranging impacts of bilateral air service agreements on Virgin Australia's business, Virgin Australia expects to be consulted as a matter of course on changes to bilateral agreements. International services are vital to the attractiveness of Virgin Australia's network. They are also vital to its ability to attract and retain Australian travellers who value loyalty offers and look for opportunities to earn and redeem points across both international and domestic services, especially when travelling for business.

Whether Virgin Australia's network is operated on its own aircraft or a virtual one through codeshare with partners, it relies on the availability of bilateral rights to make this possible. In this case, Virgin Australia lost the opportunity to further expand codeshare services with partner Qatar Airways, in competition with Qantas Group and its alliance with Emirates. Emirates has capacity to operate 105 weekly services to and from Brisbane, Sydney, Melbourne and Perth whereas Qatar Airways has capacity for just 28. If additional consultation had occurred with a wider range of stakeholders, the overwhelming support for, and benefits of, Qatar's request would have been clearer.

Without adequate bilateral rights, which are allocated in accordance with the principle of capacity before demand, the competitiveness of Australia's international travel markets will be compromised. If capacity doesn't outstrip demand, then international ticket prices will remain out of reach for most Australian travellers and many tourists wishing to visit our country, as it has throughout 2023¹. This has flow on effects for competition in the domestic aviation market as international passengers add important feeder traffic to domestic services, and the ability to offer an international network improves Virgin Australia's ability to compete with Qantas' network and loyalty proposition.

(b) Bilateral Agreements are necessary to underpin Australian industry

Virgin Australia considers it is critical that the right bilateral agreement settings are in place to promote competition, consumer welfare, tourism, trade and business.

As the Board of Airline Representatives of Australia (**BARA**) noted in its submission to the Bilaterals Senate Committee, a new airline service brings new and additional inbound visitors to Australia, increases cargo capacity, and facilitates business and economic opportunities.

Prior to the COVID-19 pandemic, the visitor economy contributed over \$166 billion to Australia's economy, was Australia's fourth largest export sector and, directly and indirectly, supported over one million jobs.²

International flights to and from Australia remain below pre-COVID levels. According to BITRE, international passenger traffic for the year ended June 2023 was 29.787 million, a 29 per cent per cent decrease, compared to 42.123 million for the year ended June 2019. Available seats also remain below pre-Covid levels with 3.646 million seats available on international scheduled operations to or from Australia in June 2023, compared with 4.223 million seats in June 2019. With international air passenger services offering the majority of air cargo capacity, the lower number of passenger services has also translated to a reduction in freight traffic, with international scheduled freight traffic for June 2023 of 73,246 tonnes remaining below 84,041 tonnes for June 2019, despite ever-growing demand for such services.

The reduction in international air services due to COVID-19 has had a significant impact on the tourism industry. Exporters of perishable goods have also been directly impacted since they rely on transportation by air services due to the limited product shelf lives of their goods.³

International air service agreement negotiations provide an important opportunity to restore the level of international passenger and freight services to pre-pandemic levels. Additionally, it can resume the pattern of economic growth that had been experienced in the lead up to the pandemic.

(c) Broader impact on domestic aviation and beyond

Bilateral air service agreements and allocations of international capacity have broader impacts beyond international air passenger and cargo markets. International air capacity allocations impact Virgin Australia's network, performance of domestic services, ability to compete for corporate customers, and the strength of the Velocity Frequent Flyer program and Virgin Australia's brand.

The connection between capacity allocations under bilateral air service agreements and domestic aviation were recently acknowledged in statements made to the Bilaterals Senate Committee. In relation to Qatar's request for additional capacity (see below for further detail):

¹ IATA Direct Data Solutions; industry fare data for Australia to London, Paris and Rome; FY23 & FY19.

² Australian Government, *Aviation Green Paper: Towards 2050*, September 2023, p 30.

³ *Aviation Green Paper: Towards 2050*, pp 2, 31; McKell Institute, *Australian Aviation and COVID-19 Analysis of support and impact*, 2021, p 7.

- Flight Centre CEO Graham Turner stated that “*Virgin don't fly internationally much, so they would get quite a bit of benefit out of the domestic on-travel, which would help their people employ more people in that*”;⁴ and
- Dr Tony Webber of Airline Intelligence Research suggested that about eight to ten per cent of international passengers would go on to fly on a domestic leg.⁵

This accords with Virgin Australia’s experience. Pre-COVID between 7 to 10 per cent of total industry domestic traffic was sourced internationally. For Virgin Australia, pre-COVID ~5 per cent of total domestic traffic connected from an international service, compared to 3 per cent today.

The high fixed costs associated with operating air passenger services make even a modest increase of passengers arriving in Australia on international flights potentially capable of rendering additional domestic frequencies viable. This is achieved by distributing these fixed costs over a larger passenger base without materially increasing marginal operating costs.

A key driver of consumer choice when it comes to purchasing air travel is loyalty membership and rewards. Passengers want to earn points travelling for business and leisure and redeem them when travelling for leisure. Virgin Australia facilitates point earning and redemption opportunities across its broad network of international and domestic travel destinations which are serviced either through its own operations or by partner airlines. This enhances the appeal of its loyalty program. This strategic advantage positions Virgin Australia to compete more effectively with Qantas, which boasts the entrenched benefits of a vast domestic and international network, coupled with the largest airline loyalty program membership in Australia, exceeding 14.5 million members.

(d) Virgin Australia’s strategy for international services

Following Voluntary Administration, Virgin Australia streamlined its fleet and does not currently operate any widebody aircraft. Virgin Australia’s current strategy for long haul international services is centred on a comprehensive network of codeshare partners, including Qatar Airways, Singapore Airlines, ANA, Air Canada, Hawaiian Airlines and United Airlines.

These partnerships enable Virgin Australia to:

- offer customers a compelling value proposition that is centred around where and how frequently Virgin Australia fly, which builds brand loyalty;
- achieve network reach without incurring significant costs and risks to Virgin Australia’s business;
- be more agile in recommencing international services in circumstances where access to aircraft has been limited;
- enhance the suite of benefits under Virgin Australia’s Frequent Flyer Program (**FFP**), including more destinations for customers to earn status credits and earn and redeem points;
- provide competition to Qantas and more options for consumers across domestic and international services; and
- compete more effectively for corporate and small business contracts in the Australian domestic market.

⁴ Mr Graham Turner, *Proof Committee Hansard*, 19 September 2023, p. 25.

⁵ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 13.

Virgin Australia will continue to leverage these partnerships to strengthen its customer value proposition and increase its share of passenger preference. Additionally, these partnerships have strengthened Virgin Australia's capacity to invest in new routes and new aircraft, including 36 new 737 MAX deliveries expected over the next five years.

(e) **Bilaterals should provide Australian carriers codeshare rights as well as operating rights**

Virgin Australia has a partner network strategy for the overwhelming majority of its international destinations, which means that it is important any air service agreements do not limit Australian carriers' ability to market international services on a codeshare basis. Virgin Australia does not have any current plans to acquire widebody aircraft, which are required for the operation of long-haul international services. Therefore, any unreasonable constraint on Virgin Australia's ability to market international services on a codeshare basis would limit its ability to compete with Qantas domestically. This includes corporate and small business customers and loyalty program offerings.

In the current system of bilateral agreements, the treatment of codeshare services is inconsistent. Virgin Australia would favour the full liberalisation of codeshare rights under bilateral agreements, removing any existing capacity constraints on the exercise of these rights. To ensure that these rights are fairly allocated, Virgin Australia suggests that the International Air Services Commission (**IASC**) should retain its current authority over the allocation of these rights, having regard to factors including competition effects.

There are several markets where Virgin Australia would like the opportunity to market on a Virgin Australia code the services operated by partner airlines. Alternatively, Virgin Australia could allow its own international partner airlines to market Virgin Australia's operated services on their code who are currently unable to under the existing bilateral arrangements.

These include:

- Fiji and Samoa, where Virgin Australia's international partners cannot market Virgin Australia-operated services due to restrictions in the bilateral agreements.
- France, where codeshare services by an Australian airline are counted against Australian carriers' operating allocation, which leaves little room for codeshare services.
- Italy, where there are limits on codeshare services with third country airlines that prevent Virgin Australia's partners from making codeshare available to Virgin Australia.
- Colombo (Sri Lanka) via Singapore, which contains limitations that prevent Virgin Australia from being able to codeshare on Singapore Airlines' through-services to Colombo.

The flexibility to codeshare on partner airlines does not prevent Virgin Australia from entering operations where Virgin Australia narrowbody aircraft have the flying range to do so. Virgin Australia assesses the viability of international routes on an ongoing basis. In 2023, Virgin Australia launched international services to Tokyo (Haneda) and recommenced services to Samoa and Vanuatu. This followed the recommencement of Queenstown services from late 2022, Bali services from mid-2022 and Fiji services from late 2021.

(f) **Reflections on Qatar decision**

In 2023, the Federal Government rejected a request from the Qatar Civil Aviation Authority (**QCAA**) to commence negotiations to deliver an additional 28 flights per week (the **decision**). These flights would have been between Qatar (Doha) and Melbourne, Sydney, Perth and Brisbane (one per day per port).

In response, the Senate established the Bilaterals Senate Committee inquiry in response to "widespread public interest" in the decision including concerns from a range of commentators in

relation to competition and consumers who were concerned around the cost of living. This gave Virgin Australia, as well as other stakeholders, the opportunity to share their concerns about the decision. From the perspective of Virgin Australia's international network strategy, it impeded its ability to further expand its codeshare services with Qatar Airways. Consequently, Virgin Australia's ability to enhance the frequency of its virtual network to the Middle East, Africa and Europe was significantly restricted. Additionally, it delivered a direct benefit to Qantas Group by reducing competition for its services in partnership with Emirates. From a broader perspective, the decision was clearly against the interest of consumers facing extraordinarily high prices for international travel and scarcity of supply as demand outstrips capacity post-COVID.

Improvements are needed to the system of negotiating bilateral agreements to avoid a repeat of these outcomes in the future.

(i) *Need for clearly defined national interest criteria*

Virgin Australia agrees with the observation in the Bilaterals Senate Committee report that:

The Minister has said the decision was based on the national interest. But to the committee's knowledge, the minister has not clearly articulated the factors that informed her assessment of the national interest, nor set out how they were applied in this case. Moreover, a wide range of witnesses, including key stakeholders in Australian aviation, submitted that they did not fully understand the basis for the decision.

Virgin Australia considers that the decision highlights the need for clear guiding principles / defining factors as to how the national interest is assessed.

While Virgin Australia recognises that the Government must maintain some flexibility in its assessment, Virgin Australia considers that some of the guiding principles specified for the IASC in decisions it makes relating to capacity allocations are relevant in determining what is in the national interest for the purposes of negotiating bilateral air service agreements. Virgin Australia suggests a framework be developed that specifies factors that the Government *may* take into account in assessing the national interest, to provide more guidance for both the Government and interested parties.

In assessing benefit to the public, IASC must have regard to clear criteria set out in the *International Air Services Commission Policy Statement 2018*. This includes a 'reasonable capability criterion' and 'additional criteria'. Many of these 'additional criteria' could form part of an appropriate framework for considering increases to bilateral capacity, including relevantly:

	IASC additional criteria	Virgin Australia submission
Competition criteria		
(a)	the desirability of fostering an environment in which Australian carriers can effectively compete with each other and with foreign carriers on the route in question;	Virgin Australia recommends for inclusion as part of framework.
(b)	the number of carriers operating on the route in question and the existing distribution of capacity among Australian carriers (including through code sharing and other joint international air services);	Virgin Australia recommends for inclusion as part of framework. Where there is only one carrier operating on a route or where the existing capacity distribution is uneven, this should support negotiations for additional capacity.

	IASC additional criteria	Virgin Australia submission
(c)	the likely impact on consumers of the proposed allocation, including on costs of airfares, customer choice, product differentiation, stimulation of innovation by incumbent carriers, and frequency of service;	Virgin Australia recommends for inclusion as part of framework.
(d)	the desirability of fostering own aircraft operations by Australian carriers over code share or other joint international air services involving the marketing, by an Australian carrier, of seats on flights operated by foreign carriers;	Virgin Australia considers this ground is more relevant to the allocation of finite capacity, rather than any consideration of whether to change bilateral capacity.
(f)	any determinations, decisions or notifications made by the ACCC, or any determinations made by the Australian Competition Tribunal, in relation to an Australian carrier using capacity in all or part of the route;	Virgin Australia recommends for inclusion as part of framework.
(g)	any determinations, decisions or notifications made by a foreign agency that performs a comparable function to the ACCC or the Australian Competition Tribunal, or by a foreign aeronautical authority, in relation to a carrier using entitlements under a bilateral arrangement on all or part of the route;	Virgin Australia recommends for inclusion as part of framework.
<i>Tourism and trade criteria</i>		
(h)	the level of promotion, market development and investment proposed by each of the applicants;	In the context of considering changes to bilateral capacity, this would be by the overseas carriers that would be impacted by a change in capacity.
(j)	the availability of frequent, low cost, reliable air freight movements for Australian importers and exporters;	Virgin Australia recommends for inclusion as part of framework.
<i>Relevant information obtained from Government agencies</i>		
(k)	any information that the Commission has obtained from Australian Government agencies or statutory authorities that the Commission considers to be relevant;	Virgin Australia recommends that there be consultation with at least the Department of Foreign Affairs and Trade (DFAT), Treasury, Austrade and the ACCC as a matter of course (see below).
<i>Any other relevant consideration</i>		
(l)	any other matter or consideration that the Commission considers to be relevant;	Virgin Australia recommends for inclusion as part of framework.

In relation to the competition criteria, Virgin Australia agrees with the ACCC Chair Gina Cass-Gottlieb that competition issues should be “one key area considered” with regard to the national interest.⁶ Other parties who provided evidence to the Bilaterals Senate Committee also recognised the benefits of increased competition in aviation, including the Australian Chamber – Tourism and Victorian Chamber of Commerce and Industry. Had the impact on competition been more thoroughly considered, Virgin Australia hope the Government would have come to a different conclusion on Qatar’s request.

Similarly, submissions also support the inclusion of tourism and trade criteria in determining what is in the national interest. These include submissions from the Australian Trade and Investment Commission (**Austrade**), Victorian Chamber of Commerce and Industry, and the Australian Travel Industry Association.

(ii) *Need for clear consultation process and transparency in decision-making*

Recommendation 2 of the Bilaterals Senate Committee stated that:

when making decisions relating to bilateral air service agreements, the Australian Government have regard to a cost benefit analysis, consult widely with key stakeholders including the Australian Competition and Consumer Commission, and publish a statement of reasons for decisions taken.

While the Bilateral Senate Committee has suggested a cost benefit analysis to guide decision making, Virgin Australia considers that there are other frameworks, like that for IASC allocation decisions, that more relevantly apply to bilateral assessments. This would provide a consistent approach to international air capacity, while giving the Government the flexibility it needs for these kind of agreements.

Given the wide-reaching impacts of decisions relating to capacity, Virgin Australia agrees that when making decisions relating to bilateral air service agreements:

- o there should be timely consultation as a matter of course with a range of stakeholders, including airports, other airlines, tourism bodies, regulatory agencies, and other interested parties in relation to any decisions affecting bilateral capacity allocations. This includes proposed amendments limited to only existing capacity arrangements, such as with Qatar; and
- o as suggested by the Bilateral Senate Committee, major decisions, such as those relating to bilateral air service agreements, should be publicly explained. This would be in the interests of transparency and enable key stakeholders to understand decisions and be better informed in their long-term planning. Virgin Australia understands there may be some decisions which cannot be fully disclosed as this would prejudice Australia’s national security or diplomatic relations. However, as recognised by submissions to the Bilateral Senate Committee, the Government should clearly state where this is the case and fully explain decisions to the extent possible.⁷

(g) **Increases to capacity ahead of demand**

Virgin Australia agrees with the policy of ‘providing capacity ahead of demand’ as expressed in the Green Paper, where it is in the national interest to do so. Even once capacity is available, Australian airlines need to go through a number of steps before services can be launched. These include:

- o an IASC determination for capacity allocation;

⁶ Ms Gina Cass-Gottlieb, Chair, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 39.

⁷ For example, Accommodation Australia, ‘Submission to Senate Select Committee Inquiry into Bilateral Air Service Agreements’, September 2023.

- negotiations with airports for slots and airport facilities;
- aircraft procurement and operational readiness planning, including an Airport Induction Program, which is a Civil Aviation Safety Authority (**CASA**) requirement;
- lead-time; and
- advanced marketing and sales to attract passengers.

As the Australian Airport Association noted to the Bilaterals Senate Committee, being able to forecast bilateral capacity ahead of demand provides the certainty for airlines to plan procurement and deployment of aircraft as well as for airports to plan improvements to infrastructure and terminal capacity. Providing early certainty about available capacity has the potential to stimulate further demand from airlines as well as investment from airports, increasing economic benefits for Australia, including in tourism industry and for exporters.

Despite this policy some international travel markets are at or near capacity for Australian designate carriers, such as Indonesia. The Australian Travel Industry Association identified this as a barrier to growth in the Bilaterals Senate Committee inquiry. For Virgin Australia, this makes it difficult to grow frequencies on existing markets, especially Indonesia, where Virgin Australia cannot access further flying rights. This is despite Indonesia being a prime destination for Australians and which would be well-served by Virgin Australia's existing aircraft types (Virgin Australia holding less than a fifth of the capacity that Qantas Group holds to Indonesia).

Consistent with the policy of increasing capacity ahead of demand, the Australian Government is exploring an increase in capacity within bilateral arrangements with Indonesia. Virgin Australia welcomes this initiative and looks forward to a positive conclusion in these negotiations. Virgin Australia believes that such an expansion will strengthen ties and enhance air travel connectivity between the two nations. Additionally, Virgin Australia encourages the IASC to review existing capacity given the imbalance in access.

(h) Allocation of capacity

Once bilateral capacity has been agreed, it is important that allocation of capacity by the IASC promotes competition between Australian airlines. In Virgin Australia's experience, the IASC process is transparent and clear. However, Qantas Group currently holds the lion's share of capacity, and this dynamic means that Virgin Australia has had some difficulty obtaining capacity. For example, for Indonesia, there are no available unallocated seats per week in each direction to and from Sydney, Melbourne (including Avalon), Brisbane and Perth.

Under the Australia-Indonesia air services arrangements, Australian designated carriers may operate up to 25,000 seats per week of passenger capacity in each direction between Indonesia and the following points in Australia: Sydney, Melbourne, Brisbane and/or Perth. Of these seats, **only** 4,924 are allocated to Virgin Australia which is less than 20 per cent, with the balance allocated to the Qantas Group. This leaves Virgin Australia in a much weaker competitive position in relation to a key market for Australian travellers.

In relation to Japan, only three frequencies in each direction per day are available for Australian carriers to Haneda Airport. Of these, two frequencies are allocated to Qantas with the final frequency allocated to Virgin. Virgin Australia is now operating these services, but experienced significant challenges holding onto this allocation during the COVID recovery period as Qantas argued that the capacity should be reallocated to it. While Virgin Australia agrees that airlines should use their capacity allocations or lose them, this was an inappropriate and anti-competitive request in the context of COVID recovery and delays in the delivery of aircraft orders. Virgin Australia appreciates the IASC taking these factors into account in its decision to give Virgin Australia additional time to utilise these allocations.

(i) **Open skies**

Virgin Australia agrees with the Australian Government's proposal in the Green Paper to negotiate Open Skies style agreements where it is in the national interest and can be bilaterally agreed, as long as:

- a bilateral agreement with the relevant country already exists;
- the Open Skies arrangement would be limited to designated airlines of the relevant country that is party to the bilateral air services agreement and Australian designated airlines (not fifth freedom airlines); and
- there is a substantive balance in the rights of the two countries which does not leave Australia designated airlines at a disadvantage compared with their foreign counterparts.

1.2 Foreign investment

Australia's current policy settings with respect to foreign investment in Australian domestic airlines have enabled foreign investment and new entry by Bain Capital (majority owners of Virgin Australia) and shareholders of Alliance Airlines, Bonza, Regional Express and historically, Tiger Airways.

Virgin Australia considers that current settings are appropriate and should be maintained.

2 Noise and Community Consultation

Key Takeaways

- The Noise Complaints Information Service (**NCIS**) is limited in its ability to provide independent advice and information to the public due to its placement within Airservices Australia (Airservices). It should instead sit within CASA or the Department of Infrastructure and Transport. This would strengthen its independence and enhance its capacity to provide objective advice and information, ensuring that decisions regarding noise complaints benefit both the community and the travelling public.
- Like the NCIS, the Aircraft Noise Ombudsman (**ANO**) sits within Airservices and is unable to be truly independent when conducting investigations and making recommendations. It should be run by the Department of Infrastructure and Transport to ensure impartiality.
- Greater public awareness of aviation is crucial to improve community receptiveness to changes in flight paths and mitigate concerns about aircraft noise from the onset.
- The Flight Path Design Principles (**FPDP's**) current focus is on 'finding the balance' between community and industry/consumer needs for Airservices. However, there is currently no attempt to identify this balance or attempt to apply any criteria to determine the 'least bad outcome' for stakeholders (be they in community or industry).

2.1 Overview

The NCIS plays a crucial role in addressing noise complaints related to aviation activities. To improve its effectiveness, it is recommended to establish the NCIS as an independent entity, or for the NCIS to sit within CASA or the Department of Infrastructure and Transport. This will ensure that NCIS can provide independent advice and information by separating it from Airservices.

Transparency in the decision-making process is important. Airlines and airports can support better management of aircraft noise by aligning the various agencies involved, prioritising effective community engagement, investing in quieter and more fuel-efficient aircraft, and adopting sustainable practices such as continuous descent approaches. The order of primacy, giving importance to safety, community needs, sustainability, fuel burn, and cost should also be considered in noise management initiatives.

Transparency can be improved by publishing information about decisions made by CASA, Airservices, and airports regarding flight paths, aircraft approaches, and departures. This would enhance public awareness, community receptiveness, and enable informed discussions. Providing accessible information helps communities understand the reasons behind changes and fosters trust in aviation authorities.

Flight path design principles should be improved by clearly defining the balance between community and industry needs and by incorporating weighting and evaluation criteria to facilitate a comprehensive assessment. Independence in addressing noise issues and prioritising safe and efficient air traffic management are also critical considerations for effective flight path design principles.

2.2 Aircraft Noise

(a) **The NCIS should become an independent entity to reduce conflicts of interest and ensure independent advice and information is provided to the general public**

The NCIS plays a crucial role in investigating and addressing noise complaints related to aviation activities. While it has been effective in its current format, there are opportunities for improvement to ensure the provision of independent advice and information to the community.

One limitation of the NCIS is its placement within Airservices, which poses potential conflicts of interest when balancing the aviation industry needs with community needs. The NCIS should be established as an independent entity, separate from Airservices, to provide unbiased advice and information to all stakeholders involved.

A recent example of this was a proposal by the major users at Sydney Airport to increase the cross-wind limit from 20 knots to 25 knots on the main parallel runways at Sydney Airport. This proposal was supported by the major airlines (including Virgin Australia, Qantas Airways, Jetstar, QantasLink, Express Freighters Australia, Regional Express and the Royal Flying Doctor Service) and endorsed by Sydney Airport. A Safety Assessment in relation to this proposal was undertaken which concluded that increasing the crosswind limit to 25 knots at Sydney Airport *“poses no change in risk level to the current 20kt crosswind limit and therefore is at an equivalent level of safety”*.⁸

This proposal would enable greater parallel runway use for longer periods when cross-wind exceeds the 20 knot limit. In these circumstances, flights are forced to utilise the crossing runway only due to the cross-wind, which is reduced to 20 available arrival slots per hour. This proposal would also reduce diversions and long delays which in turn would reduce safety and compliance risks. When asked for input on the proposal, the Bureau of Meteorology (BOM) advised that an increase to the crosswind threshold (from 20 knots to 25 knots for W/SW winds), would see *“roughly a 75% reduction in the number of crosswind events [single runway mode of operations]”*.⁹

Virgin Australia has found that Airservices are unwilling to explore this change due to concerns about impacts to noise sharing arrangements, of which Airservices is believed to have specific targets.

The 20-knot crosswind limit has significant implications for both Virgin Australia and the industry:

- **Reduced arrival rate at Sydney Airport:** The 20-knot crosswind limit imposes a significant constraint on the arrival rate at Sydney Airport, which limits the number of aircraft that can land per hour.
- **Allocation of slots:** Out of the 20 slots at Sydney Airport, which is the nominated rate when operating on the crossing runway mode, Virgin Australia may only secure 8 slots (NB: the number of slots Virgin Australia may secure changes for each disruptive event and the number used in this example is hypothetical).¹⁰ Fair distribution across all operators is important for Virgin Australia because it impacts their operational capacity.
- **IOC decision-making:** Virgin Australia's Integrated Operations Centre (IOC) assesses slot availability and faces decisions on flight management. Options include either (1) cancelling flights or (2) delaying flights to utilise the slots during periods of more capacity.

⁸ Safety Case supporting a proposal to increase the Sydney Runway Nomination Crosswind Limit from 20 knots to 25 knots

⁹ Safety Case supporting a proposal to increase the Sydney Runway Nomination Crosswind Limit from 20 knots to 25 knots

¹⁰ A slot is a time allocated to a flight to land at an airport. Virgin Australia is referring to the Air Traffic Flow Management (ATFM) slots available (which is different to an Air Coordination Australia (ACA) slot) where Air Traffic Control (ATC) determine an arrival rate based on the weather conditions and available capacity. When the arrival rate is reduced at Sydney Airport because of cross wind, the slots available per hour is 20.

- **Network-wide impacts:** Flight disruptions in and out of Sydney Airport have cascading effects on other airports.¹¹ The extensive network connected to Sydney amplifies the significance of flight cancellations or delays, creating ripple effects across the aviation system.
 - On 30 June 2023, 25 flights were cancelled due to single runway operations as well as Airservices staffing issues. Virgin Australia data showed that if the crosswind limit was to 25 knots, operations would have only been required on a single runway for two per cent of the day rather than 40 per cent.
 - On 12 October 2023 more than 100 RPT flights were cancelled at Sydney Airport. The largest wind gust Virgin Australia recorded on this day was 28 knots with the majority between 20 and 25 knots. If the 25 knot cross wind limit was in place (as opposed to the current 20 knot limit), Virgin Australia does not believe there would have been any cancellations due to wind.

Overall, the 20-knot crosswind limit unnecessarily constrains landing capacity at Sydney Airport. It also prompts strategic decision-making by Virgin Australia's IOC and creates network-wide repercussions affecting Virgin Australia and the broader aviation landscape. Virgin Australia reiterates the need for an urgent review in relation to increasing the crosswind limit at Sydney Airport.

These issues further highlight the need for an independent NCIS that can prioritise the safety and compliance concerns of the traveling public alongside community interests.

To address this issue, it is recommended that the NCIS be placed under the management of either CASA or the Department of Infrastructure and Transport. This would allow Airservices to strengthen its independence and enhance its capacity to provide objective advice and information, ensuring that decisions regarding noise complaints benefit both the community and the travelling public.

By establishing the NCIS under an independent authority, it would build trust and confidence among the general public, enabling them to have a greater sense of involvement and satisfaction when addressing their noise concerns.

Airlines and airports must prioritise collaboration, effective community engagement, transparency, and sustainable practices to support better management of aircraft noise.

There are several actions that airlines and airports can take to support better management of aircraft noise:

- There should be a concerted effort to align the various agencies and organisations involved in aircraft noise management. By working together, Airservices, airlines, airports, and government departments can develop a common approach to address noise concerns, ensuring consistency and effectiveness in noise management strategies. When there is a lack of alignment and community engagement, airlines are often forced to change how they operate. This can result in increased fuel burn or overly restrictive procedures with no recourse for these increased costs or emissions.
- Airservices and airports should prioritise effective engagement with the community as well as airlines. This involves providing transparent information and data regarding flight path changes, operational procedures, and noise reduction efforts. By involving airlines in the decision-making processes, there is better opportunity to balance community needs and operational requirements for airlines.

¹¹ While each day is different, on 1 December 2023, Virgin Australia had 101 arrivals and 101 departures at Sydney Airport. This is out of 379 flights in the network (53% of total flights).

- Virgin Australia is investing in newer, more fuel efficient and quieter aircraft as part of the airline's transformation. The induction of three new generation 737-8 aircraft are not only 15 per cent more fuel efficient compared to the 737-800 NG fleet, but they are also 40 per cent quieter. A further 36 MAX aircraft are on order for delivery over the next five years.
- Airlines and airports can contribute to noise reduction by adopting sustainable practices, such as promoting the use of continuous descent profiles or approaches. These approaches minimise the use of engine power and reduce the overall noise footprint during descent. Collaboration between airlines, airports, and air traffic control authorities is essential to implement such practices effectively.
- There needs to be a clear order of primacy in decision-making processes. Safety should always be the top priority, but consideration should also be given to community needs, sustainability, fuel burn, and cost. Striking the right balance among these factors will help ensure that noise management initiatives are effective and equitable.

By taking these actions, airlines and airports can contribute to better management of aircraft noise while maintaining safe and efficient flight operations. Collaboration, effective community engagement, transparency, and sustainable practices are key to achieving a better relationship between aviation activities and the communities they serve.

(b) Aircraft Noise Ombudsman's governance arrangements must be improved

To enhance the independence of the ANO and improve governance arrangements, there are several steps that can be taken:

- Consistent with the concerns raised regarding the NCIS, the ANO should operate independently from Airservices. Placing the ANO under the Department of Infrastructure and Transport would ensure greater fairness and independence in its investigations and recommendations.
- To enhance transparency and accountability, the ANO should publish its findings and reports. This would provide the general public and stakeholders with access to information about noise-related issues, investigations, and recommendations. Publishing reports would also allow for greater scrutiny and enable more informed discussions on aircraft noise management.
- Airservices should focus on its core role of air traffic control and airspace management. While noise management is an important aspect of its responsibilities, it should not overshadow or compromise its primary functions. Clarifying and reinforcing Airservices's core responsibilities would help ensure proper allocation of resources and attention.

Overall, strengthening the independence of the ANO and improving governance arrangements would lead to more effective resolution of noise-related complaints and improved management of aircraft noise.

(c) Transparency can be improved on decisions made by CASA, Airservices or airports around flight paths, and how aircraft approach and depart airports.

Greater transparency in publishing information about decisions made by CASA, Airservices, and airports regarding flight paths, aircraft approaches, and departures has the potential to improve decision making and significantly enhance public awareness and community receptiveness. This submission highlights the opportunities to improve transparency and outlines the associated benefits.

Providing the general public with accessible information regarding aviation operations, including the factors considered in flight path changes and aircraft approaches/departures would lead to a significant improvement in public awareness and knowledge. This allows communities to better understand the complexities and intricacies involved in aviation activities and noise

management, reducing misperceptions, building trust, and creating a more informed public discussion.

When local communities understand the reasons behind these changes and have access to the information supporting them, they are more likely to engage in constructive dialogue with the aviation industry. Access to transparent information also allows communities to differentiate between facts and speculation, thereby fostering more accurate and informed discussions on aircraft noise and operational matters.

There are also opportunities to improve transparency, including enhancing airline involvement in consultation sessions, changes related to flight paths, and aircraft approaches/departures. Transparently sharing information with airlines on the progression of flight path decisions, including updates on the final plans compared to initial proposals, is essential. This demonstrates accountability and ensures that stakeholders can track how their input has helped to shape the final outcome.

(d) Flight path design principles can be improved

FPDP's play a critical role in balancing the needs of the community with those of the aviation industry. However, there are opportunities to enhance these principles to ensure a more transparent and effective approach to flight path design.

The current FPDP's discuss the need to find a balance between community and industry needs. However, it does not clearly define what this balance entails. Specific guidelines and criteria for assessing trade-offs between community concerns and industry/customer needs are required to enable a more objective evaluation and decision-making process.

FPDP's should incorporate weighting and evaluation criteria to ensure a fair, comprehensive and consistent assessment. These criteria can be based on factors such as noise impact, safety, efficiency, sustainability, and cost. Assigning weights to these criteria enables a systematic analysis that considers all relevant aspects and allows for a more informed judgment on the best possible outcome for all stakeholders, whether they be the community or aviation industry stakeholders.

FPDP's should prioritise safe and efficient air traffic management as a fundamental consideration. While addressing noise concerns is important, it should not come at the expense of efficient air traffic management. Striking a balance between noise mitigation and the effective flow of air traffic is crucial to ensure the overall success of flight path design.

(e) Flight paths and airport planning

Consultation frameworks (such as Community Aviation Consultation Groups (**CACGs**)) need to be improved to facilitate efficient planning and development, while preventing environmental harm and ensuring continued access for aviation users.

There is a lack of clear accountability among relevant agencies responsible for delivering efficient airspace design outcomes. This hampers progress in airspace design and traffic management efficiencies. It is essential to establish clear lines of accountability and define the responsibilities of each agency involved in airspace design and management. This will ensure that the necessary actions are taken to achieve efficient flight path design, noise reduction, and environmental impact mitigation.

Modern aircraft and advanced air traffic management technologies offer opportunities for efficient flight path design and reduced noise and environmental impact. The industry should leverage these technologies to their full potential. Working collaboratively with relevant stakeholders, agencies can explore and implement innovative solutions that optimise airspace

usage, minimise environmental harm, and provide the best outcomes for both aviation users and local communities.

When making changes to infrastructure, such as the construction of a new airport or development within an airport precinct, it is important to take a holistic approach to airspace design. For example, the development of Western Sydney International Airport should trigger a complete airspace review to ensure optimal outcomes for users and stakeholders of both airports. This requires considering the interdependencies between airports, airspace, and surrounding communities to minimise conflicts and maximise operational efficiencies.

The consultation framework should recognise the interdependencies between community and environmental issues and the industry's ability to deliver positive outcomes through the implementation of advanced technology. Embracing technology can help reduce noise impacts and environmental harm. By expediting the implementation of technology, such as greater and improved Required Navigation Performance Approval Required (**RNP-AR**) procedures and unlocking the efficiency benefits of the OneSKY Australia program, airspace design can be optimised to achieve both operational and sustainability goals.

Finally, to ensure efficient planning and development, clear goals and outcomes should be set for CACGs and industry stakeholders, with realistic timeframes for delivering these outcomes. Establishing a transparent framework will encourage timely decision-making and foster collaboration among all stakeholders involved.

(f) Airport Major Development Plans

The Green Paper contemplates a change to lift the threshold for community consultation (including consultation with airlines) in connection with Airport Major Development Plans proposed by airport operators from \$25m to \$50 million. Virgin Australia does not support this proposal.

It is critical for Virgin Australia and other stakeholders to continue to have reasonable opportunities to be consulted, provide submissions, and express concerns relating to major airport developments proposed by airports which will impact them in material ways. There are several impactful recent airport developments that airports would not have needed to consult Virgin Australia on had the proposed elevated threshold applied, including developments of new taxiways and aprons at Sydney, Melbourne, Brisbane, Darwin and Townsville airports which directly and materially impact on Virgin Australia's operations.

Virgin Australia submits that:

- The current monetary threshold for consultations with key stakeholders, particularly airline users of airport facilities and services, should be maintained;
- Section 89 of the *Airport Act 1996* (Cth) should be clarified to expressly include aprons, and any other proposed developments which may have a material impact on airport capacity; and
- Consultations, when undertaken by airports genuinely and in good faith, offer significant opportunities for the identification and implementation of changes that can offer sustainability, environmental, operational and safety benefits for all stakeholders.

3 Future Industry Workforce

Key Takeaways

- Virgin Australia has made significant efforts to promote and support gender equality within its workforce. It will continue to invest in programs that facilitate more women taking on careers in the aviation industry, with a focus on traditionally male-dominated roles, such as engineering and flight operations.
- The Australian Government should work with the aviation sector to establish, build and fund intensive First Nations mentoring programs focused on supporting indigenous employees with dedicated retention, training and career progression strategies and resources.
- First Nations representation in aviation can be enhanced if there is further Government investment in the development and implementation of programs that enable First Nations people to gain the necessary skills and education to enter the profession.

3.1 Analysis of future skills and workforce needs

(a) Gender equality

Virgin Australia has made significant efforts to promote and support gender equality within its workforce, particularly in traditionally male-dominated areas such as engineering and flight operations. Virgin Australia recognises the importance of having a diverse and inclusive workforce and the positive outcomes it brings to Virgin Australia and the aviation sector.

By prioritising gender equality, Virgin Australia aims to create a workplace that is more inclusive and equitable. This helps attract a wider pool of talented individuals, ensuring a diverse range of perspectives and skills within the organisation and driving innovation.

Virgin Australia is actively working towards increasing female representation in its workforce and recognises that gender equality is a crucial step in building a stronger, more resilient and sustainable aviation sector.

Virgin Australia has undertaken several strategies to address gender inequality in the aviation industry:

- A Belonging Strategy was implemented to achieve specific outcomes related to gender representation within the organisation. This strategy includes internal objectives to track and measure progress in the representation of women, particularly roles in senior leadership and traditionally underrepresented areas such as pilots, engineers, Maintenance, Repair and Overhaul (MRO), and ground crew.
- Virgin Australia is a signatory to the International Air Transport Association (IATA) 25by2025 Initiative, which comes with several commitments. These include reporting annually on key diversity metrics and increasing the number of women in senior positions and underrepresented areas by 25 per cent. The commitments under this initiative align with Virgin Australia's current efforts to enhance female representation in senior leadership roles and in roles such as pilots, MRO, and ground crew.
- Virgin Australia serves as an industry partner for the Aviation Australia Female Aircraft Maintenance Engineer Program. Through this partnership, Virgin Australia supports female students by providing opportunities for exposure to the aviation industry by hosting visits to its airport operations. This helps to increase exposure to and nurture interest in the aviation industry for women.

- Virgin Australia is proud to be the first commercial airline to sponsor Women in Aviation/Aerospace Australia. Virgin Australia actively contributes to events organised by this initiative by encouraging its female employees to participate as speakers. Women are more likely to enter the aviation industry when they hear other women speak about their positive experiences at Virgin Australia.
- Virgin Australia has worked to improve the fairness and objectivity of its recruitment processes through the adoption of blind CVs. This deliberately removes details like gender and age from applicants' resumes during the initial screening. This ensures that Virgin Australia delivers a more equitable evaluation of candidates as prospective employees' CVs are judged solely on qualifications, skills, and experiences.
- The implementation of unconscious bias training for senior leaders and recruitment managers equips the organisations with the knowledge and tools to recognise and mitigate unconscious biases that can influence hiring decisions. This year, Virgin Australia hosted a speaker to speak about unconscious bias during one of its leader offsite events. While this work is continuing, Virgin Australia is committed to fostering a more inclusive and equitable recruitment process that benefits both applicants to Virgin Australia and the company itself.
- Virgin Australia has undertaken an internal survey with the women in the Ground Crew team to understand how they experience the workplace. The data and insights gained from this survey has identified opportunities to improve this experience and actions are already in progress.

(b) Recommendations

Virgin Australia supports the continued investment in programs such as the 'Women in the Aviation Industry Initiative' to facilitate more women taking on careers in the aviation industry.

3.2 First Nations employment

Virgin Australia recognises and values the cultural diversity that Australia embodies. Virgin Australia believes in fostering an inclusive, diverse, and equitable workforce that reflects the communities it serves. For over a decade, Virgin Australia have been dedicated to supporting partnerships and sponsorships that create opportunities and improve outcomes for Aboriginal and Torres Strait Islander peoples.

Virgin Australia understands the importance of continuing this journey of reconciliation and inclusion. In 2018, its Indigenous Working Group (IWG) was established to actively support Virgin Australia's commitment to providing opportunities for Aboriginal and Torres Strait Islander peoples. Comprising passionate team members from various divisions who volunteered their involvement, the IWG has enabled us to develop a Reconciliation Action Plan (RAP) that is not only meaningful but also builds upon the achievements over the past decade.

Virgin Australia's RAP remains an ongoing focus, aiming to generate long-term economic and social opportunities within its business and the wider Australian community. It is an integral part of Virgin Australia's Belonging program, which seeks to foster a sense of belonging and inclusion for all individuals.

Virgin Australia is committed to improving First Nations representation across its workforce and has been prioritising greater First Nations representation in several ways:

- It has developed a First Nations Employment and Engagement strategy, which serves as a blueprint for improving the representation of First Nations individuals within the airline. This strategy outlines specific goals, initiatives, and action plans to achieve these objectives.
- Virgin Australia has conducted a thorough review of sourcing channels and recruitment processes. This encompasses assessing how and where Virgin Australia advertises job

openings, which is to ensure that these opportunities are accessible to a broader pool of First Nations candidates.

- Virgin Australia monitors and reports on its recruitment practices within the People team at least monthly with a focus on transparency and accountability. Additionally, Virgin Australia. This helps to remove barriers to Aboriginal and Torres Strait Islander stakeholders, identify areas where improvements are needed, and measure progress towards Virgin Australia's First Nations representation goals.
- To further extend its reach and promote Virgin Australia as an inclusive employer, Virgin Australia is collaborating with external recruitment providers who specialise in diversity and inclusion. These partnerships are designed to attract more First Nations talent to the airline.
- Virgin Australia has established an internal First Nations team member network. This network provides support and a sense of community for First Nations employees within the company, which creates a work culture that is inclusive and welcoming. It also serves as a forum for sharing ideas and feedback.
- Virgin Australia has invested in cultural learning programs and regularly reviews its policies to ensure that the workplace is culturally safe. Virgin Australia's commitment to cultural safety ensures a respectful environment for its employees.

(a) Recommendations

- (i) Virgin Australia recommends that the Australian Government work with the aviation sector to establish, build and fund intensive First Nations mentoring programs focused on supporting indigenous employees with dedicated retention, training and career progression strategies and resources.
 - The Australian Government can support initiatives that promote long-term career growth and job stability in the industry. This will ensure that talented First Nations employees are not only attracted to these roles, but they are set up for long-term success in the aviation industry.

3.3 Preparing for future resource requirements through apprenticeship programs

The aviation industry is currently facing a significant challenge with the aging population of pilots globally. Many experienced pilots are approaching retirement age, and with limited younger pilots entering the industry there is a growing concern about a potential shortage of qualified pilots in the future.

This aging population can be attributed to several factors, including the high retirement age for pilots, the lack of interest among younger generations in pursuing a career in aviation, and the rigorous training and certification requirements that make it difficult for new pilots to enter the industry.

Training and certification require significant time, financial investment and commitment from younger generations. To address this issue, the aviation industry will need to actively promote and highlight the benefits and opportunities of a career in aviation, as well as explore innovative training programs and incentives to attract and retain new pilots.

There are also industry challenges associated with the pipeline of aircraft engineers. Considering the age profile of Virgin Australia's aircraft engineers, with approximately 100 retirements expected in the next decade, it is crucial to facilitate the integration of an equal number of qualified individuals into the system. The Virgin Australia Aircraft Maintenance Apprenticeship Program provides apprentices with an opportunity to train within a large CASA Part 145 maintenance organisation and ensures a world-class learning experience. Upon

successful completion of the program, graduates can look forward to an exciting career as an Aircraft Maintenance Engineer with the Virgin Australia team.

Virgin Australia is expanding its program to focus on the following areas:

- Virgin Australia prioritises recruiting Certificate II qualified candidates who have traditionally faced barriers due to industry undervaluation, perceived skill deficiencies, and limited resources for career development. To address this, Virgin Australia plans to increase engagement in secondary schools, promoting work experience pathways for students. This approach not only benefits apprentices but also contributes to organisational growth and workforce sustainability.
- A rotation system within the apprenticeship program will demonstrate the diverse career paths available within Virgin Australia. By being exposed to various roles and responsibilities, many apprentices have the possibility for career progression beyond their current role. Furthermore, this approach helps apprentices gain a well-rounded understanding of the business, which improves their knowledge and skills.
- Virgin Australia recognises its limitations on how many apprentices it can realistically accept without the quality of education and safety of the program being reduced. It is essential that all mentorship and training resources are sufficient to support the apprentices effectively. To achieve this, Virgin Australia will explore avenues beyond the traditional training programs, such as VT Line and Base, for apprentices to gain experience and fill their journals. This can ensure that the apprenticeship program is adaptable to change in demand and facilitates a more well-rounded development of apprentices.

(a) Recommendations

- (i) Virgin Australia recommends ongoing and increased investment from both State and Federal Governments to boost participation in aviation apprenticeship programs. Through its support of apprenticeship programs, governments will incentivise both aviation employers and apprentices to actively engage in and benefit from these valuable opportunities.
 - Government support and assistance helps to alleviate some of the financial burdens that are associated with these programs for the aviation sector. This in turn makes apprenticeships more accessible to a broader range of people, supporting a more inclusive and diverse workforce within the aviation industry.
- (ii) Virgin Australia supports investment in programs that facilitate collaboration between educational institutions and aviation companies to raise awareness about the opportunities within the industry.
 - By working together, educational institutions and industry players can better inform prospective apprentices and create pathways for them to pursue careers in aviation. Such outreach campaigns will attract a new generation of talent to the aviation sector and support its long-term sustainability.
- (iii) The Australian Government should continue to invest in programs aimed at promoting aviation-related careers from an early school age. This support can inform students about opportunities that are available in the aviation industry, as well as help them to make informed choices about their subjects and career options as they progress through their schooling.
 - Initiatives such as Future Aviation Maintenance Educators (FAME) can also be instrumental in nurturing interest and knowledge in the aviation sector. Overall, the government will be able to contribute to the growth and sustainability of the aviation

sector and ensure a well-prepared workforce for the future if students are given early exposure and opportunities.

3.4 Cabin Crew and Pilot training

Currently, Virgin Australia recruits a significant number of pilots but sends them overseas for type rating and other required training, incurring substantial costs and missing out on opportunities to support the Australian economy. Enhanced access to simulators and training instructors in Australia is essential to meet the growing demand for pilots and cabin crew training.

To address these challenges, capital support from State and / or Federal Governments should be considered to facilitate greater airline investment in Australian-based simulator centres. This investment would not only create jobs in the centres themselves, including simulator instructors, examiners, technicians, and administrators, but also in associated industries related to the construction and maintenance of these centres.

3.5 Meeting the demands of aviation industry growth through skilled recruitment

The ongoing challenge of recruiting a sufficient number of employees to meet the increasing demand for travel poses a significant hurdle for the aviation sector. This is particularly evident in the search for skilled workers, as the job market becomes increasingly competitive and other industries compete for the same talent pool.

Government initiatives aimed at facilitating migration and providing streamlined pathways for skilled workers can help alleviate the shortage of candidates for aviation roles. By attracting individuals with the necessary skills and capabilities, the aviation industry can more quickly meet the demand for workforce expansion. However, the aviation industry faces various challenges in attracting skilled migrants due to limitations in the sponsorship list and visa restrictions. This restricts the ability to sponsor individuals for certain aviation roles, including pilots, engineers, and specialist positions. Additionally, the classification of some occupations as short-term roles without a pathway to permanent residency can act as a disincentive for candidates considering opportunities in Australia.

It is important to recognise that migration and government-sponsored programs are not a standalone solution, but rather a complement to ongoing recruitment efforts. Ensuring that the aviation industry has access to a pool of skilled and qualified workers is crucial for meeting current and future growth demands efficiently and effectively.

To address these challenges, the following recommendations are proposed:

- Streamlining the migration process and reducing bureaucratic hurdles would attract skilled individuals to the aviation industry. Simplifying visa applications and expediting processing times would facilitate the timely entry of qualified professionals, ensuring the industry has access to the necessary talent in a timely manner.
- Extension of visa lengths for specialised roles: Extending the duration of visas for specific aviation roles would promote greater stability and attract candidates who may be hesitant due to short-term visa classifications. By providing longer visa periods, individuals can have increased job security and the ability to plan for their future in Australia, making it more appealing to pursue opportunities in the aviation sector.

It is important to recognise that migration and government-sponsored programs are not a standalone solution, but rather a complement to ongoing recruitment efforts. Ensuring that the aviation industry has access to a pool of skilled and qualified workers is crucial for meeting current and future growth demands efficiently and effectively.

4 Safety, Security (Passengers and Cargo) and Navigation Regulation

4.1 Passenger Safety

Key Takeaways

- Virgin Australia proposes a review of key regulations applicable to safety to gather feedback, assess effectiveness, and make necessary changes for a pragmatic and risk-based approach to safety.
- A review of Airservices' processes is necessary to ensure the risk of air operations, not just the ANSP, is a key consideration in any changes that are made. This should form an element of oversight of Airservices Australia by CASA.
- The current methodology for an all-hazards approach to aviation security should continue to develop outside of other critical infrastructure legislation.
- Virgin Australia recommends establishing a national strategy to counter offensive and disorderly behaviour in the aviation industry. Additionally, a National Watchlist is necessary for persons that have conducted or attempted to conduct unlawful interference with aviation.
- The Australian Government should consider a model where funds from infringement penalties directly contribute towards preventative security measures.

(a) Consultation on proposed regulations and policy

Development of regulations and policy is falling short of industry expectations for regulatory codesign in many areas of aviation. Consultation is often late and, on occasions, at the draft regulation review stage rather than the draft design stage.

A key component of an effective consultation process is to provide feedback to industry when submissions are made. In Australia, this is an area where the process falls short. For example, in July 2021, CASA introduced fatigue rules under Civil Aviation Order 48.1¹². These new requirements received significant feedback from the aviation industry, particularly around defining how operators can move from a trial phase to full implementation. Disappointingly, there was no response from the safety regulator on the feedback and there is continued strong unwillingness to change the legislation once deficiencies have been identified now that the fatigue ruleset has been introduced.

The level of consultation and collaboration often appears to be dependent on government timeframes rather than the need or importance of the individual topic. An example of this is the Ballina Airspace Review. While Airservices perceives very little risk, its approach is primarily focuses on the risk to the Air Navigation Service Provider (ANSP) without apparent consideration given to the risk to the air operators. This subsequently impacts the urgency in which change is implemented.

(b) Recommendations

- Virgin Australia recommends that a post implementation review of key regulations, including Fatigue Risk Management, with an aim to seek feedback on the laws and make changes where required to ensure pragmatism with an overarching risk-based approach to safety.

¹² Civil Aviation Order 48.1 Instrument, accessible at <https://www.legislation.gov.au/Details/F2021C01239>

- Virgin Australia recommends a review of Airservices' processes to ensure risk to air operations, not just the ANSP, is a key consideration in any changes that are made. In addition, this should form an element of oversight of Airservices by CASA.

4.2 Aviation Security

Key Takeaways

- LAGs extraterritorial regulations should be reviewed to ensure that they remain fit for purpose.
- Virgin Australia supports partnerships with industry to streamline the movement of passengers and modernise the border, alongside enhancing security.
- Virgin Australia supports the ongoing work by the Customs Advisory Board with regards to broader arrangements for passenger facilitation through international borders.
- Virgin Australia backs the Australian Government's Simplified Trade System agenda that leverages infrastructure and technology to streamline the movement of cargo.

(a) Aviation Security

Virgin Australia supports the Australian Government's position to move towards enhanced security screening technologies and practices that are commensurate with the modern threat environment. It is understood that COVID-19 had a significant impact on the roll out of technology upgrades in many locations. However, six years have passed since Operation Silves and the continued delay by a number of security-controlled airports has failed to adequately mitigate some vulnerabilities. Balancing support for a potential extension to develop cost-efficient airport designs, it must be recognised that the persistence of outdated technology in airports is less than ideal. Virgin Australia acknowledges the need for aviation security to take an all-hazards approach, while also noting that aviation security and safety has long standing practices in this area. The current model of critical infrastructure (SOCI) requirements within the Aviation Security legislation, and predominately outside of the SOCI Act has been – and continues to be – the correct approach.

This approach also ensures that as cyber security policy and guidance is developed by the International Civil Aviation Organisation within Annex 17 to the Chicago Convention, the security regulator and industry can respond accordingly.

The systemic issues associated with unruly, disorderly, and offensive passenger behaviour in terminals and onboard aircraft requires greater collaboration by government and industry alike. While significant progress has been made in recent years through the industry-led development of the Aviation Industry Code of Practice on Offensive or Disorderly Passenger Behaviour, airport and airline staff continue to be exposed to passengers that threaten their safety in the work environment. This issue and the safety of staff is exacerbated in regional and remote locations where there is no on-airport or nearby police response.

In October 2022, the Australian Federal Police reported it had charged more than 330 alleged offenders with some 420 charges at airports in the previous six months. The majority of these charges related to intoxication or offensive behaviour, possessing a prohibited weapon, carrying prohibited items, public disturbance and incidents relating to assault. Like in all industries, workplace violence in the aviation industry can have significant economic and social costs for workers, their families, organisations and the wider community.

(i) Recommendations

- Virgin Australia considers the current methodology for an all-hazards approach to aviation security should continue to develop outside of other critical infrastructure legislation.

- Virgin Australia recommends the establishment of a national strategy to counter offensive and disorderly behaviour in the aviation industry. In addition, Virgin Australia recommends the implementation of a National Watchlist for persons that have conducted or attempted to conduct unlawful interference with aviation; along with consideration of the implementation of a lower level national watchlist to counter unruly and disruptive passenger behaviour in aviation.

(b) Security (passengers and cargo)

Consideration should be given to a machinery of government change that would result in the aviation security regulator being housed within the Transport portfolio, and with a clearer identity. Virgin Australia also believes the Cyber and Infrastructure Security Centre (CISC), as the aviation security regulator, should publish authoritative interpretations of legislation and policy, accompanied by case studies showing acceptable compliance.

The movement of the aviation security regulator, formerly the Office of Transport Security, to the Home Affairs portfolio in late 2017 has resulted in an overall diminishing of its capability in the development of aviation security policy, its effectiveness in stakeholder management, and its approach to outcomes-focussed security.

Within the greater Department of Home Affairs, the aviation security regulator appears to have lost its identity. This has resulted in a regulator model focussed on compliance outcomes, to the detriment of preventative security strategies. This view was largely reflected by the aviation industry in the Hartland Review.

A further impact of this change has been a reduction in consistency of operational policy interpretation and consistency across industry. This is reflected in both the variations of content approved in Transport Security Programs, along with compliance interpretations by regulatory inspectors. The Australian Government should consider a model whereby there is a clear pathway of using those consolidated funds directly towards preventative security measures.

Virgin Australia is aware that the aviation security regulator, through the Department of Home Affairs, has significantly increased its issuance of infringement notices to industry participants over the past 24 months. The current issuance of infringement penalties in aviation security has not demonstrated improved security outcomes, especially in the case of most Australian industry participants who are fully engaged in preventing unlawful interference in aviation.

If financial infringements of aviation participants continue at, or above, the current rate, Virgin Australia considers that government and industry should work collaboratively to determine a methodology for the reinvestment of infringements directly into preventative aviation security initiatives.

In 2007, the Australian Government introduced extraterritorial requirements for the additional security procedures for Liquids, Aerosols and Gels (LAGs) at last ports of departure to Australia. These screening requirements, which are placed on airlines to implement, have not been reviewed or modified since implementation. This is despite advancements in screening technologies, methods and techniques at these last ports of departure.

The removal of these requirements would support increased level of passenger facilitation at departure points and would remove additional security costs that are not producing a security outcome proportional to the current environment.

(i) Recommendations

- Virgin Australia recommends that the Australian Government considers a model whereby there is a clear pathway of using consolidated funds (collected from the issuance of infringement notices) directly towards preventative security measures.

- Virgin Australia recommends that the Australian Government implements national standards on acceptable security charges for cost recovery.
- Virgin Australia recommends LAGs extraterritorial regulations are reviewed to ensure that they remain fit-for-purpose. In the absence of revocation, at a minimum, the Australian Government should provide counterpart countries guidelines on how they can achieve the exemption from these requirements, such as is in place for Japan, Hong Kong, and New Zealand.

(c) Optimising partnerships with industry to streamline the movement of passengers and modernise the border, while also enhancing security

Australia was at the forefront of implementing electronic border procedures, experiencing great success. However, progress in this area has stagnated, particularly due to the impact of the pandemic. If Australia doesn't seize the opportunity to leverage new technologies used effectively in other countries, it runs the risk of falling behind globally in terms of passenger processing speed.

Singapore, for instance, has expanded the number of countries eligible for its automated, biometric immigration lanes, resulting in faster processing times. Passengers simply scan their passports and faces, receiving an electronic visitor pass via email. Similarly, the European Union is in the process of introducing an automated entry/exit system that enables efficient checks for non-EU citizens, with expected implementation by year-end.

Virgin Australia supports initiatives for seamless borders. A seamless trans-Tasman border would make travel between Australia and New Zealand faster and more convenient. By utilising existing technology, efficient entry and screening processes can be introduced, leading to reduced travel times and enhanced border security. Simplifying air travel benefits tourists, business travellers, and other visitors by minimising arrival delays and making it easier for them to come to Australia.

Virgin Australia is supportive of the work currently in progress by the Customs Advisory Board with regards to broader arrangements for passenger facilitation through international borders. The digitalisation of the Incoming Passenger Card (IPC) is paramount to the enhancement of many border procedures across multiple agencies. The success of the New Zealand Government in implementing the Digital Traveller Declaration provides a tangible example of the benefits to Government, industry, and passengers alike.

(d) Leveraging advances in technology as well as industry investments in infrastructure and technology to streamline movement of cargo

Virgin Australia is supportive of the Australian Government's Simplified Trade System agenda which seeks to align border programs to remove data and process duplication, reduce compliance costs and to improve efficiency for business and government.

This is especially relevant to the modernisation of the Integrated Cargo System (ICS) which is associated with international operations. A simple example of current deficiencies with the ICS is the need for an airline to contract a cargo terminal operator agent to complete the task of declaring, multiple times, that an aircraft is carrying no cargo.

The regulatory framework and poor associated ICT systems in this area result in increased expenditure per flight, along with the regulatory risk associated with failing to comply with an administratively rich, outcome poor, process.

Virgin Australia submits that the removal of inefficient regulations, border interventions, duplication and associated cost for the movement of freight will also improve airlines' ability to support international trade.

Improved border processes have a direct correlation with airlines' ability to service markets where, to date, air freight has been out of reach, along with increasing the total volume of trade that can be moved via the faster and more reliable mode that aviation offers.

4.3 Airspace regulation and management

Key Takeaways

- Virgin Australia urges an ADS-B mandate in Class G airspace to ensure the safety of airline operations into busy aerodromes within Australia. Consideration should be given to ensuring an adequate subsidy is available.
- Virgin Australian recommends a review of the regulatory powers CASA has in relation to holding Airservices accountable for both providing services under the Air Navigation Act and the quality of that service under the Civil Aviation Safety Regulations.
- Successful adoption of the SBAS is dependent on airspace design enhancements, IFR approaches and procedures, and a comprehensive review of its integration with the industry at all levels.

(a) **Review of regulatory arrangements**

As technology continues to evolve and the aviation sector expands, it is crucial that technology is adopted and leveraged efficiently to fully utilise airspace.

The implementation of Automatic Dependent Surveillance-Broadcast (ADS-B) mandates is vital, particularly for Visual Flight Rules (VFR) aircraft operating in uncontrolled airspace. ADS-B technology enhances situational awareness and facilitates better coordination between manned and unmanned aircraft, such as drones. Implementing ADS-B mandates will significantly improve safety and efficiency in airspace management.

It is essential to conduct a comprehensive review of CASA, particularly the Office of Airspace Regulation (OAR). This review should focus of the regulatory powers CASA has in relation to holding Airservices accountable for both providing services under the Air Navigation Act and the quality of that service under the Civil Aviation Safety Regulations. Additionally, the review should look to enhance airspace management and categorisation regulations to ensure efficient and safe operations. It is essential that CASA should have the necessary regulatory framework and authority to adapt to changing technologies and emerging trends in the aviation industry.

To foster innovation and enable the adoption of new and emerging technologies, there is a need for regulatory reform. The Australian Government should streamline and expedite the regulatory approval processes for technologies like digital towers. By creating a supportive regulatory environment, the government can encourage the industry to embrace new technologies, ultimately leading to increased efficiencies in airspace management.

Recognising the significant impact of airspace and flight path design on carbon emissions, it is essential to introduce airspace design principles that align with sustainability goals, and in particular the industry's net zero emissions by 2050 ambition. By considering environmental factors during airspace design, the government can contribute to reducing the aviation sector's carbon footprint and promote sustainable practices within the industry.

A better balance between airspace management factors is required, including capacity, weather, and noise/environmental considerations. By appropriately managing airspace resources, it becomes possible to optimise capacity utilisation while minimising the impact on the environment and noise-sensitive areas.

Space-based technologies, such as satellite surveillance and communications, should be increasingly utilised to enhance surveillance capabilities and improve communications within

the aviation sector. These technologies offer significant advantages in terms of coverage and accuracy, ensuring safer and more efficient operations.

Introducing regulations that mandate new airports to have surveillance and communications infrastructure installed before certification will ensure the availability of crucial infrastructure from the outset. This pre-emptive approach will minimise delays and create a safer and more efficient aviation system as air traffic demand increases.

Any airspace changes in community-sensitive areas need to be carefully considered. By engaging with local communities and air operators through genuine consultation, exploring more efficient and safer operations, it becomes possible to minimise disruptions and conflicts while improving overall operational effectiveness and reducing emissions related to fuel burn.

Allowing for greater flexibility in curfew arrangements can lead to better recovery outcomes for guests and the traveling public. By providing more flexibility in curfew regulations when appropriate, unforeseen circumstances can be accommodated and disruptions to air travel can be minimised.

Enhancing the oversight of ANSP-led projects, including long-term projects like OneSKY, is crucial. Regular monitoring, evaluation, and accountability mechanisms should be in place to ensure timely project delivery and adherence to established performance targets.

(i) Recommendations

- Virgin Australia strongly encourages an ADS-B mandate in Class G airspace to ensure the safety of airline operations into busy aerodromes within Australia. Consideration should be given to ensuring an adequate subsidy is available.
- A review is recommended of the regulatory powers CASA has in relation to holding Airservices accountable for both providing services under the Air Navigation Act and the quality of that service under the Civil Aviation Safety Regulations.

(b) Advancements in safety enhancements, airspace design, traffic management efficiencies

Slow progress by government and accountable agencies are hindering advancements in safety enhancements, airspace design, traffic management efficiencies, and community benefits that can be achieved using available technologies.

To ensure timely delivery of outcomes, it is crucial to define industry change governance, key stakeholders, working groups, and accountabilities. The Australian aviation industry needs to keep pace with rapidly evolving technologies.

(c) Automatic Dependent Surveillance-Broadcast (ADS-B) technology

Broad industry acceptance of Automatic Dependent Surveillance-Broadcast (ADS-B) technology is paramount for enhancing safety and situational awareness for all operators, especially in regional airspace and non-controlled aerodromes.

This is particularly vital for Regular Public Transport (RPT) operations. ADS-B should be mandated for all aircraft operations in all airspace, including VFR aircraft, and funded by the government. This transition will enable the retirement of Secondary Surveillance Radar (SSR) and facilitate the implementation of an all ADS-B setup, enhancing airspace coverage.

The increased coverage provided by ADS-B will improve search and rescue capabilities through accurate tracking of aircraft in remote locations not covered by radar. It will also lead to improved separation standards, reduced delays, and more effective airspace design around regional ports.

(i) Recommendations

- As the Satellite Based Augmentation System (SBAS) is due to be completely rolled out in 2028 (known as 'SouthPAN' in Australia and New Zealand), the enhanced navigational capability it offers must be supported by airspace design enhancements, Instrument Flight Rules (IFR) approaches and procedures, and a comprehensive review of its integration with the aviation industry at all levels.
- To facilitate the adoption of SBAS technology, a change management process should be defined, and stakeholder consultations carried out to ensure aerodromes have the necessary operational improvements to utilise this technology effectively. This includes addressing governance, security, safety monitoring, procedural changes, education, training, and awareness.

5 The Role of Airlines and Airports in Supporting Regional Economies

Key Takeaways

- Post the COVID-19 pandemic, the aviation sector has struggled to rebuild the workforce and to attract personnel including pilots and aircraft engineers in regional areas.
- Government subsidies are crucial for making operations in regional and remote areas cost-effective, as seen in the Northern Territory's recent initiative to incentivise airlines.
- The Transport Infrastructure Net Zero Roadmap and Action Plan should include tailored solutions that account for the unique circumstances of regional areas, addressing infrastructure gaps, exploring renewable energy sources, and providing financial support to mitigate the economic cost disadvantage.
- SAF production and use in regional areas will need to be incentivised by Government, which will in turn lead to increased availability and affordability. This will drive innovation and investment in the sustainable aviation industry and help to support job creation and economic growth.

5.1 Outline

Airlines and airports play a vital role in supporting regional economies by providing employment opportunities as well as access and connectivity to these communities with Australia's larger urban centres.

This section addresses the challenges faced by regional aviation and airports, opportunities presented by emerging aviation technologies and challenges regional and remote areas will face as a result of climate change.

5.2 Government Policy

(a) Government subsidies can support regional air travel by addressing high costs and low demand

Traditionally, the costs of subsidising intrastate aviation services have been born by State and Territory governments. The question arises as to whether this structure remains the best approach.

In December 2020, Virgin Australia introduced a Resident Fare Program which allowed residents in the Northern Territory, Queensland and Western Australia to access low-cost regional fares. The program was designed for residents with essential travel needs, such as for medical treatment or a family emergency, to book travel to a capital city at short notice and at a capped fare price. The program was launched in response to community feedback to make travel more accessible for those in remote parts of Australia.

The Western Australian State Government then initiated a Regional Zone Cap scheme. This scheme was designed to make travel to Perth from regional Western Australia more affordable for these residents. Virgin Australia is an active participant in this scheme and it has seen significant uptake in FY23, demonstrating the positive impact of this program and the need for strong connectivity between regional areas in Western Australia and Perth.

The Northern Territory Government has also recently introduced a new Territory Aviation Attraction Scheme (TAAS) to support employment growth, increase tourism, provide more consumer choice and improve airfare competition. Under the scheme the Darwin, Alice Springs

and Ayers Rock (Uluru) airports can apply for funding from the Northern Territory Government to support additional aviation services.

Without these subsidies, airlines face significant cost barriers that make it difficult for them to provide services to regional and remote areas. Airlines typically struggle to generate sufficient revenue to cover the operating costs of flights to these areas due to lower population densities and less demand for travel. High costs related to aircraft maintenance, fuel, and employees coupled with low passenger numbers, can make it economically unsustainable for airlines to operate without financial support.¹³ Government support in the form of subsidies can help bridge the financial gap and ensure continued access to air travel in these regions.

The Northern Territory and Western Australian Governments' aviation programs recognise the challenges that regional areas have faced in attracting additional capacity following the pandemic and sustaining aviation operations in remote regions. They also highlight the need for government support to assist airlines to invest in these routes given the constraints that exist in the industry.

(b) Opportunities to upgrade Aviation Technologies for Regional Airlines

Technology upgrades offer significant opportunities for regional and remote Australia. Locally, these technologies are primarily fleet-driven. For example, in Western Australia, Virgin Australia Regional Airlines (VARA) is retiring the F100 aircraft and replacing them with Boeing 737-700 aircraft. Each Boeing 737-700 can fly more passengers for a similar amount of fuel to each F100, resulting in 30 per cent less emissions per seat per trip.

This technological upgrade not only improves fuel burn and reduces carbon footprint, but also allows for increased passenger capacity. Such advancements not only enhance operational efficiency but also contribute to the sustainability and growth of regional aviation.

Additionally, supporting aerodrome and runway upgrades, especially for airports lacking substantial capital, is crucial to support regional communities. This investment can remove restrictions on modern aircraft, which enables enhanced connectivity for businesses, communities, and the wider travel industry.

5.3 Regional Workforce Attraction and Retention Strategy

(a) Challenges of recruiting and attracting people to work in regional and remote locations

The challenge of recruiting and attracting people to work in regional and remote airports is a significant concern for Virgin Australia. It is challenging to attract employees to work in regional and rural locations (such as Western Australian airports) due to various factors including limited availability of housing, higher living costs, access to key amenities and lifestyle choices. It is critical to address these challenges to attract the necessary human resources into these locations to ensure an adequate source of skilled labour to ensure efficient and sustainable operations for the aviation industry.

5.4 Decarbonisation and Sustainability in a regional context

(a) The Net Zero Transport Plan must address infrastructure gaps, renewable energy, and financial support

One of the key challenges faced by the regional and remote aviation sector when it comes to decarbonisation is the unique circumstances and operations of these areas. Given their remote locations and often limited infrastructure, decarbonising the regional and remote aviation sector requires significant planning and tailored solutions.

¹³ See P 57 of this submission

To recognise the specific circumstances of the regional and remote aviation sector, the Transport Infrastructure Net Zero Roadmap and Action Plan should include several elements. Firstly, it should prioritise the development of renewable energy infrastructure that is compatible with the geographical and environmental characteristics of these regions. This may involve exploring alternative energy sources such as solar or wind power, considering the feasibility of biofuels and investigating electric or hydrogen-powered aircraft.

Secondly, the plan should address the infrastructure gaps in regional and remote locations. This includes improvements to airports, runways, and air traffic control systems, allowing for more efficient operations and mitigating carbon emissions. Investment in new technologies and upskilling of employees in these areas is also crucial to ensure the successful implementation of sustainable practices.

The cost disadvantage faced by regional and remote aviation compared to domestic and international aviation must also be recognised. These areas often have lower passenger numbers, limited economies of scale, and higher costs associated with operating in remote locations. As a result, any decarbonisation efforts will likely be more expensive in these regions due to the need for specialised infrastructure and resources. The Transport Infrastructure Net Zero Roadmap should account for these cost disparities and consider appropriate financial support mechanisms to help the regional and remote aviation sector transition to more sustainable practices.

(b) Government policies, including tax incentives and subsidies, can stimulate domestic bioenergy feedstock production and drive SAF adoption

Virgin Australia notes the extensive literature that has been developed on this issue including *The Australian Roadmap for Sustainable Flying: Reaching Net Zero by 2050* developed by A4ANZ as well as the Boeing / CSIRO's *Sustainable Aviation Fuel Roadmap*.

The government plays a crucial role in promoting the use and production of SAF by implementing well-considered policies. These policies should consider the long-term sustainability of SAF and its positive impact on reducing emissions.

The economic viability of SAF is currently limited, making it challenging for businesses to invest in its use. However, with the support of the government through policy development, the business case for SAF can be strengthened. This support can take the form of tax incentives, grants, or subsidies that encourage businesses to adopt SAF and make it a financially viable option.

By implementing sustainable policies, the government can unlock the full potential of SAF. This means creating an environment where SAF production and use are incentivised, leading to increased availability and affordability. This, in turn, will drive innovation and investment in the sustainable aviation industry, which will support job creation and economic growth.

It is important for the government to consider long-term planning in developing SAF policy. Long-term and sustainable policies provide stability and predictability, allowing business to make informed investments in SAF technology and infrastructure. This approach encourages research and development, leading to further improvements in SAF production methods and cost-effectiveness.

(c) Climate change poses challenges for regional and remote aviation and airports as it leads to decreased aircraft lift and runway pavement damage

Regional and remote aviation and airports face unique challenges, including the impact of changing climate. Rising temperatures and extreme heat can affect aircraft performance and ground operations, particularly for VARA operations in Western Australia.

- Issues such as reduced aircraft lift can arise from higher temperatures which can result in limitations to carrying capacity and aircraft range. However, this issue is more related to charter ports rather than regular public transport (RPT) ports.
- Runway pavement issues, including softening or expansion, can also arise from extreme temperatures and this needs to be considered during take-off and landing procedures. VARA has experienced these challenges at ports such as Newman in Western Australia.

6 Maximising aviation's contribution to net zero

Key Takeaways

- Prioritise policy development and initiatives, like SAF Accounting (book and claim), to allow airlines and customers to procure SAF without geographical constraints.
- Careful consideration will need to be taken to ensure any policy measures – including a SAF mandate – preserve a level playing field for all domestic airlines.
- Virgin Australia advocates for government funding opportunities to support emissions reduction in the production, uptake, and deployment of SAF in Australia.
- The Government and the aviation/SAF industry should view aviation and decarbonisation as a global concern that requires global solutions, alongside domestic efforts.
- There must be globally available standards to address concerns over the quality and sustainability of SAF produced from different feedstocks through approved technology pathways.

6.1 Outline

Virgin Australia supports the Government's ambition to reduce national emissions to 43 per cent below 2005 levels by 2030 and is committed to playing a meaningful and practical part in helping the aviation industry meet its target of net zero emissions by 2050.

To reach net zero globally by 2050, modelling indicates that aviation emissions will need to decline to one-third of their pre-COVID levels, with the remainder required to be offset¹⁴. Delivering net zero by 2050 is complex and costly and will require a mix of actions with regards to aircraft technology, fleet and engine renewal, using smarter ground vehicles, carbon offsets, transitioning to use of sustainable aviation fuel (SAF), and reduction and better management of waste.

Supportive government policy will be critical in enabling the aviation industry to transition to low and zero-emissions technologies. There is a need for direct collaboration across the whole value chain, including airlines, suppliers, customers, banks and institutional investors.

Virgin Australia has announced an ambition to reduce its carbon emissions intensity by 22 per cent by 2030, and a commitment to targeting net zero emissions by 2050. Virgin Australia is seeking to minimise its emissions in several ways – including comprehensive fuel efficiency and fleet renewal programs, a focus on SAF, and through collaboration with key partners.

6.2 Decarbonisation

(a) **Collaboration between the Government and industry is critical to ensure a strong and sustainable aviation sector that supports emissions reduction targets while growing jobs and innovation**

Virgin Australia welcomes the establishment of the Jet Zero Council and supports its objective to advise government on the development of a long-term vision to decarbonise the aviation industry.

Collaboration between industry and government is essential to establishing and scaling commercially viable SAF production in Australia and achieving the aviation industry's collective emissions reduction targets.

¹⁴ <https://www.iata.org/contentassets/8d19e716636a47c184e7221c77563c93/executive-summary---net-zero-roadmaps.pdf>

Virgin Australia is committed to working to develop lowest cost solutions for abatement of the aviation industry, including those with broader economic development benefits such as the development of a local SAF industry, particularly to meet domestic demand requirements.

An Australian aviation transition strategy must be developed with clear technology and policy pathways to support the decarbonisation of the different segments of the aviation industry. A suite of policy responses suitable for Australian conditions to facilitate emissions reductions across the sector is needed, taking a system-wide, approach to ensure a level playing field for all participants and avoid market distortion. This must include:

- Investment in technology;
- Coordination across the multiple sectors within aviation (e.g. airports, airspace, fuel etc);
- Reduction in the significant price gap between SAF and conventional jet fuel; and
- State and Federal Government collaboration, facilitated by the Jet Zero Council, to support the transition.

Australia is well placed to benefit from a more sustainable growth path – attracting new industries and jobs, diversifying the economy, improving energy security, and reducing Australia's vulnerability to external price shocks. The environment benefits of SAF will be the single largest enabler of the Australian aviation sector reaching net zero emissions by 2050. A domestic SAF industry holds substantial promise for significant benefits to both the Australian economy and the broader community. Despite this potential, Australia currently lacks local commercial production of SAF.

It is critical that air travel remains affordable, particularly in a country the size of Australia. Consumers are price sensitive and the cost differential between SAF and carbon offsets remains significant. Currently SAF is significantly more expensive than offsetting by a significant margin depending on the SAF and offset type. Therefore, economic policy settings that incentivise the production and use of SAF are critical.

To unlock opportunities to establish a domestic SAF industry, the Government and the broader aviation/SAF industry needs to consider both aviation and decarbonisation as a global concern that requires cross border and global solutions, in addition to local solutions. Aviation's transition to net zero is best achieved by facilitating a globally agreed common sustainability framework. This framework would facilitate the harmonisation of policies, regulations and standards across the aviation sector, which addresses the need for a level playing field.

(b) The Government must take specific measures to support the industry achieve net zero by 2050

The aviation industry needs a range of policies to enable it to contribute its proportional share of emissions reduction required to reach the national emissions target. Given that SAF will be the major contributor to emissions reduction by the sector and there is currently no domestic supply, Virgin Australia believes that:

- In consultation with the Australian Jet Zero Council, the Government should progress economic and regulatory policy measures to stimulate uptake and use of SAF; and
- Priority should be given to policy development and initiatives that can bridge the supply gap in the interim as the local SAF industry scales up, such as SAF accounting (book and claim). This will support SAF procurement and access to its environment benefits by airlines and their customers without geographical constraints.

It is also important to continue to progress other decarbonisation levers, and in this space, Virgin Australia suggests that the Government should:

- Ensure that the regulator, CASA, is adequately resourced and prepared to support the certification process of novel airframe configurations. This includes propulsion systems and any other optimisation and decarbonisation initiatives as they are developed; and
- Ensure the optimisation of air traffic management, through the implementation of OneSKY and other Airservices programs, is realised and evaluated for continual improvement.

(c) The Government should explore funding reforms beyond its Transport and Infrastructure Net Zero Roadmap and Action Plan (including for sectors such as general aviation and airports)

The investments required globally to enable a net zero transition of aviation are estimated to be in the order of USD 5.3 trillion.¹⁵ In this context, Virgin Australia encourages the Government to include funding opportunities to enable emissions reductions arising from the production, uptake, and deployment of SAF in Australia. Any funding reforms must ensure that entities along the whole supply chain, but particularly producers, are eligible for funding to support the growth of the SAF industry. The main objective must be to de-risk these activities and provide more clarity and security for the parties involved.

In addition to funding, another fundamental building block in terms of bringing new technologies to the market is research and development (R&D). There is a need for more comprehensive plans which embed carbon capture, removal, and storage technologies as part of the roadmap, and which support voluntary mechanisms for carbon offsets.

(d) An updated NGER scheme and/or other policy mechanisms to enable unique claims on SAF (sourced through common infrastructure) come with several benefits and risks

Sustainability attributes associated with SAF (whether obtained through mass balance or book and claim methods) need to be claimable under the relevant policy mechanism. Policies and funding mechanisms that incentivise investment in SAF should be consistent with and complement the reforms to the Safeguard Mechanism.

SAF is a globally tradable, drop-in replacement for jet fuel. This makes it an expedient lever for decarbonisation as it can be used with existing fuelling systems, aircraft, engines and infrastructure. With SAF already significantly more expensive than conventional jet fuel, requiring SAF to use bespoke supply chains would only increase this cost even further.

The sustainability attributes of SAF need to be recognised as divorceable from the physical delivery of the fuel through robust accounting and chain of custody processes. Allowing this helps to reduce the cost of SAF as well as maintain the integrity of the sustainability benefits.

A robust, potentially global SAF accounting mechanism would have multiple benefits, including:

- Enabling and promoting SAF production where it is most efficient, which also avoids adding unnecessary greenhouse emissions from the transportation of SAF; and
- Stimulating SAF uptake where demand would not justify local SAF production (e.g. in regional or remote areas) or where physical supply is too expensive, thus expanding the customer base.

¹⁵ ICAO, International Civil Aviation Organisation. "Report on the feasibility of a long-term aspirational goal (LTAG) for international civil aviation CO₂ emission reductions", 2022.

It is critical, however, that such a mechanism includes:

- A tracking mechanism so the sustainability attributes of SAF can be appropriately accounted for, traced, transmitted and communicated. Once SAF is co-mingled with conventional fuel in existing infrastructure it can no longer be traced, hence emissions reductions need to be accounted for separately from the physical fuel produced and allocated to their rightful owner;
- Safeguarding against double counting (e.g. by use of a master registry or group of interoperating registries) and the prevention of errors, duplication and fraud; and
- Facilitation of compliance with mandatory as well as voluntary emissions reduction schemes (e.g. enabling the environmental attributes to be used to comply with the Safeguard Mechanism requirements). This would further incentivise additional SAF uplift.

(e) **Global standards and certifications are necessary to support industry confidence in the quality standards and sustainability of SAF**

The use of globally available standards is important to help address any concerns relating to the quality and sustainability of SAF produced from different feedstocks through approved technology pathways. These standards and certification criteria include:

- ASTM 7566;
- The Round Table on Sustainable BioMaterials (RSB); and
- International Sustainability and Carbon Certification (ISCC).

SAF must be produced to ASTM 7566 and blended (depending on the permitted blend ratio) with conventional jet fuel, before it is considered appropriate for use. If it is not produced to this standard (as verified in accordance with laboratory testing) it is not SAF and cannot be used.

International sustainability criteria such as RSB and ISCC would need to be examined through a uniquely Australian lens to ensure that any SAF produced in Australia meets or exceeds these globally recognised standards. This also represents an opportunity for potential Australian SAF producers given the abundance of high-quality feedstock in the country.

(f) **A domestic Australian SAF industry would drive emissions reduction**

Sustainable fuels such as SAF and the domestic production of these could provide many direct emissions reduction benefits:

- Producing fuels from Australian feedstocks could mitigate the risk of supply interruptions and shortages. Australia imports more than 90 per cent of its liquid fuels through long supply chains exposed to geopolitical and climate change risk and delays.
- Creating employment opportunities as feedstock production and collection depend heavily on regional areas to construct and manage supporting infrastructure and develop supply chains that would be missed if feedstock continues to be merely exported without value adding.
- Enabling Australia to play a critical role within the region and in global decarbonisation efforts by supplying SAF, sustainable feedstocks, biofuels and by-products to regional neighbours. These regional neighbours, who face severe resource constraints, are unable to produce sufficient feedstocks for low carbon fuel production.
- Allowing airlines to carry and burn less fuel due to SAF's higher energy density and thermal stability enabling it to combust more efficiently and aircraft engines to consume less fuel.

- Producing much less particulate matter reducing the overall warming effect of combustion, as compared to combustion of conventional jet fuel which leads to the formation of ice crystals and contrails.
- Supporting decarbonisation of road transport and enabling local industries to access low carbon alternatives, through the production of other fossil fuel replacements, such as renewable diesel, lubricants and lighter hydrocarbons during the SAF production process.

(g) Challenges for the adoption of sustainable liquid fuels

IATA estimates that to achieve net-zero emissions, 65 per cent of the total emissions reductions will likely need to be achieved using SAF. The challenge to rapid decarbonisation in Australian aviation arises from:

- limited global supply of SAF (current production representing less than 1% of global jet fuel demand);
- fierce global competition for feedstocks;
- Demand pressures and any potential regulations or mandates may increase prices as a result of the competitive landscape;
- building industry literacy and social licence;
- Establishing SAF certification arrangements;
- Government policies to sufficiently support SAF development in Australia;
- the lack of a domestic SAF industry and supply chain infrastructure that will enable domestic airlines to offtake SAF at an affordable price.

A local supply of SAF would allow domestic airlines to access low-emission fuel and contribute to decarbonising Australia and achieving net zero by 2050. Without domestic production, SAF is currently limited to airlines that travel to international ports where SAF is available.

The cost to produce, scale-up and deploy SAF is significantly higher than traditional fuels. SAF remains as much as two-to-five times more expensive than conventional jet fuel with fuel representing around 30 per cent of an operator's cost. An increase in these costs can have significant commercial – and customer – impact.

Without supportive policy, the significantly challenged economics of renewable fuels and SAF will continue to constrain the successful deployment and uptake of renewable liquid fuels. Government action has the ability to provide the policy framework necessary to build the business case that will de-risk these investments, enabling capital to flow towards the development of SAF projects in Australia.

(h) The Government can play a crucial role in the growth of a domestic SAF industry

Virgin Australia advocates for the development of a policy framework derived from collaboration among all industry stakeholders and both State and Federal governments, facilitated by the Jet Zero Council. This collaborative effort will help to bridge the gap between the cost of SAF production and the cost of conventional aviation fuel.

Government has an important role to play in:

- Co-investing, identifying and attracting investment, particularly global private sector investment to the industry;

- Collaborating with research institutions and industry to design “state of the art” bioenergy feedstock production systems;
- Supporting investment in infrastructure, research, processing, transport, enabling of commercial scale production – with a view to developing resilient supply chains;
- Providing financial incentives to users/producers of SAF;
- Identifying synergies to reduce costs and enhance benefits such as improved food and energy security; and
- Leveraging Government procurement practices to create market demand for bioproducts.

(i) **Avoidance of unintended consequences**

Virgin Australia recognises the potential role that a SAF mandate can play and looks forward to discussing its applicability or otherwise in an Australian context. That would include a careful examination of possible unintended consequences.

- Economic modelling commissioned by Virgin Australia indicates that value / low-cost carriers would be more heavily impacted by SAF mandates compared to full-service carriers, as fuel costs make up a larger portion of their operating expenses. Increases in fuel prices would likely result in airlines having to raise airfares, with value carriers being less effective at doing so due to the price sensitivity of their customer base. This has the potential to reduce or limit competition.
- Modelling also suggests that a SAF mandate has the potential to decrease demand (as ticket prices potentially increase), leading to reduced economic activity (in the form of reduced tourism expenditure from domestic and international tourists) and fewer tourism jobs.
- A SAF mandate may also disproportionately increase the cost of carbon emissions reduction for aviation when compared with other industries. For example, the effective cost today (December 2023) of a carbon offset when using SAF is over 20 times that of high-integrity carbon offsets such as an Australian Carbon Credit Unit (ACCU).
- The high effective cost of a carbon offset using SAF relative to using conventional jet fuel may lead to resources being diverted away from other potentially more efficient (under certain conditions) decarbonisation pathways, such as electrification and hydrogen propulsion.
- Data collected by Virgin Australia indicates that SAF prices in mandated markets are higher than SAF in non-mandated markets. Furthermore, in instances where a mandate includes a penalty for non-compliance, customers may end up paying more without receiving corresponding environmental benefits as obligated parties are unable to obtain SAF below the non-compliance penalty cost.
- Depending on how mandates are structured, a mandate can also create barriers to new SAF technology entrants, favouring well-established pathways such as HEFA at the expense of emerging production methods. Focusing too much on meeting compliance requirements may hinder the expansion of production, supply, and consumer demand.

Growth and scaling up of the local industry needs to be accelerated, but not at the expense of good long-term, system-wide, planning and mitigation of impacts on the environment, food production, communities and tourism. Adverse impacts and poor planning could hamper the development of the longer-term sustainable SAF industry, resilient supply chains and social licence.

The potential competition for resources and funding highlights the need for planning and selection of the SAF pathways that may alleviate or avoid this competition over time.

The scale up of SAF will be critical to ensuring that aviation is able to meet its decarbonisation objectives. However, care must be taken to introduce policy mechanisms that do not place aviation at a distinct disadvantage relative to other industries or challenge the long-term availability of affordable aviation services for the Australian community. While the Safeguard Mechanism sets out the decarbonisation trajectory required, the sector is likely to need to combine several measures to achieve it – including energy efficiency improvements, the use of high integrity carbon offsets and SAF. Appropriate action by government will help ensure that SAF makes up a larger portion of the trajectory than the other levers.

(j) Future challenges of Australian SAF production include growing, refining and consuming of feedstocks

The challenge with respect to developing an Australian SAF industry is primarily economic. The technological aspects in respect to the production of SAF, including production pathways and feedstocks are well understood given the significant amount of work undertaken to date, including the existing production of SAF overseas.

In the absence of a domestic SAF industry, Australian feedstock producers will be increasingly incentivised to sell their Australian feedstock into the international market at overseas prices, potentially locking out Australian SAF producers.

Furthermore, feedstocks for SAF may have existing uses. Therefore, current users of that feedstock may have to find less sustainable alternatives (including for example palm oil) to meet their requirements. Several industries are competing for biofuels which may pose challenges to access supply for the aviation industry.

Without effective policy support for the establishment of a domestic SAF industry, Australia runs a significant risk of domestic airlines being unable to secure adequate access to SAF.

(k) The Government must prioritise the education of sustainable practices to support regional aviation's net zero transition in the context of these emerging technologies

Education in several key areas is needed to support regional aviation's net zero transition including:

- Sustainable aviation practices and the opportunities for emissions reduction in aviation (e.g. low carbon fuel technologies and energy-efficient aircraft);
- Policies and regulations relating to climate change and aviation such as the Safeguard Mechanism and Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA);
- Potential application of renewable energy to support the powering of regional airport infrastructure and their associated operations; and
- Collaboration and stakeholder engagement is also critical between airports, airlines, industry stakeholders and the community.

7 Competition and cabotage

Key Takeaways

PART 1: Competition

1. Strong competition in aviation is of national importance.
2. In Virgin Australia's experience, the Australian domestic airline market is highly competitive. There are more domestic carriers today than any time in the past 20 years.
3. Virgin Australia strongly disagrees that there is a lack of 'head to head' competition. It has designed a diverse product offering to appeal to all passengers and it fights hard against its competitors for every passenger, every day. It is the only real competitive constraint against the Qantas Group.
4. Nevertheless, the Qantas Group dominates every domestic airline passenger segment. There are barriers to challenging this entrenched position.
5. The current structure of the domestic aviation market results from Government policy, including the two-airline policy, and has been further entrenched by regulatory responses to the evolving market. It is not possible to understand the current market structure without considering this history.
6. Virgin Australia recommends policy and regulatory changes to improve competition in the domestic market:
 - o Strong regulatory oversight, including ACCC Airport and Airline Monitoring and enforcement proceedings where evidence of anti-competitive conduct is identified;
 - o Use of procurement decisions to promote competition, including by more equitably redirecting Government travel spend;
 - o Improving airport pricing negotiations; and
 - o Recognising the link between international competition and domestic operations.

PART 2: Cabotage

7. Virgin Australia agrees with the position in the Green Paper that there should be no changes to the current case-by-case approach where cabotage is restricted to one-off instances where a demand exists that no Australian operator is able to satisfy.
8. As found on numerous occasions, in Government policy reviews, removing cabotage restrictions is not necessary. There are no consumer or competition benefits, but there are potential safety compliance risks and negative implications for airport charges, which may further compromise regional routes, as well as risks for the longer-term employment of Australian workers, their wages and the sustainability of Australian airlines.
9. Virgin Australia submits that it, along with other stakeholders, should be included in the proposed Australian Government consultation regarding the proposed framework and guide for cabotage dispensations.

PART 3: Regional air services

10. Regional air travel has very different demand characteristics from domestic mainline services and requires more regulatory and Government support to be sustainable, for the benefit of regional communities. A no-intervention approach to competition on regional routes brings a level of volatility for both airlines and local communities which is not desirable.
11. Virgin Australia would welcome a Productivity Commission Review into regional air services, which should consider:
 - o the high cost of providing regional services;
 - o the relationship between costs and demand for services, which drives pricing on unregulated routes;
 - o the processes by which regulated routes are put to tender; and
 - o how sustainable long-term competition can be supported to provide more certainty of supply for regional communities.

PART 1: Competition

7.1 Highly competitive domestic airline sector compromised by the conduct and entrenched dominance of one player

(a) Overview

Virgin Australia agrees that strong competition in the aviation sector is essential to foster an efficient and sustainable industry for the benefit of consumers. A competitive aviation sector is also crucial for the health of the Australian economy. Many other Australian businesses and communities depend on safe and accessible air travel.

Virgin Australia's belief in the need for strong and sustainable competition is fundamental to, and underpins, its business decisions. Virgin Australia fights hard to win customers from its competitors every day, especially against the Qantas Group which dominates every domestic airline passenger segment. Virgin Australia is continuously introducing innovation to differentiate itself and improve its passengers' travel experience. Virgin Australia is determined to be the airline of choice for Australians and has designed a product and service level to provide exceptional experiences at great value, regardless of the purpose of travel.

In Virgin Australia's experience, the Australian domestic airline market is highly competitive. Since Voluntary Administration, Virgin Australia has undergone significant transformation that has led, in FY23, to profitable operations for the first time in 11 years. Virgin Australia continues to be the main competitive restraint on the Qantas Group. New entrants and the expansion of other carriers has also put a small dent in Qantas' dominant market share.

There are currently four airlines operating on mainline domestic routes, a situation that has not been replicated since 2000- 2001, when Qantas, Ansett, Virgin Blue and Impulse briefly competed before both Ansett and Impulse collapsed that year. While neither Rex nor Bonza have the scale to effectively constrain Qantas, it is incorrect to suggest that the domestic airline market is not competitive or that it is more concentrated today than it was pre-COVID.

Despite the domestic airline market being structurally more competitive than it has been for over 20 years, it is undoubtedly the case that it continues to be dominated by the Qantas Group. The Qantas Group strategically deploys a dual brand strategy to sustain industry leading margins across the spectrum of passengers including the price conscious and those wanting premium service. The Qantas Group has a 60-66 per cent share of the domestic Australian aviation market, almost double that of Virgin Australia. At the same time, Virgin Australia estimates that Qantas earned around 90 per cent of the domestic industry profits (earnings before interest and taxation, EBIT) compared to its ~60 per cent capacity share between the 2015 and 2019 financial years and that it would earn ~80 per cent compared to a ~66 per cent capacity share for the 2023 financial year.¹⁶ Virgin Australia submits that Qantas' entrenched position and practices can at times hinder competition and compromise consumer welfare.

As a result, there are opportunities for regulatory and policy changes to enhance competition and the level of competitive constraint on airlines, which are addressed in this submission. Competition must be sustainable and deliver valuable long-run consumer benefits. The "capacity wars" between Qantas and Virgin Australia in 2012-2014 are not an example of "intense competition"¹⁷ or an indicator of competitive conduct. Rather, they were the result of an anti-competitive misuse of market power by Qantas in a successful attempt to prevent Virgin Australia from further expanding its market share and increasing its network offering. In the aftermath of the capacity war, Virgin Australia was left severely hampered in its ability to profitably operate, with high debt levels, a high-cost base, and a level of rapid expansion that

¹⁶ Qantas, *Qantas Group Investor Day Presentation*, 30 May 2023 at slide number 16.

¹⁷ Australian Government, *Aviation Green Paper: Towards 2050*, p 23-24

could not be sustained. The combined effects of this, management decisions and the COVID-19 pandemic meant that Virgin Australia went into Voluntary Administration in April 2020.

While consumers may have had temporary access to lower airfares during the capacity wars, they came close to losing long-term sustainable competition. Virgin Australia does not intend to repeat this outcome and hopes that regulators, including the ACCC, would in future intervene when faced with evidence of this kind of anti-competitive conduct.

Domestic airline competition cannot be considered in a vacuum. It is closely connected to policy settings about airport regulation, international aviation, Government and business procurement decisions, and the outcomes of regulatory decision-making. All of the issues being explored in the Green Paper impact the state of competition, and policy decisions arising from this process will have an impact on domestic aviation competition.

In Virgin Australia's experience, policy settings and regulatory decisions have for too long favoured, and in some cases been tailored to the protection of, the incumbent Qantas Group. They have helped entrench a market structure in which Qantas remains dominant, Virgin Australia continues to be a challenger brand at half its size, and any other airlines remain as fringe players, entering and exiting the market in response to, often limited, opportunities. Many of the issues discussed in the context of broader airline competition and consumer outcomes relate to concerns regarding the conduct of Qantas, not the industry. A recognition of this reality should underpin regulatory responses and avoid raising compliance costs and regulatory burden on the rest of the industry.

7.2 Virgin Australia's experience of competition in the Australian aviation market

(a) *The structure of the domestic airline industry*

The Green Paper describes the domestic aviation sector as highly concentrated with few market participants, citing Qantas Group's market share of 61.7 per cent and Virgin Australia's of 33.4 per cent.¹⁸ It appropriately contextualises this noting that similar levels of concentration are found in other aviation markets, such as Canada, which has a similar population distribution to Australia, albeit with a significantly larger population. It also notes that while a country like the United States has a higher number of competitors in the domestic aviation sector, it has a population ten times that of Australia that is much more dispersed throughout the country, making a larger number of routes viable for competitors, and increasing the number of airlines that can viably compete.

Airline operations are high cost and particularly vulnerable to external shocks. It is essential that there is sufficient demand for services to cover the high fixed costs of operations. Passenger airlines are challenging businesses to run safely and profitably. This is borne out by the history of entry and exit in Australia and the high incidence of airline insolvencies and consolidation globally.¹⁹²⁰

All of this is uncontroversial. However, it is inaccurate and damaging to Virgin Australia's brand when stakeholders incorrectly describe the market as an uncompetitive "duopoly" and state that "the two groups control 95.1 per cent of the Australian domestic market" or that "together Qantas and Virgin control over 90 per cent of the market".²¹ Only one player is dominant in the Australian domestic market and every day Virgin Australia fights hard to deliver on price and service to win custom from Australian travellers.

¹⁸ Australian Government, *Aviation Green Paper: Towards 2050*, (n 2), p 26.

¹⁹ Australian Government, *Aviation Green Paper: Towards 2050*, (n 2), p23.

²⁰ For example, see for a list of US airlines that have filed for bankruptcy: <https://www.airlines.org/dataset/u-s-banruptcies-and-services-cessations/>; see also Kevin Eagan, '86 airline bankruptcies in 2 years', *Tourism Review* (30 May 2022), available at <https://www.tourism-review.com/airline-banruptcies-amounted-to-86-news12557> and Paul Stephen Dempsey, 'The financial performance of the airline industry post-deregulation' (2008) *Houston Law Review*.

²¹ Australian Government, *Aviation Green Paper: Towards 2050*, (n 2), p26.

The ACCC's previous Final Airline Monitoring Report (**Final Report**) comments on the "duopoly" market structure of the domestic airline industry, without properly reflecting the relative market power of the Qantas Group compared to Virgin Australia, the history of entry and exit in the market, or the level of competitive constraint that Virgin Australia provides as against the Qantas Group.²² The Final Report's reference to the Qantas Group and Virgin Australia "together carrying 90 per cent of passengers over the last 20 years" glosses over the very different market positions of the two airline groups.²³ The term "duopoly" implies two dominant carriers controlling output, service and pricing levels. This is a mischaracterisation of Virgin Australia's market position.

Enjoying all the benefits of incumbency, the Qantas Group has a 60-66 per cent share of the domestic Australian aviation market, is one of the largest carriers of international passengers to and from Australia, has an unrivalled position in the supply of corporate air travel and has the benefit of operating at both the low cost and full service ends of the market. In addition to its market share being almost double that of Virgin Australia, the Qantas Group operates the largest network of any domestic airline (118 routes as of April 2023),²⁴ has the largest and most diverse aircraft fleet by a significant margin and is the largest competitor across every domestic airline passenger segment. As the Final Report, and Qantas itself, points out, during the 2011 to 2015 financial years, the Qantas Group earned around 70 per cent of industry profits (earnings before interest and taxation, EBIT) while accounting for 64 per cent of capacity in the market, increasing to around 90 per cent between the 2015 and 2019 financial years when their capacity share was 61 per cent.²⁵

Virgin Australia vigorously competes for every customer as the "number two" in the market. While there are many competitors contesting smaller portions of the market and providing differentiated product offerings, the reality is that Virgin Australia is the only other scale player and the only real alternative to the Qantas Group. However, Virgin Australia's ability to sustainably compete in the market has faced serious threats over the last decade (cumulating in Voluntary Administration in 2020). For stakeholders to talk about a "duopoly" and a "lack of effective competition" without reflecting the dominance of the Qantas Group glosses over the real competition issues in the market and masks the regulatory and policy changes needed to solve them.

(b) *Government policy and unchecked anti-competitive behaviour have created the current market structure*

The history of domestic airline regulation is essential context for the state of competition today. It was only in 1990 that the Government's Two Airline Policy for domestic aviation ended and the industry was deregulated. The policy was designed to preserve two viable competitors in the market and over time it regulated aircraft types, routes, fares, and financial support. It was implemented because the Government believed that "all experience indicates that in our present state of development there is no room for more than two major national operators if the necessary standards of efficiency are to be maintained".²⁶ Under the policy, implemented through the Civil Aviation Agreement Act 1952 (**the Act**) the scheduled services on the major air routes were divided between Australian National Airline (**ANA**) (the privately owned operator that would later become Ansett) and Trans-Australia Airlines (**TAA**) (the Government-owned enterprise that would later be sold to Qantas).²⁷ The Act's economic objectives included the "efficient and economical operation of air services", "so as to avoid unnecessary overlapping of services and wasteful competition, to provide the most effective and economical services with

²² ACCC *Airline competition in Australia Final report*, June 2023, p 23.

²³ *ibid.*

²⁴ As above, 23.

²⁵ ACCC *Airline competition in Australia Final report* (Report, June 2023) 23.

²⁶ Prime Minister Menzies, *published letter to ANA*, 28 March 1952.

²⁷ Michael G. Kirby, *An Economic Assessment of Australia's Two Airline Policy*, page 106. See: <http://citeseeerx.ist.psu.edu/viewdoc/download?doi=10.1.1.840.898&rep=rep1&type=pdf>

due regard to the interests of the public and to bring earnings into a proper relation to overall costs”²⁸²⁹

Following the end of this policy in the 1990s, subsequent aviation policy decisions served to establish Qantas as the dominant carrier in Australia across domestic and international services. With deregulation, the Government ceased to provide any economic support or regulatory protection for Ansett. In 1992, it sold TAA to Qantas, handing it a ready-made advantage that it leveraged across markets and further entrenched. By 2001, Ansett had collapsed after 65 years of operations, 9 years after TAA was sold to Qantas, and one year after the entry of low-cost carrier Virgin Blue. In the same year, Impulse Airlines also collapsed and the ACCC cleared the exercise of Qantas’ first right of refusal to acquire its assets, on the condition that it hand a small number of slots to Virgin Blue. It was the collapse of Ansett and Impulse, coupled with Virgin Blue’s lower cost base, which enabled the expansion of Virgin Blue, later rebranded as Virgin Australia in 2011, over the next decade. However, without adequate controls on Qantas’ conduct and a permissive approach to its acquisitions, Virgin Australia’s sustainability was compromised, putting at risk a viable second national airline to the detriment of consumers and the Australian economy.

From 2002 to 2020, Qantas engaged in anti-competitive conduct that hindered Virgin Blue / Virgin Australia’s ability to challenge their dominance and compromised Virgin Australia’s ability to offer sustainable competition in the market. Virgin Australia has raised this conduct with the ACCC on a number of occasions. Virgin Australia also raised it in 2020 with Government and Opposition representatives during the period in which it was in Administration and COVID-19 restrictions were in place. This conduct, and the regulatory outcome following Virgin Australia’s complaint, is summarised in the table below.

Table 1: Anti-competitive conduct by Qantas and the regulatory outcome

Conduct	Regulatory outcome
In 2002, following Ansett’s collapse, Virgin Blue entered the Adelaide-Brisbane route in competition with Qantas. Qantas responded by dumping large volumes of capacity onto the route, making Virgin Blue’s services unviable.	Virgin Blue complained to the ACCC, which brought proceedings against Qantas. However, prior to the commencement of trial, the ACCC dropped the proceedings (with no agreed settlement or undertaking).
The “65 per cent line in the sand” capacity war from 2012 to 2014 in which Qantas engaged in targeted capacity dumping accompanied by public statements that it had “drawn a line in the sand at a 65 per cent market share”, would respond to hold that share “whatever the capacity scenario is facing us” and would “add two planes for every one plane added by Virgin”, designed to prevent Virgin Australia from adding capacity.	The ACCC investigated the conduct, issuing compulsory notices. Ultimately, it did not take action against Qantas and concluded the matter by writing a warning letter to Qantas.
Bundled corporate sales contracts where access to discounts on Qantas international services was contingent on a minimum commitment of ~90 per cent of total corporate spend on domestic services (in circumstances in which Virgin Australia competed on domestic services but not on international services). Commitments were monitored, managed and enforced through a third-	Virgin Australia has raised this conduct with the ACCC on several occasions. Virgin Australia understands that this conduct is continuing. To date, a case against Qantas has not yet been brought.

²⁸ *Civil Aviation Agreement Act 1952*, pre-amble. See: <https://www.legislation.gov.au/Details/C1952A00100>

²⁹ *Civil Aviation Agreement Act 1952*, section 7(1)

Conduct	Regulatory outcome
party travel spend monitoring subscription service, PRISM. ³⁰	
In February 2019, Qantas acquired a 19.9 per cent share in Alliance Airlines in a hostile acquisition and stated its intention to take a majority stake. At the time, Alliance Airlines was in an authorised joint venture with Virgin Australia and partnered with it to undertake wetlease flying and the provision of services to corporate customers including regional services and services for FIFO employees. This acquisition coincided with the most valuable corporate contracts going to tender in circumstances where Qantas had a competitor for the whole of business contracts for the first time.	<p>The ACCC opened a completed merger review in February 2019. It issued a Statement of Issues identifying competition concerns in August 2019 and finally concluded its investigation in March 2022.</p> <p>Shortly after, on 5 May 2022, Qantas announced it would acquire the remaining shares in Alliance subject to merger approval. The ACCC opposed the acquisition in April 2023 and Qantas and Alliance announced the termination of their sale agreement in October 2023.</p>
In 2019, Qantas entered into an exclusive loyalty partnership with BP which required BP to terminate its long-term partnership with Virgin Australia. The parties sought authorisation to give effect to the partnership.	The ACCC authorised the arrangements without imposing any conditions, enabling Qantas to have direct earn relationships with two fuel partners and an indirect relationship with another fuel partner through Woolworths.

Section 3.1 below discusses in more detail the importance of strong competition enforcement to ensure ongoing and robust competition in the domestic airline market.

(c) *Virgin Australia competes vigorously and head-to-head with Qantas Group*

Since Virgin Australia entered the market, it has made it its business to vigorously compete for each customer, working hard to attract passengers through award-winning service, competitive airfares, and a strong network of destinations with valuable loyalty benefits. Post-administration, Virgin Australia has worked hard to ensure that this is done sustainably and with a view to being a profitable airline that provides a real long-term alternative to the incumbent. As part of this business strategy, Virgin Australia has simplified its fleet, removed costs that were not delivering returns, and taken a strategic approach to its network to ensure that it meets customer demand and avoids loss-making services. Virgin Australia has a service proposition that is aimed at providing customers with exceptional experiences at great value and it competes vigorously with the Qantas Group for each one of those passengers. According to customer advocacy studies from Bain NPS PRISM and Virgin Australia's own monthly market pulse surveys for Calendar Year 2023, customers rated Virgin Australia higher than Qantas, Jetstar and Rex in the areas of customer service, value, and reliability. Virgin Australia was also rated more highly by customers on other brand metrics across the same period, including 'Brand That I Love', 'Makes Flying Easy' and 'Quality Product and Experience'.

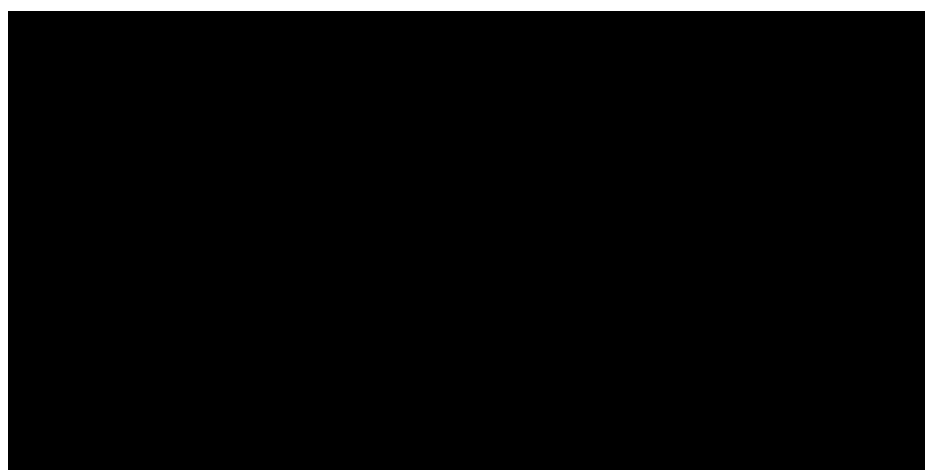
Beyond loyalty benefits which keep many long-term Qantas customers (including, it would seem, many in the public sector) flying Qantas, the key drivers of customer choice are network, frequency and price. Virgin Australia seeks to deliver on all of these and continue to evolve its offering and improve its customer experience based on data and feedback. Virgin Australia strongly rejects the suggestion in the Green Paper that airlines are "no longer competing 'head to head' and instead focussing on market niches."³¹ This does not reflect market reality and is





³⁰ <https://prism.sabre.com/>

³¹ *Aviation Green Paper Towards 2025*, (n 2), p 36.

an incorrect characterisation of the conclusions in the ACCC's Final Report. The reality is Virgin Australia competes vigorously with the Qantas Group for every passenger. For example, in September 2022, Virgin Australia and Velocity Frequent Flyer launched the Switch-A-Roo Discover Gold Status match offer directly targeting passengers that would normally fly Qantas.³²

Passengers travelling for leisure or business purposes have the option of travelling, and do travel, on all of the four main carriers (Qantas, Virgin Australia, Jetstar and Rex). A high-level comparison of the core offerings of each of these carriers is provided below.



Product Group	Offering				
Inflight food & beverage	Business class	Plated hot meal and beverage service	Plated hot meal and beverage service	Plated hot meal and beverage service on selected routes only	Plated hot meal and beverage service
	Economy class	Free water, tea, coffee For purchase: menu items from \$4-15 per item	Complimentary food and beverage service	Free: water For purchase: menu items from \$4-14 per item	Free: water, tea, coffee, snack For purchase: juice, soft drink and alcohol (\$3-10 per drink)
Inflight amenities	Entertainment	Selected domestic and all international flights	Selected domestic and all international flights	International flights on 787-8 aircraft only (11 of 79 in fleet)	737-800 aircraft only (9 of 66 in fleet)
	Wifi	Free: VIP, Platinum and business class guests For purchase: all other guests (\$10-20)	Free for all guests	Not available	737-800 aircraft only Free: business class For purchase: all other guests (\$6-15)
	Amenity kit (international)	Free: business class For purchase: economy class (\$7-25)	Free: All cabins	Free: business class For purchase: economy class (\$25)	NA – no international flying
Lounge	Lounge	Airline-operated lounge at 7 domestic ports	Airline-operated lounge at 25 domestic ports, 8 int'l ports	Access to Qantas lounges based on loyalty status/flying in business class	Airline-operated lounge at 3 domestic ports
	Business/VIP	Invite only Beyond lounge	Enhanced lounges (business/first) and invite-only Chairman's lounge	Not offered	Not offered
Loyalty	Program	Velocity Frequent Flyer	Qantas Frequent Flyer		Rex Flyer
	Status	4 tiers on top of base tier (incl. VIP)	5 tiers on top of base tier (incl. VIP)	Connected to Qantas program	3 tiers on top of base tier
	Points	Extensive earn and redeem partners (e.g. Flybuys)	Extensive earn and redeem partners (e.g. Everyday Rewards)		Earning and redeeming on flights only

Virgin Australia's pre-administration strategy of operating a high cost, full-service airline and a second low-cost carrier, Tigerair, to mirror the Qantas-Jetstar model was unsuccessful and unsustainable. Virgin Australia could not compete with the incumbency advantages of Qantas. Many customers are steadfast as a result of their loyalty penetration and their overwhelming share of corporate travel (frequent flyers love to earn points on business travel and redeem them for leisure trips), and Virgin Australia struggled with high costs and low returns, including those incurred as a consequence of the capacity wars.

Virgin Australia disagrees that there is a lack of 'head to head' competition. As evidenced by the data above, it is clear that competition exists across all customer segments. Further, any

³² Virgin Australia, Virgin Australia Announces "Switch-A-Roo" Discover Gold Status Match Offer and the Return of In-Flight Wi-Fi, 13 September 2022, <https://newsroom.virginaustralia.com/release/virgin-australia-announces-%E2%80%9Cswitch-roo%E2%80%9D-discover-gold-status-match-offer-and-return-flight>.

concerns that Qantas is potentially facing less direct competition in the premium corporate customer segment because Virgin Australia competes for business travellers with a differentiated product offering (lower airfares but no complimentary meal in economy) does not mean Virgin Australia is facing less competition or that it is not providing competition through a differentiated service offering. Equally, concerns that Jetstar may face less competition because of the exit of Tigerair, does not mean that Virgin Australia is facing less competition from Jetstar or that it is not continuing to provide competition to Jetstar through better service.

Virgin Australia also rejects the proposition, cited from the Final Report, that the lack of direct competition over recent years has resulted in underwhelming outcomes for consumers in terms of airfares, reliability of services and customer service.”³³

- In relation to pricing, Virgin Australia strongly competes on price and prides itself on offering better value compared with Qantas. But it is uncontroversial that pricing in airline markets is a product of demand and available capacity. After more than two years of very low demand and high operating losses due to COVID-19, 2022 saw a sharp increase in demand with prices peaking in December 2022, a natural result of pent-up demand for travel outstripping supply. As demand has reduced, so have prices. As the same Final Report acknowledges, there has been a clear reduction in airfares in 2023 as demand has dropped, bringing real prices to a level that is very close to those in the equivalent month in 2019.³⁴
- In relation to reliability and customer service, the issues experienced during and post the COVID-19 pandemic are not a reflection of a lack of incentive to compete. Industry-wide factors such as pilot, engineer, ground crew, and aircraft shortages have, at times, made it difficult to keep operational performance at historical levels. Over the past year, Virgin Australia has introduced several customer service innovations such as a baggage tracking tool and rapid rebook services, it has also introduced special offers like the status match offer and middle seat lottery, added new services, expanded its partner airline relationships, and added Velocity partners. These are all competitive initiatives designed to win and keep customers.

The aviation industry is still in the process of recovering from a very volatile period. Virgin Australia appreciates that Australian travellers have experienced higher fares as demand outstripped supply post-COVID along with significant service disruptions associated with staff and aircraft shortages and other COVID-related challenges. However, these experiences are not indicative of the level of competition, or there being a lack of domestic airline competition. Virgin Australia takes its obligations in relation to customers and service levels very seriously.

Policy and regulatory changes that would strengthen competition

Although Virgin Australia does not agree with the suggestion that there is less competition in the domestic airline market today than pre-COVID, Virgin Australia considers that there are important policy and regulatory changes that would further enhance competition. Virgin Australia submits that these should be seriously considered by the Government as part of the White Paper process.

(d) Active competition regulation

Virgin Australia agrees that active competition regulation is essential to ensuring a competitive aviation market. Two aspects of this are particularly important:

- i. Strong enforcement of the competition laws to address individual instances of anti-competitive conduct; and
- ii. ACCC Airport and Airline Monitoring.

³³ *Aviation Green Paper: Towards 2025* (n 2), p 36.

³⁴ ACCC, *Airline competition in Australia Final Report*, June 2023, at 20-21.

The *Competition and Consumer Act 2010 (Cth)* (**CCA**), coupled with the ACCC's powers and processes, provides a strong framework for the reporting, detection, and enforcement of suspected anti-competitive conduct, with very significant penalties for contraventions.

The Bilaterals Senate Committee recommended that “the Australian Government review reform options to strengthen competition in the domestic aviation industry, including potential divestiture powers to remedy any misuse of market power.” In Virgin Australia's view, this recommendation is unnecessary when no airline cases have been brought to judgement by the ACCC under the existing misuse of market power prohibition under section 46 of the CCA, which was amended in 2017 in response to ACCC recommendations. There are already very significant penalties available for a breach of the competition laws, and these penalties were recently increased in 2023.³⁵ These penalties provide a strong deterrent for any Australian company. However, their deterrent effect only works if there is a credible threat that proceedings would be commenced and followed through.

In Virgin Australia's view, some of Qantas' conduct suggests that they have been emboldened by the lack of action against them in the past. As discussed above, Virgin Australia's experience of competition enforcement is that there have been numerous missed opportunities to address Qantas' entrenched market dominance and its use of that position to weaken competitors and stifle competition. Prior to the COVID-19 pandemic, Virgin Australia complained about a number of instances of Qantas' conduct on the basis that it constituted a contravention of the misuse of market power prohibition. Virgin Australia is aware of other airlines also making similar complaints, including Rex.³⁶ Despite this, no actions have been commenced against Qantas for competition law contraventions since the abandoned proceedings in 2002 referenced above.

Virgin Australia remains concerned about Qantas' practices, including their continued use of bundled discounts and exclusive dealing in corporate contracts which ties international discounts to exclusivity or high minimum volume commitments in domestic travel, foreclosing Virgin Australia from effectively competing for corporate customers who require international and domestic travel. The ability to attract corporate travellers is important to the sustainability of Virgin Australia's operations allowing Virgin Australia to diversify its customer base and secure a share of higher yielding travel.

At the same time, Virgin Australia welcomes the ACCC's recent decision to oppose Qantas' acquisition of the remaining 80 per cent of Alliance Airlines, which would have further entrenched their market position and resulted in a substantial lessening of competition in FIFO and wet-lease markets. This is an important change from the merger clearance processes, and inaction in response to completed acquisitions, that saw an already dominant Qantas (following its 1992 acquisition of Australian Airlines) acquire Impulse, Network Aviation, and a 19.9 per cent stake in Alliance.

Virgin Australia is pleased that the ACCC has been given the remit to continue Airline Monitoring. Virgin Australia considers that this is a strong tool for the promotion of compliance with competition laws and supported its initial introduction in 2020. Virgin Australia also considers that Airline Monitoring has helped to dissuade potential anti-competitive conduct in the market and will continue to do so. Virgin Australia notes and welcomes the signs that the ACCC is taking a harder line against potential breaches by Qantas, at least in relation to Australian Consumer Law (**ACL**) compliance.

³⁵ On 1 July 2023, the value of a penalty unit increased from \$275 to \$313. For many other breaches of the Competition and Consumer Act 2010 and Australian Consumer Law, the calculation of the maximum pecuniary penalty is the greater of: \$50,000,000; if the Court can determine the value of the 'reasonably attributable' benefit obtained, 3 times that value; or if the Court cannot determine the value of the 'reasonably attributable' benefit, 30% of the corporation's adjusted turnover during the breach turnover period for the contravention. The maximum pecuniary penalty for an individual for breaches of Part IV of the CCA is \$2,500,000. Individuals found guilty of criminal cartel conduct could face up to 10 years in jail, or fines of up to \$626,000 per criminal cartel offence (2,000 penalty units).

³⁶ Regional Express (Rex) submission to ACCC regarding the impact of Qantas capacity dumping on regional routes, 2023, p 1.

There has been significant attention paid to the issue of airline competition during 2023. No doubt this is a result of the personal travel experiences of many Australian consumers as pent-up demand for travel was released post-COVID in the midst of staff and aircraft shortages along with other COVID related challenges. However, it is very important to draw a distinction between specific conduct of the dominant carrier and the competitiveness of the industry as a whole. Market participants should be held accountable for their own conduct. Concerns about Qantas and its conduct, price-service offering and performance should be addressed with and by Qantas. Not by introducing unnecessary industry-wide regulatory burden that risks increasing costs for the other airlines competing in the market.

(e) *Promotion of competition through procurement decisions*

As discussed above, the ability to attract corporate customers is crucial to a premium airline's success as it provides access to a diversified customer base with more consistent and repeat custom, traditionally less elastic demand and higher yields. Virgin Australia has long struggled to attract a share of corporate customers commensurate with its market share because Qantas has an entrenched market position for these sticky customers. This is achieved through a combination of the value of their loyalty proposition, the advantages of incumbency, and their bundled discount practices.

In August 2022, a research study conducted by external consultant Butler Caroye for March to June 2022 found Virgin Australia corporate airfares to be some of the best value in the market and nearly 60 per cent better value than the airline's nearest competitor on travel between capital cities.³⁷

A simple, direct and easy way that Government and business can promote competition in the domestic aviation market is to switch some of this glued-on Qantas travel spend to Virgin Australia. Given the large fare premium Qantas commands, this would have the added benefit of cost savings for taxpayers and for businesses.

The potential cost savings from switching travel spend to Virgin Australia is clearly illustrated by the statistics below.

(i) **Australian Government travel arrangements**

The Australian Government travel arrangements are a coordinated procurement process managed by the Department of Finance. In FY23, Virgin Australia's passenger share across Australian Government domestic travel needs is 29.3 per cent and its revenue share is only 22.9 per cent. The total domestic whole of government travel spend in FY23 was just under \$242m, while Virgin Australia's share of this was only \$55.6m. Given Virgin Australia's average ticket price over that period was \$207, compared to \$289 across its competitors, this reduced share means that taxpayers are paying more for Government travel than is necessary by continuing to choose Qantas instead of switching volumes to Virgin Australia. Taxpayers are paying, on average, an additional \$138 per travel booking on Government negotiated economy cabin fares, when it is not booked with Virgin Australia and an additional \$279 in the business class cabin.

³⁷ Butler Caroye, *Australian Domestic Business Airfares in 1st Half 2022 – Blue Paper*, August 2022. Butler Caroye found that in the period from March to June 2022, for travel between capital city routes, the average Business Class Fares was approximately 56% cheaper at Virgin Australia compared to its main competitor, refer to pages 3 and 8. Available: <https://static1.squarespace.com/static/59a6130f46c3c4b58db33d3f/t/631ee24cfd70475c1092129a/1662968401174/Domestic+Airfare+Review+Butler+Caroye+Blue+Paper+August+2022.pdf>

(ii) Travel for Federal MPs and staffers

The situation is even more stark when it comes to travel for politicians and their staff. In FY23, Virgin Australia only had an 11 per cent revenue share (19 per cent passenger share) of domestic travel for federal politicians and their staffers. This suggests there is considerable preferencing of Qantas and that the Government is significantly over-paying for fares. The total travel spend for this group is nearly \$29m and Virgin Australia receives only \$3.2m of this spend.

This information strongly suggests that current Australian Government travel arrangements are not providing value for taxpayers and need to be reviewed. Over and above that, these spending patterns serve to entrench Qantas' dominance and deny Virgin Australia a real opportunity to attract government and corporate passengers, with flow-on effects for leisure services and the attractiveness of the Velocity program. This is easily fixed. In CY2023, domestic travel with Virgin Australia translates to an average savings of approximately 30% compared to flying with other domestic airlines. Given that the Federal Government flies with Virgin Australia ~30% of the time, this discrepancy results in a substantial loss of value amounting to millions for the Australian taxpayer.

Value for money should be the overarching consideration when booking flights for domestic air travel at the taxpayer's expense. When booking travel, officials must make decisions based on an impartial consideration of the fares available and not on personal preference for a particular airline or aircraft type, access to airline lounges or the ability to accumulate status credits. The revelations earlier this year about the pervasiveness of Qantas Chairman's Lounge Membership amongst Australians of influence, including politicians, also sheds light on these decisions.³⁸ Virgin Australia would support a ruling that, in addition to the current prohibition on earning frequent flyer points, prevents the accrual of status credits on Government-funded travel.

(f) Improving airport pricing negotiations

There is a direct link between the cost of accessing airport services and the competitiveness of domestic airline operations. Currently, airport pricing is unregulated. Virgin Australia experiences repeated difficulties in negotiating with airports, which often involve "take it or leave it" pricing proposals, unnecessary investment that drives up the cost base, and a lack of transparency. Virgin Australia has long-advocated for the introduction of a 'negotiate-arbitrate' model of light-handed regulation of airports, together with stronger aeronautical pricing principles, reporting obligations and price monitoring. This position would bring airports into line with other monopoly-infrastructure around Australia.

Importantly, appropriate light-handed regulation of airports would enable the entry of lower cost services, help airlines to provide lower cost services more efficiently, and facilitate a reduction in the third largest input cost for airlines. All of which increases the opportunity for lower fares. At the same time, this would encourage efficient investment in airport facilities. The critical importance of getting airport pricing settings correct is discussed further in the chapters below.

(g) International competition has positive impacts on domestic competition

Finally, there is a clear connection between a competitive international travel market and competition in the domestic aviation market. International travellers add important passenger feed to domestic services. The ability to offer an international network, whether that be through an airline's own operated services or through selling the operated services of partner airlines, influences the attractiveness of an airline's loyalty offer and can be a deciding factor in both corporate and private travel decisions.

³⁸ Ayesha de Krester, *Revealed: who's insider the Qantas Chairman's Lounge*, Australian Financial Review, 6 October 2023. [Revealed: who's inside the Qantas Chairmans Lounge \(afr.com\)](https://www.afr.com/news/politics/qantas-chairman-lounge-20231006).

The important improvements to the bilateral negotiation and decision-making process that would promote competition in international aviation and, in turn, the domestic aviation market have been addressed earlier in this submission.

Virgin Australia's strategy is to pursue a virtual international network through partner airlines to provide its guests with access to international destinations and strengthen the value of its Velocity program, while keeping costs under control. This is the most effective and sustainable way for Virgin Australia to compete for international travellers at present and it allows Virgin Australia to provide a real competitive alternative to Qantas across all market segments. In order to give effect to this strategy, ACCC authorisations are often required. Virgin Australia considers that any changes to expedite these processes, especially where there is no overlap between the services of Virgin Australia and its proposed partners, would create efficiencies. Virgin Australia also notes that the pro-competitive benefits of these strategies should be prioritised.

PART 2: Cabotage

7.3 Overview

Virgin Australia agrees with the Green Paper's assessment that there should be no changes to the current model. Under the current model, cabotage is restricted to a 'case-by-case' approach when a demand exists that no Australian operator is able to satisfy, such as the carriage of oversized mining equipment requiring extra-large aircraft, or the large movements of horses associated with the Melbourne Spring Racing Carnival.³⁹ Virgin Australia considers that there are no consumer or competition benefits to be gained by changing this policy position. On the other hand, removing cabotage restrictions does create the potential for safety compliance and industrial relations risks. This section outlines why as previously found on multiple occasions no changes are desirable in relation to the current restrictions against cabotage.

7.4 Further expansion of cabotage rights is not necessary

The grant of consecutive cabotage rights, permitting an international airline to pick up domestic passengers or freight at a domestic airport for carriage to another domestic airport, is almost non-existent in air services agreements globally.

In relation to Australia's current regulatory regime:

- opportunities for foreign airlines to codeshare on Australian carriers' extensive domestic networks are commonplace. For example, Virgin Australia operates domestic Australia codeshare services for Singapore Airlines, United Airlines, Qatar Airways, Hawaiian Airlines, Air Canada, Etihad, ANA, and Air Mauritius facilitating seamless connections between an international flight and a domestic Australian flight; and
- New Zealand designated carriers already have consecutive cabotage rights in Australia, through Single Aviation Market arrangements which have been in place since 1996. No New Zealand designated carrier currently operates scheduled domestic Australian air passenger services despite having these rights.

The number of domestic routes currently operated in Australia is higher than it was pre-pandemic. According to the ACCC, 176 domestic routes were in operation as at April 2023, up from 160 routes in April 2019. This demonstrates that there are unlikely to be any significant unserved routes that could be serviced through cabotage.

Against this background, Virgin Australia does not consider that any changes to cabotage policy are necessary, particularly once the costs of such changes are taken into account. These costs are outlined below.

³⁹Aviation Green Paper: Towards 2050, (n 2), p 47.

(a) Safety and employment implications

Expanding cabotage rights would result in Australia primarily relying on foreign regulators for safety oversight of these services. No Australian Air Operator's Certificate (**AOC**) would be needed and there would be no oversight by Australia's Civil Aviation Safety Authority, leading to the application of varying safety standards in the domestic market.

If, as the Minister's foreword to the Green Paper suggests, the Australian Government "...wants an aviation sector that maintains Australia's world leading safety standards", then there should be no changes to cabotage rights.⁴⁰

Further, as the Green Paper recognises, "...realisation of the economic benefits would depend on allowing foreign airlines to import their lower cost base (including foreign wages and conditions), raising a range of issues under the fair work framework."⁴¹ This also seems at odds with the Australian Government's desire that the aviation sector "provides secure jobs now and into the future".⁴²

In the Transport Workers Union's submission to the Rural and Regional Affairs and Transport References Committee, when addressing the operation, regulation and funding of air route service delivery to rural, regional and remote communities, they highlighted that, "...there is a clear danger that if foreign airlines are permitted to operate on domestic routes as part of a strategy to aid our rural, regional and remote communities, thousands of jobs will be put at risk and safety potentially compromised."⁴³

In 2015, the then Shadow Transport Minister labelled plans to allow foreign airlines to fly domestic routes in northern Australia as "unilateral economic disarmament" that will undermine local wages and threaten Australia's airlines.⁴⁴

Cabotage rights would enable foreign carriers to utilise aircraft that would otherwise remain idle or non-revenue generating in the time period between international services. The foreign carrier would need only to recoup the marginal cost of the capacity operated on the route, in contrast to the local carrier, which has a requirement to recover the full cost of the sector. The resulting ability of foreign carriers to offer airfares that are lower than the average cost faced by domestic airlines in operating these services would lead to network rationalisation by local operators over the longer term, resulting in lower than otherwise employment of Australian workers.

(b) Potential for increased airport charges

To the extent that changes to cabotage rules may be considered for particular regional areas, it is worth noting that airport charges are a key determinant of the viability of regional routes. These charges account for a large and increasing proportion of Virgin Australia's cost base. Any relaxation of cabotage policy could be expected to see airports move to upgrade their infrastructure, with a view to attracting larger aircraft operated by international airlines. Given the relatively low passenger volumes at regional airports, this would significantly increase overall charges, which are principally borne by domestic airlines and their passengers. This would render the sustainability of all services to these airports operated by Australian airlines – not just a particular route on which cabotage may be permitted – an even more challenging proposition.

⁴⁰ Australian Government, *Aviation Green Paper Towards 2025*, (n 2), p 1.

⁴¹ Australian Government, *Aviation Green Paper Towards 2025*, (n 2), p 47.

⁴² Minister's foreword to the Green Paper.

⁴³ Transport Workers Union of Australia, Submission 161 to 'The operation, regulation and funding of air route service delivery to rural, regional and remote communities', pp. 1,4

⁴⁴ SMH, 'Anthony Albanese slams plan to let foreign airlines fly Top End routes' (25 May 2015), available at <https://www.smh.com.au/business/companies/anthony-albanese-slams-plan-to-let-foreign-airlines-fly-top-end-routes-20150525-gh8uqo.html>.

(c) No net benefit from expanded cabotage rights

Given the impacts noted above, the grant of consecutive cabotage rights would enable foreign airlines to take opportunistic advantage of the domestic market, at the expense of the viability and stability of the local industry, with little benefit for the broader economy.

The conclusions of the Productivity Commission in its inquiry into international air services, similarly found that, “...it is unlikely that such services would lead to substantial efficiency gains in Australian resource allocation, as the Australian airline industry is relatively efficient and internationally competitive”.⁴⁵

Expanding cabotage rights would also mean there is little incentive for foreign airlines to invest in the Australian aviation industry, as it would be possible to participate in the domestic market with a reduced commitment and to withdraw their participation more readily.

The potential benefits flowing from relaxation of current aviation policy settings concerning cabotage would be significantly outweighed by the associated costs, and therefore cannot be justified.

(d) Foreign investors can establish an Australian-based subsidiary

As recognised in the Green Paper:

“any foreign investor (airline or other) wishing to operate domestic air services within Australia can do so by establishing an Australian-based subsidiary (subject to Foreign Investment Review Board (FIRB) consideration). This has facilitated start-ups such as Virgin Blue and Tigerair Australia, which challenged incumbents with new aviation products and different business models. More recently, foreign capital has supported Regional Express to expand and Bonza to enter the market.”⁴⁶

By entering or expanding domestic services in this way, an airline is subject to Australian regulatory oversight in the areas of safety, security, competition, consumer, occupational health and safety, and other oversight applying to Australian businesses. This entails a necessary commitment to the establishment of a long-term presence, generating employment and supporting economic development. This sentiment is reflected in the 2009 National Aviation Policy White Paper which noted that *a foreign airline with a bona fide commitment to sustainable and regular domestic services may set up an Australian domestic subsidiary, operating with an Australian AOC, and under full CASA oversight.*⁴⁷

(e) Cabotage has historically been raised and dismissed multiple times

The likely negative practical impact of cabotage on the Australian aviation industry has been recognised, and cabotage has accordingly been ruled out, in successive aviation policy reviews on a bipartisan basis. This included the dismissal of proposals to remove cabotage restrictions in 2015 as part of the Australian Government’s response to the Harper Competition Policy Review.

Virgin Australia does not consider that circumstances have changed warranting a reconsideration of the issue.

7.5 Short term cabotage dispensation framework

To provide increased policy certainty, the Australian Government proposes to publish, in consultation with industry, a decision-making framework and guide for short-term cabotage dispensations. This would be intended to provide clarity for industry in relation to the current process and provide an administrative framework to manage any future decision to implement a longer-term arrangement.

⁴⁵ International Air Services Inquiry Report, *Productivity Commission, Report No. 2*, 11 September 1998, p 227.

⁴⁶ Australian Government, *Aviation Green Paper Towards 2025*, (n 2), p 26.

⁴⁷ Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, 2009, p 44.

Virgin Australia considers that any cabotage dispensation should be restricted to one-off instances when a demand exists that no Australian operator is able to satisfy. Virgin Australia also submits that it should be included in any consultation process regarding the development of the proposed framework and guide.

PART 3: Regional air services

The Australian Government is considering the recommendation of the Senate Rural and Regional Affairs and Transport References Committee that the Productivity Commission undertake a public inquiry into the determinants of domestic airfares on routes to and between regional centres in Australia. It is contemplated that this could investigate the feasibility of introducing operational subsidised and price control alternatives, as well as consulting regional communities on the cost of airfares and whether additional routes should be subject to regulation.⁴⁸

Regional air travel has very different demand characteristics from domestic mainline services and requires more regulatory and Government support to be sustainable, for the benefit of regional communities. Virgin Australia would welcome a Productivity Commission review that considered the factors discussed in the Green Paper.

However, it would be important that it also consider:

- the high cost of providing regional services;
- the relationship between these costs and demand for services, which drive pricing on unregulated routes;
- the processes by which regulated routes are put to tender; and
- how sustainable long-term competition can be supported to provide more certainty of supply for regional communities.

Virgin Australia currently services a number of larger regional centres, particularly in Queensland and Western Australia. However, its coverage of small regional ports is limited because many of these routes are unprofitable for the second largest carrier and therefore not viable for its operations in the long term. It is likely that any further offer of services to smaller regional ports would be via a partner airline.

Consistent with these difficulties, Rex has pulled out of a number of regional routes, and reduced frequencies on others,⁴⁹ with material impacts for local communities. At the same time, Qantas has entered a number of regional routes, including in competition with Rex.^{50 51} The cost and demand positions mean that many regional routes cannot sustain two competitors, while others require regulatory support and subsidisation to support regular operations by a single carrier. It is clear that a no-intervention approach to competition on regional routes brings a level of volatility for both airlines and local communities which is not desirable. The process for reducing this volatility should be addressed in any Productivity Committee Review.

⁴⁸ Rural and Regional Affairs and Transport References Committee, *Operation, regulation and funding of air route service delivery to rural, regional and remote communities*, 2019, p 173

⁴⁹ Withdrawn services on Sydney-Bathurst, Sydney-Cooma/Snowy Mountains, Sydney-Lismore, Sydney-Grafton, Adelaide-Kingscote, Sydney-Canberra, Melbourne-Albury, Adelaide-Mildura, Cairns-Bamaga. Reduced services on Sydney-Broken Hill, Broken Hill-Adelaide, Sydney-Wagga Wagga, Melbourne-Wagga Wagga, Mount Gambier-Melbourne, Whyalla-Adelaide, Port Lincoln-Adelaide, Ceduna-Adelaide, Sydney-Albury, Sydney-Coffs Harbour, Sydney-Griffith, Sydney-Narrandera, Sydney-Orange, Sydney-Parkes, Sydney-Port Macquarie. Sydney-Armidale (suspension until March 2024).

⁵⁰ Qantas routes that were previously exclusively operated by Rex: Sydney-Orange, Sydney-Merimbula, Sydney-Griffith, Melbourne-Merimbula, Melbourne-Albury, Melbourne-Wagga Wagga, Melbourne-Mount Gambier, Adelaide-Mount Gambier

⁵¹ Australian Aviation, 'Qantas accuses Rex of spreading 'weird conspiracy theories' (30 May 2022) available at <https://australianaviation.com.au/2022/05/qantas-accuses-rex-of-spreading-weird-conspiracy-theories/>

8 Consumer protections

Key Takeaways

- The Australian Consumer Law (ACL) is fit-for-purpose as it provides a comprehensive framework for consumers including guaranteed rights and appropriate compensation. Airlines already add to those rights through their own compensation policies.
- Any industry-specific regime must deliver better outcomes for consumers now and in the longer-term and not cut across or undermine current protections and incentives to innovate in relation to customer service. Neither a Passenger Bill of Rights, nor a fixed compensation regime meet these requirements, including because:
 - Automatic, blunt penalty regimes like the EU's passenger compensation scheme risk leading to increased fares, but not necessarily improved customer outcomes or operational performance.
 - The operation of the ACL and the intense competition that most airlines in Australia face, mean airlines are already incentivised to ensure they meet their obligations under the Consumer Guarantees.
 - It is not typically the operation of the ACL that is the subject of consumer complaints, it is instead their experiences with the operational challenges that arise due to the inherently uncertain nature of aviation or the resolution of complaints.
- Virgin Australia acknowledges the benefits to consumers that would arise through:
 - Greater awareness of, and guidance on, the ACL which could be developed collaboratively between the ACCC and industry;
 - Changes to the Airline Consumer Advocate to make a more effective external complaint handling process through enhanced accessibility, and accountability of the complaints handling body, including a new ability to make final and binding decisions on airlines to resolve consumer complaints.

8.1 Overview

Virgin Australia welcomes the opportunity to comment on the current consumer protections framework in Australia and recognises the importance of consumers having trust and confidence in the aviation industry.

The provision of airline services is complex and dependent on many aviation supply chain participants and factors which can contribute to flight disruptions. However, the safety of passengers and staff is, and should always be, paramount.

Travellers and the aviation industry were particularly impacted by the COVID-19 pandemic. Border closures and the challenges of increasing capacity again with industry-wide pilot, engineer, ground crew and aircraft shortages coinciding with pent-up demand has contributed to an unprecedented and sharp rise in consumer complaints about airlines.

While the operations of airlines continue to recover, the industry remains impacted by supply chain challenges which will not disappear in the near future. Many of these issues are beyond the airlines' control and exist not only within the airlines' operations, but within those of the third parties that airlines rely on to provide supporting services such as ground handling, maintenance and air traffic control.

Virgin Australia takes its obligations under the ACL very seriously and is always looking for ways to improve the customer experience. In 2023, Virgin Australia introduced several customer service innovations, which are discussed below. It has also seen call volumes reduce 11 per cent in 2023 to date compared to 2022, with average wait times significantly reduced from almost four minutes in 2022 to less than one minute in 2023.

While Virgin Australia remains focused on continuing to enhance the customer experience, it recognises that customers are seeking greater clarity and certainty in the resolution of complaints.

8.2 Virgin Australia takes customer service and its consumer law obligations very seriously

(a) Virgin Australia aims to outperform its competitors in customer service

Virgin Australia is always looking for ways to improve the customer experience and is constantly innovating and improving its offering.

According to customer advocacy studies from Bain NPS PRISM and Virgin Australia's own monthly market pulse surveys for 2023, Virgin Australia leads the market in choice, value, service and inclusivity. Virgin Australia's Guest Contact Centre is best in class. Virgin Australia outperforms the industry average for mishandled baggage, with a mishandled baggage rate of just 1.6 per 1,000 guests. This is five times better than the last recorded global industry average which, according to SITA is 7.6 mishandled bags per 1000 passengers.⁵² Virgin Australia has won Best Cabin Crew five years running at the Airlineratings.com Airline Excellence Awards and customer satisfaction scores continue to remain high with around 60 per cent of customers 'highly satisfied' rating it a 9 or a 10 out of 10. While Virgin Australia acknowledges that sometimes things do go wrong, it is clear that customers value its products, and Virgin Australia does its best to deliver timely and effective services.

(b) Virgin Australia's Guest Compensation Policy and ACL compliance

Virgin Australia has a dedicated Guest Compensation Policy and Customer Charter available on its website. The policy and charter set out the assistance and compensation it provides to customers in the event of travel disruptions, including the option of obtaining a refund where Virgin Australia cannot provide suitable recovery options. Virgin Australia's policies clearly outline that these rights are in addition to the rights its guests have under the ACL and other laws applicable to their booking. Virgin Australia's guests can also independently access some of this assistance via Virgin Australia's online platform, Rapid Rebook, an easy-to-use self-service tool, discussed in further detail below.

Virgin Australia monitors compliance with its Consumer Guarantees obligations through an ongoing ACL compliance plan that operates across the Group. Under the plan, there is a Consumer Law Policy, face-to-face and online ACL compliance training, a review of samples of past complaints to ensure compliance with the ACL and steps taken to remediate non-compliance where necessary.

Virgin Australia is comfortable that it gets the balance right on these issues. However, the provision of airline services is complex, and Virgin Australia appreciates that, sometimes, it may not be clear to passengers what types of delays or cancellations are considered to be in the control of the airline, and which are outside the airline's control. For that reason, Virgin Australia believes it would be beneficial for industry and the ACCC to work together to agree and release better guidance on the application of the Consumer Guarantees to air services, discussed further below.

⁵² <https://www.theguardian.com/world/2023/may/18/mishandled-baggage-rate-almost-doubled-globally-in-2022-as-airlines-scrambled-after-covid>

(c) *Virgin Australia is continuously investing in customer service initiatives*

The Green Paper noted stakeholder feedback on the need for greater incentives for airlines to invest in their customer service.

Virgin Australia's customers are at the centre of everything it does, so it agrees that sustainable investment in customer service is critical. As a challenger brand, fighting hard every day against the Qantas Group which controls ~60 per cent of the market share and ~80 per cent of the profit pool, Virgin Australia is heavily incentivised, and does, look to constantly and sustainably, innovate and invest to achieve better customer outcomes.

Examples of investments Virgin Australia has made to improve its customer experience and customer service in FY23 unique to the domestic aviation industry in Australia include:

(i) **Baggage tracking**

In August 2023, Virgin Australia launched Australia's first-ever airline baggage tracking tool, which allows customers to track their bags when travelling across two thirds of Virgin Australia's domestic network. Customers travelling on eligible routes will receive push notifications via the Virgin Australia app throughout their journey, including at check-in, when transferred to a partner airline, and when ready for collection at the final destination, including details of the carousel they can be collected from.

Virgin Australia has successfully used this technology to reduce mishandled baggage rates by 60 per cent from August to September 2023. Further outcomes from this technology include:

- Guest baggage complaints have reduced by 31 per cent;
- The OTP delays due to bag search duration have reduced by 34 per cent;
- Baggage security events have decreased by 58 per cent; and
- Baggage claims have reduced by 10 per cent

(ii) **Baggage reconciliation**

Virgin Australia has made significant investment in a new baggage reconciliation system (**BRS**). The BRS scans bags as they are received, loaded, unloaded and delivered to carousels, enabling baggage tracking to tack place. The BRS has reduced mishandled bags by 44 per cent and customer baggage complaints by 29 per cent. Baggage search times have also reduced by 43 per cent. As at September 2023, BRS covered all 38 ports of the Virgin Australia network. In the event a bag is mishandled, the BRS enables guests to recover their bags more quickly as it notifies guests of missing bags and automates the process from lodging a missing bag complaint to delivering it to its owner.

(iii) **Automated / self-service Passenger Recovery - Rapid Rebook**

In early 2023 Virgin Australia launched the Rapid Rebook platform, which gives Virgin Australia guests autonomy and choice when it comes to managing unexpected changes to their travel. Customers have the option and control of self-service for:

- rebooking cancelled flights on a flight of their choosing (across a three-day period). When a guest's flight is disrupted within three days of its scheduled departure, they are automatically moved on to the next available Virgin Australia flight. If the new service is not suitable, they can easily select an alternative flight that is within 72 hours of their original flight online; and

- booking a hotel stay, including transport and claiming food vouchers where a guest is eligible under Virgin Australia's Guest Compensation Policy and disrupted overnight outside their home port. Virgin Australia is the only airline in Australia providing hotel and transport options via an easy-to-use self-service tool.

Using the Rapid Rebook tool has reduced wait times for rebooking and other disruption services from up to two hours in large disruptions to just a matter of minutes. On average, guests are able to self-service their travel plans and hotel accommodation in less than two minutes. Virgin Australia considers this innovation has significantly reduced the load on its Guest Customer Centre (GCC) during disruptions, in turn reducing customer wait time and inconvenience.

Since the Rapid Rebook tool has gone live, Virgin Australia has:

- re-accommodated over 350,000 guests;
- over 20 per cent of guests opted to use self-service to change their flight, which equates to the avoidance of a potential 70,000+ contacts to the Guest Contact Centre or guest services; and
- issued over 10,00 hotel rooms via self-service (an average of +30/day)

8.3 Reform proposals must be fit for purpose and consistent with existing consumer law framework

(a) *Consumer disruption in the COVID and post-COVID period is unprecedented*

Virgin Australia strives to get customers to their destination safely and on time. However, sometimes bad weather, natural disasters, technical problems, operational and other issues can cause flight delays and cancellations. In the usual course, Virgin Australia's policies and procedures have ensured that it has been able to handle these disruptions as safely as possible and in a way that tries to best minimise customer inconvenience.

The COVID-19 pandemic resulted in widespread flight cancellations. Restarting flying after the COVID-19 shutdowns has also proved challenging, with industry-wide staff shortages (including pilots, engineers and ground crew), aircraft shortages and supply chain issues coinciding with significant pent-up demand. These factors have made it difficult for airlines to achieve desired operational outcomes and keep operational performance at historical levels with COVID-19 still impacting operations and likely to continue impacting operations through supply chain issues into the short-to-medium term.

These far-reaching impacts have contributed to an unprecedented and sharp rise in consumer complaints about airlines (including complaints where the disruptions were not in the control of the airline but the result of other participants in the aviation value chain also impacted by the same COVID-19 disruptions, including Airservices, the availability of ground handling and security staff, and other disruptions at airports). It is clear that in some circumstances, customer complaints have not been handled appropriately. However, Virgin Australia does not agree that this is indicative of an industry-wide problem and submit that industry-wide solutions (and their accompanying industry-wide costs) should not be imposed to solve for a "Qantas problem" especially where the burden is likely to be disproportionately felt by smaller participants.

While there are still structural challenges with staffing and supply chain issues, Virgin Australia remains committed to ensuring that any disruption to customers is minimised. It is misplaced

and incorrect to characterise recent disruptions as indicative of a lack of competition fostering complacency or a lack of incentive to compete on consumer standards.⁵³

(b) *Existing legal framework: ACL obligations and the Carrier's Liability Act*

(i) The ACL provides baseline consumer rights or protections across all sectors

The ACL includes Consumer Guarantees which provide consumers with guaranteed statutory rights and protections when buying goods and services, including that services must be carried out with due care and skill, fit for a particular purpose and provided within a reasonable time.

- These guaranteed rights automatically apply and cannot be excluded by airlines in their conditions of carriage or the fare rules applicable to flight bookings. Customers purchase a seat on a flight, which is advertised with estimated times for departure and arrival. While Virgin Australia does not agree that customers only purchase a 'bundle of rights' when buying a seat on a flight, airlines are not able to guarantee flight times because of the inherent uncertainty associated with air travel. Consumers should not assume that a plane will always be able to meet its exact advertised departure/arrival times, airlines must meet the Consumer Guarantee of providing the service within a reasonable time.

Whether a change, delay or cancellation to a customer booking fails to meet airline's Consumer Guarantees obligations will depend on a number of factors, including:

- the reason for the delay or cancellation (for example, if it was caused by someone other than the airline (e.g. Air Traffic Control) or an event outside its control (e.g. Dangerous weather conditions or medical emergencies on board);
- the length of any delay; and
- whether the delay or cancellation was remedied. For example, if the customer was reaccommodated on to another flight that departed within a reasonable time, relative to their initial scheduled departure date.

If the breach of the Consumer Guarantees cannot be remedied or is a "major failure", consumers may be entitled to a refund or other remedies under the ACL, including compensation for reasonably foreseeable loss.

By providing a compensation regime that is premised on the extent of loss that a consumer has actually suffered, the ACL provides the most appropriate mechanism to:

- compensate consumers for the full extent of their loss; and
- deter airlines from breaching the Consumer Guarantees.

The ACL also prevents businesses from including unfair terms in standard form contracts, which means that terms and conditions need to appropriately reflect what is fair for consumers.

(ii) Proposals to amend the ACL to include an 'unfair trading practices' provision

While the current framework is already strong, there are also processes underway to further strengthen the ACL. Treasury sought feedback by 29 November 2023⁵⁴ on the nature of unfair trading practices in Australia not prohibited by existing Australian consumer law provisions, the extent of harm and policy options to address it. As noted in the Green Paper, the government is considering how the ACL could include prohibitions against 'unfair trading practices' which the ACCC has been strongly advocating for, along with reform to the ACL Consumer Guarantees to make it a contravention of the ACL for businesses to fail to provide a remedy for

⁵³ Australian Competition and Consumer Commission, *Airline competition in Australia, Final report*, June 2023.

⁵⁴ <https://treasury.gov.au/consultation/c2023-430458>

Consumer Guarantees failures, when they are legally required to do so. These proposals, and their effect on consumer rights economy-wide, are yet to play out.

(iii) The Carrier's Liability Act

The *Civil Aviation (Carrier's Liability) Act 1959* (Cth) also provides consumer protections in relation to liability and insurance including passenger death or injury, associated mandatory insurance requirements and lost and damaged bags.

(c) *Airlines are commercially and financially incentivised to minimise disruptions*

A number of drivers incentivise airlines - both commercially and financial - to minimise disruptions to passenger services. They include:

- Disruptions can have a negative impact on customer-experience and with it brand loyalty and reputation, impacting future purchasing decisions;
- Significant staffing costs are used for the guest-contact centre and complaint-handling in circumstances of disruption;
- The costs associated with re-accommodation to another flight, hotel and meal vouchers, and other compensation to passengers is significant and airlines have the incentive to avoid these costs through high on-time-performance and flight completion rates;
- On-time performance and flight completion rates (cancellations) are key metrics of service standards which are published and reported on, and inform customer purchasing decisions; and
- Any interruption to scheduled services, whether they are caused by the airline or factors outside their control, have material flow-on impacts in a network business such as Virgin Australia's. For example, a delay to an 8am Melbourne-Sydney flight due to high wind can impact services elsewhere in the network for the rest of the day. Similarly, reduced Air Traffic Control staffing at Sydney airport would mean that longer sequencing times for take-off and landing are implemented. This has the effect of delaying multiple domestic flights, as well as international arrivals, resulting in passengers missing transfers and the need for airlines to reaccommodate on other services. This in turn can have flow-on effects if other flights are then overbooked or boarding is delayed as a result of additional passenger volumes.

(d) *Reforms need to be fit-for-purpose and conduct by individual airlines should be addressed under existing laws*

The Green Paper notes that the appropriate consumer framework needs to reflect the operational realities of air travel while providing adequate minimum baseline protections for travellers.

As discussed above, the Consumer Guarantees in the ACL already provide strong baseline protections to consumers including in relation to air travel. Any reform or measures to address consumer issues, strengthen the application of protections and improve complaints handling should sit within this system and enhance access to it, awareness of it and enforce rights and obligations under it. Virgin Australia submits that multiple regimes attempting to address similar issues are inefficient, complex and will add confusion to customers and will raise costs for airlines.

Any reforms must be fit-for-purpose and take into account the operational and competitive dynamics of operating domestic aviation services in Australia. It is important that any additional burdens associated with reform are proportionate to the additional benefit they are envisaged to deliver and consistent with the existing ACL framework. Virgin Australia would not want to see a situation where airlines were required to comply with multiple schemes or where all airlines

bore the cost of compliance failures of one airline, that could have been addressed under the existing ACL.

Operating an airline is a high cost, high risk business. Adding to that cost with blunt solutions, like a fixed compensation scheme, that have a disproportionate burden on those struggling to challenge and constrain the dominant carrier (which has the largest market share by far, the largest number of complaints, and the largest share of the profit pool at ~80 per cent) is bad policy which is not in the long-term interests of consumers or conducive to sustainable competition.

- (e) *Qantas, which boasted a \$2.47 billion underlying profit before tax for FY 23, does not face the same competitive or resource constraints as the challenger airlines and accordingly is better placed to absorb complex reform in this area, further increasing its competitive advantage. Accordingly, reform in this area needs to be consistent with the current framework and simplified so as to not further disadvantage airlines that aim to challenge Qantas. There is no clear case for bespoke aviation-specific consumer protection laws*

As noted in the Green Paper, key customer complaints include flight cancellations, delays and the terms and the conditions for refunds and flight credits when these occur.

The Green Paper notes the increased contacts about airline issues received by the ACCC since the pandemic as reason to consider aviation specific rules. However, in responding to this rise in complaints, it is important to recognise:

- the impact the pandemic has had on airline operations and resulting customer complaints, and how this will reduce over time.
- 'Contact' in the ACCC contact data does not mean a business has acted in breach of the ACL or the CCA. These figures include contacts where consumers have simply enquired about their rights on an issue (as opposed to making a complaint about an airline's conduct), where the responsibility for the issue lies with a third party and unverified complaints.
- For safety and other reasons sometimes flights need to be delayed or cancelled, especially in relation to weather and security events.
- In some circumstances, the delay or cancellation might be outside the airline's control, while in others the customer may be reaccommodated within a reasonable time but the customer is still impacted and so might complain.
- Virgin Australia has not received any indication from the ACCC to suggest that it is receiving a high level of complaints from its customers. Data included in the ACCC's submission to the Aviation White Paper dated 15 March 2023 indicates that except for an understandable spike in contacts when Virgin Australia went into Voluntary Administration, the ACCC generally had less contacts regarding Virgin Australia when compared with the Qantas Group between 2018-2022.⁵⁵ Virgin Australia's complaints volumes have also reduced with ~4 complaints per 1,000 customers in 2023 (20 per cent reduction vs 2022).

- (f) *Introducing a Passenger Bill of Rights or fixed compensation regime is not fit-for-purpose, necessary or in the long-term interests of consumers*

- As discussed above, neither a Passenger Bill of Rights, nor a fixed compensation regime is fit-for-purpose or necessary given the potential for disproportionate administrative

⁵⁵ The number of contacts the ACCC had regarding Virgin Australia has been generally lower and often materially lower than Qantas for the five years from 2018 to 2022. The ACCC also had less contacts regarding Virgin Australia when compared with Jetstar for the vast majority of that period. Final Airline Monitoring Report [insert reference]

burden on smaller airlines without necessarily achieving improved customer outcomes or operational performance.

- A costly industry-wide approach in this form is not justified by the data, and can have unintended negative consumer consequences including increased fares, impacts on the sustainability of services and potentially less competition in the long term, confusion and complexity due to the application of multiple regimes to travel ticket purchase, consumers not receiving the same standard of benefits that they otherwise would (including because current compensation offered by airlines might be higher) and misaligned expectations. Ultimately, airlines are already incentivised to minimise disruptions so consumers will not necessarily benefit from an improvement in overall service quality.
- Fixed compensation regimes cut across current ACL rights and obligations as well as additional disruption assistance and customer service innovation by airlines. They are also blunt, arbitrary instruments that have no regard for the actual loss suffered by consumers (e.g. price paid for tickets, any other reasonably foreseeable losses) and may disproportionately penalise the different airline models challenging the Qantas Group.
- International experience suggests such regimes will not necessarily result in reduced cancellations or delays and will raise costs for airlines which will inevitably be passed onto consumers. This has been the experience in the EU.
 - Director General of IATA, Willie Walsh, said in June consumers in the EU were paying more for airfares to cover the cost of its compensation scheme, while studies show no improvement in delays or cancellations.⁵⁶
 - IATA data found that in Europe performance levels are in-line with Australia's (disrupt out of airline's control) and airfare tickets have increased ~\$5 per ticket.⁵⁷
 - IATA cited a 2020 European Commission study that indicated a significant rise in flight cancellations from 67,000 in 2011 to 131,700 in 2018. Concurrently, flight delays increased during the same period, climbing from 60,762 to 109,396.^{58 59}
- Some disruptions are required for safety reasons, out of the airline's control or caused or contributed to by other participants in the aviation supply chain (which are not incentivised to improve their performance in the same way e.g., airports, air traffic control etc). Safety cannot, and should not, be compromised to avoid automatic penalties for blunt OTP metrics and aircraft serviceability decisions should not be infected by such considerations.
- As noted above, airlines are already commercially and financially incentivised to avoid cancellations and delays. This, accompanied with OTP reporting and reinstated Airline Monitoring, means airlines are already accountable and a fixed compensation regime will not provide additional incentives in this regard.

⁵⁶ IATA. Willie Walsh Report on the Air Transport Industry. 5 June 2023. <https://www.iata.org/en/pressroom/2023-speeches/2023-06-05-01/>.

⁵⁷ Steer; European Commission, *Study on the current level of protection of air passenger rights in the EU*, January 2020, p 94. file:///C:/Users/wynnwilliamsh/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/V8TKJDPM/study_on_the_current_level_of_protection_of_air_passenger-MI0419779ENN.pdf

⁵⁸ International Air Transport Association. *US Proposed Passenger Compensation Rule Will Raise Costs but Not Solve Delays*. 9 May 2023. <https://www.iata.org/en/pressroom/2023-releases/2023-05-09-02/>.

⁵⁹ European Commission, *Study on the Current Level of Passenger Protection in the EU*, Final Report, January 2020, P 38.

(g) *Consumer outcomes better and more efficiently achieved through other means*

If the concern is really the conduct and high number of complaints about other industry participants then this could, and should, be addressed directly with them rather than suggesting blunt industry-wide solutions to particular participant problems.

Virgin Australia welcomes the return of monitoring by the ACCC and notes that OTP and cancellation rates also continue to be measured providing an additional layer of accountability on the airlines.

(h) *Improving awareness of rights under the ACL*

The existing framework contains strong obligations for service providers and rights for consumers. However, Virgin Australia is of the view that consumers and the industry as a whole could benefit from greater awareness and more certainty and guidance around the application of existing obligations and rights. Virgin Australia suggests this guidance could be developed collaboratively between the ACCC and industry.

(i) *Reform to complaint handling process*

Virgin Australia has heard the feedback about complaint handling and the effectiveness of the ACA and acknowledges the role that a third-party intermediary could provide in assisting with complaint resolution and education.

For the reasons set out above, any proposal to change the existing framework for dispute resolution should sit within the existing legal framework provided by the Australian Consumer Law. Further, an effective external dispute resolution scheme should follow the Government's [Benchmarks for Industry-based Customer Dispute Resolution](#) which include the following: Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness.

In the aviation context, a dispute resolution framework should:

- Allow for efficient resolution of disputes within clearly defined time parameters;
- Provide certainty of outcomes for consumers by having the authority to make binding decisions relating to the dispute, with a clear path for review of determinations by either party;
- Be staffed by qualified personnel with knowledge of the ACL and expertise in consumer dispute management;
- Take on the role of educator for consumers, so that consumers have a clearer understanding of their rights; and
- Be established and managed with cost efficiency as a key consideration.

Virgin Australia submits that these elements could be delivered through different mechanisms and is supportive of the proposal to enhance the effectiveness of the current Australian Consumer Advocate scheme. Virgin Australia recognises that the proposal would require financial investment, time and effort from all industry participants with support from Government to achieve the required effectiveness and rebuild consumer confidence in the scheme. Virgin Australia is committed to and welcomes engagement on that process.

Virgin Australia also recognises that an aviation industry-specific ombudsman is viewed by some as an alternative to an enhanced Australian Consumer Advocate. While Virgin Australia is open to considering different forms of dispute resolution mechanisms, any proposal to introduce an ombuds-scheme would require a robust consultation process with industry participants. Relevant factors that would require careful consideration include the cost of the

scheme and how it would be funded, and whether those costs are proportionate to the benefits the scheme would provide for consumers, when compared with other options such as an enhanced Australian Consumer Advocate.

Virgin Australia welcomes changes to make a more effective external complaint handling process and is committed to working with industry participants and Government on this issue. Virgin Australia notes that any mechanism used must be efficient, and cognisant of the impacts of the additional costs if it is to be industry-funded rather than Government-funded. This is particularly the case for airlines like Virgin Australia who are competing against the Qantas Group as the dominant market player, where management of costs is critical in ensuring that Virgin Australia can continue to provide great value fares and choice for consumers.

9 Negotiations between airlines and airport, pricing principles and slots

Key Takeaways

- As a result of airports' monopoly position and airlines' need for their services, there is an imbalance of bargaining power in negotiations between airports and airlines.
- The lack of competitive market forces limits the ability of airlines to influence airport investment decisions through negotiation. Without regulatory oversight, this can lead to inefficient investments by airport operators given they are incentivised to over capitalise in order to continue to earn larger returns on their growing asset bases. This ultimately leads to a higher cost of air travel for customers.
- The current price monitoring regime does not provide an effective constraint on airports' monopoly power, nor does it address the imbalance of power in negotiations. The Aeronautical Pricing Principles have no 'teeth' under the current price monitoring regime.
- For the Aeronautical Pricing Principles to be effective, they need to be mandatory and enforceable under an arbitration regime. The ACCC should be given powers to arbitrate disputes relating to the application of fit-for-purpose Aeronautical Pricing Principles, where there is a failure of negotiations between airports and airlines.
- Airports should be required to consistently disclose minimum levels of information to airlines in negotiations, including methods for determining capital values, rates of return, expenditure forecasts and cost allocations as well as detailed support workings. This information sharing would not impose any significant additional burden on airports as it would be similar to the information that Airports are already required to provide to the ACCC to support Regulatory Accounts and audits (the information provided to the ACCC is currently not made available to airlines). This information should be detailed and disaggregated consistent with the recommendations made by the ACCC's Airport Monitoring Report 2021-22 to improve transparency and should also be readily comparable so as to allow airlines to conduct a thorough assessment of the quantum and efficiency of pricing proposals sent from airports to airlines in negotiations.
- Fit for purpose regulation also has a role to play in supporting effective competition between airlines – by ensuring that each airline pays no more than its fair share of efficient airport costs and is not forced to cross-subsidise its airline competitors through funding a disproportionate share of those costs via the unfair imposition of differentiated pricing for access to the same infrastructure.

PART 1: Economic regulation of airports

9.1 Overview

Getting the regulatory settings right for access to airport services is essential to ensure that airlines of all sizes are able to efficiently operate and fairly compete, that airlines' costs are not unnecessarily increased, and that passengers do not have inefficient costs passed on to them through higher airfares.

There is a direct connection between achieving fair access to airport services, and a competitive domestic aviation market. For example, a range of stakeholders have recently submitted in public debate that new entrant airlines need better access to Sydney Airport in order to expand their operations. However, even if greater access were available for new entrants, the price of access to Sydney Airport is too high to be compatible with the business models of new entrant low-cost

carriers.⁶⁰ Recent public debate has given insufficient consideration to the way that the high cost of access to airport services impacts competition.

For all airlines, the cost of access to airport infrastructure influences their ability to viably enter routes and maintain or expand their operations. The compatibility of these costs and each airlines business model is a key consideration in how they are able to compete and serve passenger demand. Virgin Australia seeks to compete by offering outstanding value to its passengers, and excessive and unfair costs for airport services are not compatible with those aims. It is not enough to simply consider airport access without prioritising an evaluation of the challenges faced by airlines in securing reasonable prices and terms for that access, how those challenges impact each airline's competitiveness, and ultimately how they limit the choices available to consumers.

The role of airports in domestic airline competition has been largely missing from the recent public debate. This section of the submission provides some context for the current policy debate regarding the economic regulation of airports, including some examples of Virgin Australia's recent experience in negotiations with airport operators, and then addresses the specific questions posed by the Green Paper in relation to the role of the Aeronautical Pricing Principles:

- Are the Aeronautical Pricing Principles fit-for-purpose?
- How could the Aeronautical Pricing Principles be improved?
- Should the Australian Government mandate the use of the Aeronautical Pricing Principles?

For reasons set out below, Virgin Australia considers that whilst the Aeronautical Pricing Principles could be improved, they are reasonable and supported by Virgin Australia as appropriate framework principles that should be applied in all negotiations between airlines and airport operators. The fatal flaw in the APP's is that, unlike equivalent principles that are currently applied in connection with other forms of monopoly infrastructure assets, the APP's are not mandatory and they lack any mechanism for enforcement. Making the APP's mandatory and enforceable under an arbitration regime should be a first order priority.

Virgin Australia submits that mandatory and enforceable APP's would promote the efficient operation, use of, and investment in, airport infrastructure, and bring the regulatory regime into line with other infrastructure sectors in which "light-handed" regulation is currently applied.

9.2 The importance of effective economic regulation of airports

The exercise of monopoly power by airports imposes inefficient costs on the travelling public in two main ways:

- High airport charges ultimately lead to a higher cost of air travel for customers; and
- Monopoly airports are able to discriminate between airlines, in both overt and non-transparent ways, including by charging some airlines substantially higher charges for access to the same services and facilities and/or by providing preferential treatment to some airlines in the delivery of services (e.g. exclusive or preferential access to different parts of an airport, management rights within airport terminals, signage and branding rights, etc.). Where this occurs, it can ultimately be damaging to competition between airlines using the same airport infrastructure and may ultimately result in the inability of one or more airlines to compete on particular routes because those differentiated costs of access to the same essential airport infrastructure put them at such a severe competitive disadvantage.

Airport charges, levies and fees are currently Virgin Australia's third largest cost of operation after fuel and labour costs. This means that these costs and the associated competition impacts can be very significant, and ultimately will lead to increased airfares for passengers.

⁶⁰ See, for example, statements by Bonza CEO, Tim Jordan: <https://www.smh.com.au/business/companies/we-will-get-things-wrong-bonza-ceo-backs-cost-saving-as-bogan-airline-takes-off-20230130-p5cghg.html>

Since the privatisation of Australian domestic airports in the late 1990s and the subsequent removal of price caps in 2002 (which were initially applied to constrain the monopoly market power of privately owned airports), the limited efficacy of “light-handed” regulation has relied upon a credible threat of potential regulation to deter the overt exercise of monopoly market power by airport operators. However, over time, this threat has progressively been diminished. Successive Productivity Commission reports have incorrectly concluded the existing airport regulatory framework remains fit for purpose and have supported regulatory stagnation through successive rejections of all proposals to implement any meaningful measures to regulate airports more effectively.

As a result, airport operators no longer perceive any credible threat of regulation, and are increasingly emboldened to exploit their monopoly market power.

9.3 There is currently no effective constraint on airports exercising market power

Australian airports are geographic monopolies, and Australian airlines do not have a practical or economically rational choice, other than to use the facilities and services provided by airport operators. As a result, airports can, and do, exercise market power in negotiations with airlines. The market power of Australian airports exists right across the sector and is even more acute for the largest airports, which are not only geographic monopolies for the population centres they are located within, but also provide essential services that enable Australian airlines to economically operate a national network of routes at scale.

Despite this market power, unlike the operators of most other forms of monopoly infrastructure assets in Australia, airport operators are not currently subject to **any regulation** which is effective to constrain the regular and consequential exercise of their monopoly market power.

9.4 Price monitoring is not price regulation

The current price monitoring regime has been referred to as “light-handed” regulation. In truth, it is no regulation at all.

Prices and other terms of access to airports are not, in any sense, regulated. Instead, these are unilaterally determined by monopoly airport operators. There is no regulatory oversight or determination of the terms of access, nor any recourse to a regulator to resolve disputes. The only role for the economic regulator (the ACCC) under the current regime is to periodically report on high level financial metrics for airports.

The ACCC’s current monitoring role is similar to the role that it currently has for *competitive* industries, such as petrol, childcare, and retail banking, or indeed domestic airlines. It is not an appropriate form of oversight for monopoly activities.

This has been noted by the ACCC itself. Former ACCC Chair Rod Sims observed:⁶¹

- *the mantra that light-handed regulation means price monitoring is ill-conceived in economic theory and not working in practice...*
- *Experience has shown that, in circumstances of natural or legislated monopoly, price monitoring will have little or no longer term impact on the conduct of the monopoly infrastructure owner.*
- *Why are we surprised? **Price monitoring is not price regulation.***

For monopoly activities, there are broadly two forms of regulation that can potentially be effective if adopted:

- **Heavier regulation** - which typically involves *ex ante* determination or approval of prices and other terms of access by the regulator. This is the form of regulation that currently applies, for example, to electricity distribution and transmission networks, certain gas pipeline

⁶¹ ‘How did the light handed regulation of monopolies become no regulation?’, speech to the Gilbert + Tobin Infrastructure Policy Workshop, 29 October 2015.

infrastructure, the national broadband network and certain rail infrastructure (e.g. the Aurizon network in central Queensland)⁶²; or

- **Light handed regulation** – which typically provides for commercial negotiation of prices and other terms of access, but with access to a regulated arbitration process to resolve disputes.⁶³ To support the negotiation and arbitration processes, service providers will often be required to disclose certain minimum levels of information relating to the costs of supply.⁶⁴ This is the form of regulation that currently applies to most gas transmission pipelines and some seaport infrastructure in Australia.

Under either form of regulation, there are clear principles or rules governing the determination of prices.

Critically, however, principles alone are not sufficient – especially if they are vague and open to interpretation, not mandatory, and not subject to any mechanism for oversight by a regulator, as is the case with the current Aeronautical Pricing Principles. In order for any principles to constrain the market power of airports and ensure that only efficient costs are reflected in the prices paid by airport users, there needs to be some mechanism for ensuring that they will actually be applied. Under heavier forms of regulation, the regulator will apply the pricing principles or rules itself as part its *ex ante* determination. Under genuine light-handed regulation, the threat of arbitration (and knowledge that the principles / rules will be applied in any arbitration) can ensure that they will be applied during negotiations.

Genuine “light-handed” regulation would at least involve a role for a regulator (such as the ACCC) to resolve disputes in line with the Aeronautical Pricing Principles, and to support the consistent application of those principles in practice, by issuing appropriate guidance around the negotiation framework to be adopted, and information disclosure and transparency obligations (this is discussed in section 9.9 below).

9.5 Airlines do not have countervailing power

The current regime has been justified on the basis that “the strong countervailing powers by incumbent airlines, renders moot any ability of an airport to exercise its market power”⁶⁵. However, Virgin Australia, and other airlines operating in the domestic Australian market, including potential new entrant airlines, do not have the countervailing power that has been erroneously attributed to them. Virgin Australia is currently required to negotiate with airport operators that are able to exercise, and increasingly are exercising, monopoly power to set prices. This results in poor outcomes for airlines, and the customers they serve and often constrains efficient competition between airlines through inequitable price variability imposed on some airlines for access to the same airport services as their competitors.

Countervailing power can only arise if an airline has genuine choice available to it and is not confined to dealing with only one airport in a particular location – i.e. they are able to bypass the airport. To remain viable, airlines need to make long term decisions on matters such as fleet, workforce sizing, rostering, aircraft utilisation and network connectivity based on strategic network planning and must be able to compete effectively with other airlines by servicing routes where demand from passengers exists. To suggest that an airline could cease operations, or credibly threaten to do so in the context of commercial negotiations with an airport operator on the pricing of access to airport facilities and services, ignores reality and the nature of the markets that airlines operate within.

⁶² For example, Chapter 6 and 6A of the National Electricity Rules.

⁶³ For example, Chapter 6 of the National Gas Law and Parts 11 and 12 of the National Gas Rules.

⁶⁴ Part 10 of the National Gas Rules.

⁶⁵ <https://www.pc.gov.au/media-speeches/speeches/airport-regulation/airport-regulation.pdf>

9.6 The Aeronautical Pricing Principles have no ‘teeth’ under the current price monitoring regime

This is for three main reasons:

- The Aeronautical Pricing Principles are not mandatory or enforceable;
- Regulatory guidance or oversight to support their proper application is insufficient; and
- There is no regulatory mechanism to resolve disputes between airlines and airports relating to the application of the Aeronautical Pricing Principles.

This is in contrast to ‘light-handed’ regulatory frameworks in other infrastructure sectors, where clear pricing principles (or more prescriptive rules) are both mandatory and enforceable.

9.7 Evidence of airports taking advantage of the imbalance in bargaining power

As a result of airports’ monopoly position and airlines’ need for their services, there is an imbalance of bargaining power in negotiations between airports and airlines. Major airports are able to set aeronautical charges and other terms of access in the knowledge that airlines have no realistic alternative but to accept those terms.

The price monitoring regime does not address this imbalance of bargaining power because there is no regulatory regime to ensure adequate access to information for airlines or resolution of disputes. Rather, airlines are left to negotiate price and terms of access with an unconstrained monopolist.

In Virgin Australia’s experience, this imbalance has manifested in negotiations with airports in various ways, including:

- airports placing undue commercial pressure on Virgin Australia to accept an airports’ proposed terms of access – for example:
 - by deliberately delaying negotiations to create time pressure on Virgin Australia to accept the airport’s terms as existing agreements approach expiry (with the threat of higher prices being imposed under Conditions of Use if agreement is not reached before the existing agreement expires); and
 - making other services (such as a lease for new office premises, signage or marketing) conditional on acceptance of the airport’s price and terms of access for aeronautical services.
- airports refusing to provide basic information necessary for Virgin Australia to understand the basis for proposed pricing (including calculations and costing details which could allow Virgin Australia to assess the airport’s proposed price path and associated cost model);
- airports refusing to provide information on capital expenditure projects that the airport arbitrarily deems ‘not material’;
- airports putting forward unreasonably high demands on rates of return, and not being willing to negotiate on this; and
- airports factoring forecast capital expenditure into the determination of prices, but then not undertaking that expenditure and deferring it to a later period (so that the same capital expenditure is factored into prices a second time and meaning that it is effectively recovered by the airport twice).

Some specific examples and recent case studies are set out in sections 9.7(a) to (f), and Annexure A below.

In Virgin Australia’s experience, situations of airports exercising their market power have become more prevalent in recent years (noting all of the case studies referred to below provide recent examples of this behaviour). This is likely due to a range of factors, including that:

- airports may be increasingly taking comfort from the fact that the Aeronautical Pricing Principles have no ‘teeth’, for the reasons outlined above. These principles have been in place for more than a decade but have not imposed any effective constraint on airport pricing over that period. Airports know that they can adopt their own interpretation of these principles, apply them selectively, or not apply them at all – and that airlines have no mechanism to enforce their application or dispute the airports narrow and selective interpretation of them.
- increasing cross-ownership of airports (refer to Case Study One in Annexure A) may be leading to greater coordination between monopoly airports in their approach to engaging with airlines. In some cases there are common directors sitting on the Boards of multiple airports, and this appears to be driving a similarly uncooperative approach to negotiations with airlines (for example, Virgin Australia being told in multiple negotiations with airports that share common directors that each airport’s Board has no appetite to negotiate on the airports proposed rate of return). Common or cross-ownership may also be leading airports to perceive that they have greater leverage in negotiations with airlines.
- furthermore, the privatisation of airports has shifted the focus of airport operators to give primacy to the delivery of commercial returns for shareholders. This focus, when combined with the monopoly market power of airports has led to pricing strategies which seek only to maximise returns to airport operators, while adversely impacting airlines like Virgin Australia, and ultimately their passengers, through increased and inefficient operational costs that would not be payable in a competitive market.

This means that it is now more important than ever to strengthen the framework for economic regulation of airports.

(a) Unwillingness to negotiate on key pricing parameters

Airports commonly make offers on a “take it or leave it” basis. In many instances, Australian monopoly airports have a predetermined profit target set and will not meaningfully engage in negotiations on a building block model if that means moving from that profit target. The model is just a fig leaf, with assumptions and inputs coming from the airport with little to no transparency, which has been reverse engineered to meet the airports profit target. Airports are often not willing to engage in good faith negotiations on these pricing models, and in particular are not willing to engage in an open and transparent exchange of information which is adequate for airlines to meaningfully assess these pricing models.

Virgin Australia makes every effort to engage in genuine good faith negotiations, and legitimately resists unreasonable price increases proposed by airports, particularly where they are driven by excessive profit motives to over capitalise and incur inefficient costs. However, Virgin Australia has limited access to information, and the information accessible to airport operators is kept hidden behind opaque and limited information sharing, combined with an unwillingness to negotiate in a good faith and transparent manner. Refer to Case Study 2 in Annexure A.

(b) Lack of transparency and asymmetries of information

Negotiations with airports on fees and charges have increasingly become drawn out affairs and, in many instances, are very resource intensive, costly and time consuming. Virgin Australia’s negotiations with airports currently take on average 12-18 months.

Virgin Australia’s experience in negotiations with airports (particularly the larger airports with significant monopolistic market power) is commonly that they start price negotiations by providing limited and incomplete information lacking in transparency. They refuse to engage further in open and honest exchanges of information as is contemplated by the APPs, and as is essential for a form of commercial negotiations which is consistent with the APP’s and currently expected by the Australian Government. Refer to Case Study 3 in Annexure A.

(c) Failure to properly consult on major expenditure

The majority of airports resist meaningful consultation with Virgin Australia on proposed capital expenditure, and commonly ignore concerns expressed by Virgin Australia about the scope and cost of proposed works. The cost of these capital works are then included in the asset base of pricing models for future recovery from Virgin Australia (and other airlines). In a number of recent cases Virgin Australia has been concerned that capital projects have been undertaken prematurely and/or imprudently, or in a manner which discriminates between airlines to the detriment of competition between them. However, because Virgin Australia lacks both adequate access to information and any genuine choice in purchasing access to airport facilities and services, the current lack of effective regulation in both areas means that airports cannot be effectively restrained from incurring uneconomic costs and passing them on to airlines through higher, and unfairly applied, pricing. Contractual provisions to consult, are often ignored or narrowly interpreted by airports, and are not an effective in the absence of any regulation.

Virgin Australia accepts that Airport Operators should be able to increase prices for access to facilities and services as a result of efficient, quality new investments that benefit the users of airport services. However, an efficient market for the provision of airport services must also include forces that incentivise airport operators to make fit for purpose investments, to control costs, to meet the demand of its users, and to recover costs fairly from the users that benefit from those investments. The current lack of regulation, combined with the monopoly market power of airports creates perverse incentives to over capitalise and to engage in excessive rent seeking behaviour that leads to poor outcomes for both airlines and passengers.

(d) Inefficient investment

Virgin Australia accepts that airport operators should be able to increase prices for access. However, inadequate checks on pricing models creates an incentive for airports to engage in investment, even when it might be inefficient (sometimes referred to as 'gold plating'), as they stand to gain a return on any undertaken investment.

An efficient market for the provision of airport services must include forces that incentivise airport operators to make fit for purpose investments, to control costs, to meet the demand of its users, and to recover costs fairly from the users that benefit from those investments. The current lack of regulation, combined with the monopoly market power of airports creates perverse incentives to over capitalise and to engage in excessive rent seeking behaviour that leads to poor outcomes for both airlines and passengers. This includes constructing assets that are not required, over-dimensioning, or creating capacity well ahead of requirements, for example by building international terminals capable of serving large wide-bodied aircraft and facilitating customs and border control, at airports which do not attract material international services. Refer to Case Study 4 in Annexure A.

Airlines cannot rationally respond to airports that construct infrastructure that is 'over-scoped' and delivered prematurely against the objections of airlines' by constraining service frequency and capacity, and even if they did so per passenger charges would only be adjusted upwards by airports in the long-term to ensure full recovery of whatever investments the airport has made. Virgin Australia also has challenges with the scale of spend, with airports undertaking expansions well ahead of demand.

(e) Security charge practices

Security charges imposed by airports are an area of particular concern for Virgin Australia. Security services are procured by airports, but airlines are required to pay for them. However there is no ability for airlines to test the prudence of these costs or the way in which they are allocated between airlines and other airport users.

Virgin Australia considers there is an industry-wide need to review security charge practices in Australian aviation. At a minimum, there should be a regulatory framework around which expenses screening authorities are permitted to on-charge to airlines. The absence of a definitive framework around security charges is being managed by one-sided commercial agreements which lack

transparency and any meaningful involvement from airlines in the arrangements airports make with external security providers. The existing arrangement where airports procure security services but do not pay for them leads directly to a situation where airports have no incentive to minimise the security charges they pass onto airlines.

The current model of allocating both capital and operational screening expenses to airlines proportionate to their passenger numbers fails to transparently remove many security expenses that should be borne by airports. For example, a significant percentage of screening requirements relate to non-airline staff and goods screening for concessionaires.

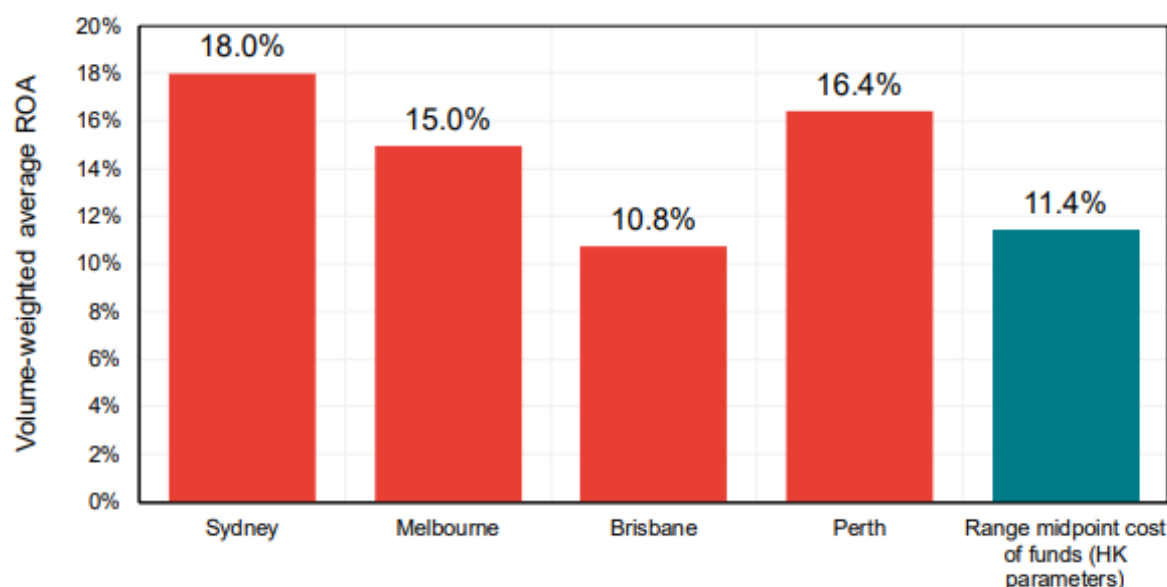
(f) **Supernormal profits**

Virgin Australia understands that airports need to recover their efficient costs and earn a *reasonable* return on their invested capital, commensurate with the risks involved.

In competitive markets (such as those in which airlines operate) prices and returns are constrained by competition. But the market power of airports, and the absence of an effective regulatory constraint, means that airports are able to set prices at levels well above what would prevail in a workably competitive market.

Previous analysis of airports' financial performance indicates that they are earning returns well above efficient and competitive levels. Frontier Economics' analysis of publicly reported financial data for monitored airports indicates a long-term return on assets for Sydney Airport of 18per cent, 16.4per cent for Perth and 15per cent for Melbourne. These returns are demonstrably well above the airports' own cost of funds.

Figure One: Major airports return on assets, average 2003-17⁶⁶



9.8 Elements of effective “light-handed” regulation

Virgin Australia considers that effective “light-handed” regulation could address many of these issues.

Effective “light-handed” regulation should include the following elements:

- There should be scope for commercial negotiations between airports and airlines;
- There should be a clear set of principles to guide those negotiations;

⁶⁶ Frontier Economics, Market Power and the Profitability of Australian Airports: Prepared for A4ANZ, 11 December 2018, Figure 3.

- Parties should be required to abide by those principles;
- There need to be rules governing the exchange of information during negotiations, to provide transparency around the application of the guiding principles; and
- There needs to be a mechanism for resolving disputes regarding the application of the guiding principles.

The current regulatory regime only incorporates the first of these elements (to a limited degree), while the last three elements are entirely absent.

Regarding the second element, while principles exist for aeronautical pricing, these need to be mandated and supplemented with more detailed regulatory guidance to better support a “light-handed” regulatory approach.

9.9 Are the Aeronautical Pricing Principles fit-for-purpose?

The Green Paper questions whether the Aeronautical Pricing Principles are fit for purpose.

The Aeronautical Pricing Principles are not supporting the airlines as intended, and provide little practical support when airports choose to ignore them or interpret them narrowly and selectively. While Virgin Australia believes that the APP’s are broadly fit-for-purpose and supports the mandating of APPs as a matter of priority, ideally, the APP’s would be supplemented by regulatory guidance to support their consistent interpretation as set out below:

(a) Clarity and guidance around determining “efficient costs”

The current Aeronautical Pricing Principles leave a wide scope for differing interpretations and disputes, and they are not supported by any form of regulatory guidance or oversight to assist in the resolution of those differences of interpretation. There is often dispute between airlines and airports about what are “efficient costs” and what is an appropriate rate of return on investment (for the purposes of APP (a)). This regularly leads to protracted negotiations, and without access to any mechanism for resolving those disputes, airlines ultimately have no option but to accept the airport’s position.

Some of the Aeronautical Pricing Principles mirror principles found in other access regimes – including the principle that prices should be set so as to generate expected revenue that is at least sufficient to meet ‘efficient costs’ (APP (a)).

In other comparable access regimes, high level principles are supplemented with more detailed rules or guidance around their application. For example, the National Electricity Rules (Chapter 6/6A) and National Gas Rules (Part 9) contain specific pricing rules to supplement revenue and pricing principles. The Australian Energy Regulator publishes a range of regulatory instruments, including a rate of return instrument, cost allocation rules and guidelines for forecasting and justification of expenditure.

APP (a) and (b) could be supplemented with specific guidance from the ACCC around their application. The ACCC could be tasked with publishing guidance on APP (a) and (b) developed in consultation with industry stakeholders, which could address issues including:

- well accepted methods and models for determining ‘efficient costs’;
- appropriate methods for determining key parameters in the efficient cost calculation, such as the rate of return and opening written down asset values;
- a building block model template that can be consistently applied by all Tier 1 and Tier 2 airports; and
- criteria for determining whether expenditure is ‘efficient’.

The purpose of the ACCC guidance would be to provide guideposts for commercial negotiations, as well as an indication of how the ACCC would approach pricing matters in the event that it was called on to arbitrate a dispute.

The ACCC is an expert economic regulator and would be well placed to both consult with relevant stakeholders and issue and update necessary guidance as needed.

(b) Preventing cross-subsidisation between aeronautical and non-aeronautical activities

Airports provide both:

- monopoly services to airlines (aeronautical services); and
- other on-airport services, some of which may be subject to a degree of competition (non-aeronautical services). These include services such as car parking and the provision of terminal space to retail stores.

Currently, airports apply a 'dual till' approach, where aeronautical assets and costs are separately defined and only revenues and costs apportioned by the airport to aeronautical assets are included in negotiations for aeronautical charges. Costs and revenues apportioned by the airport to non-aeronautical services are separately accounted for.

However, the 'dual till' approach relies on an appropriate allocation of revenue and costs between the two activities, and appropriate regulatory oversight of both sides of the 'till'. Without this, there is a risk of cross-subsidisation and/or overcharging of some airport users.

Virgin Australia is concerned about cross-subsidisation between aeronautical and non-aeronautical activities. This can occur if an inappropriate proportion of an airport's shared costs (e.g. terminal costs and overheads) are allocated by airports to monopoly aeronautical activities – effectively subsidising non-aeronautical services, which may be subject to greater competition. This leads to airlines (and airline customers) paying unfairly inflated charges for airport services, an understatement of airport returns related to aeronautical services, and potentially some lessening of competition for non-aeronautical services.

The current 'dual till' approach allows airports to effectively mask the true profitability of their combined operations and generate above market returns. Shared costs can be over allocated to the aeronautical 'till', while a disproportionately high amount of the airport's revenues remain in the non-aeronautical 'till'.

A "hybrid till" approach, where a proportion of non-aeronautical revenue could be subtracted from aeronautical revenue requirements when determining aviation charges (similar to the approach taken by AER for electricity networks 'shared asset' revenue⁶⁷) could also limit the scope of inappropriate cross subsidisation. A "hybrid till" would recognise the interdependency between the passengers that airlines transport to airports and the non-aeronautical revenues that airports generate from those passengers.

Clearer rules for cost allocation between aeronautical and non-aeronautical 'tills' could be set out in regulatory guidance published by the ACCC, with airports' application of these principles to be tested through compulsory information disclosure and an accessible arbitration mechanism.

A clearer set of cost allocation rules could be modelled on those which currently apply to other infrastructure access regimes (e.g. the electricity / gas rules or the NBN's special access undertaking).

(c) Promoting competition between airport users

As well as ensuring that airport users pay no more than necessary, the regulatory framework that supports negotiations between airlines and airport operators has an important role to play in promoting competition between airlines. An ideal regulatory regime should ensure that particular

⁶⁷ AER Shared Asset Guideline, November 2013.

airlines are not given preferential treatment, in ways that are likely to be damaging to competition. This approach is consistent with non-discrimination principles currently applied to other comparable access regimes.

For example, the National Electricity Rules require that:⁶⁸

...the price for a negotiated distribution service must be the same for all Distribution Network Users unless there is a material difference in the costs of providing the negotiated distribution service to different Distribution Network Users or classes of Distribution Network Users

Virgin Australia submits that airports should be required to offer the same pricing where the same service is being offered to another airline, except in the following limited circumstances:

- where there is a material difference in the cost of providing the service to different airlines (equivalent to the carve-out provided for under the National Electricity Rules, referred to above); or
- where a lower price (or rebate) is justified as a temporary measure to provide incentives for take-up of airport services to support competitive entry or expansion.

This proposal would support effective competition between airlines, by avoiding any advantage or disadvantage being conferred on one or more airline(s) simply as a result of discriminatory treatment by monopoly airport operators.

9.10 Mechanisms for ensuring that the Aeronautical Pricing Principles are properly applied

Reform of the regulatory framework is required to ensure that the Aeronautical Pricing Principles are properly applied in negotiations between airports and airlines. Reform is required in three areas:

- Application of the Aeronautical Pricing Principles should be mandatory;
- Airports should be required to provide adequate information in a timely manner consistent with the application of the principles and any ACCC guidance; and
- Parties should be able to seek ACCC arbitration of any disputes regarding application of the principles.

These reforms would bring the regulatory regime for airports into line with 'light-handed' regulatory frameworks that apply in other infrastructure sectors in Australia. For example, the lighter form of regulation that applies to 'non-scheme' gas pipelines includes information disclosure obligations, a process for arbitration of disputes, and pricing principles that must be applied in an arbitration (this can be contrasted with the heavier form of regulation that applies to 'scheme' pipelines, which includes *ex ante* AER approval of reference tariffs).

(a) Mandating use of the Aeronautical Pricing Principles

As the Green Paper notes, the Aeronautical Pricing Principles are currently 'non-binding'. Because there is no regulatory oversight on the application of the APP's, airports can choose whether or not to apply these principles in preparing pricing proposals and can be selective in how they apply them.

Airports should be required to follow the Aeronautical Pricing Principles in preparing pricing proposals and engaging in negotiations with airlines. They should also apply in any arbitration relating to aeronautical service pricing.

Virgin Australia supports A4ANZ's proposal to mandate the use of the APP's through a prescribed Voluntary Code of Conduct.

⁶⁸ National Electricity Rules, cl 6.7.1 (principles relating to access to negotiated distribution services).

(b) Information disclosure

Virgin Australia regularly faces significant challenges with information asymmetry during negotiations with airports. Airports hold all of the information relating to their costs, expenditure plans and allocation between aeronautical and non-aeronautical activities. Airlines rely on airports to provide information on a voluntary basis in support of their pricing proposals.

Timely and fulsome information disclosure is critical to airlines' ability to understand how the Aeronautical Pricing Principles are being applied. In most cases, Virgin Australia does not have sufficient information to meaningfully assess the merits of an airports pricing proposal. Where information is not provided, delayed or piecemeal provision of information leads to unreasonably protracted and resource intensive negotiations.

Information asymmetry between infrastructure owners and users is a well-recognised issue in economic regulation. It is a particularly important issue in "light-handed" regulatory regimes where there is no pre-approved access price, and users are required to directly negotiate the terms of access with the infrastructure owner.⁶⁹

To address information asymmetry, most access regimes (particularly "light-handed" regimes) include obligations on service providers to either publish information and/or provide information during negotiations in a timely manner. For example, the gas pipelines access regime includes:

- obligations on service providers to periodically publish certain information in accordance with the rules and AER guidelines, including detailed cost and usage information;⁷⁰ and
- during negotiations, obligations to provide certain information regarding the basis for proposed pricing.⁷¹ This may include information about the method used to determine proposed prices and/or information regarding the costs of providing the pipeline service.

Virgin Australia submits that similar obligations to provide information regarding the methods and inputs used to determine pricing should apply to airports, including how those methods and inputs comply with the Aeronautical Pricing Principles and any relevant ACCC guidance.

Virgin Australia also supports the ACCC's recommendations for the amendment of Part 7 of the *Airports Regulations 1997* to expand the reporting requirements of the currently monitored airports through the provision of disaggregated financial and operational data.⁷²

(c) Arbitration of disputes

Where a dispute arises in relation to the application of the Aeronautical Pricing Principles, either an airport or airline should be able to notify the ACCC of this dispute and seek arbitration.

Arbitration is available in most comparable industry access regimes, as it can provide for relatively quick and low-cost resolution of disputes by an expert body. Arbitration rules can be designed so that disputes are resolved within a fixed timeframe and based on a confined set of information (e.g. this can be confined to information exchanged during the negotiation phase). For example, in arbitrations relating to non-scheme gas pipelines, a final determination must usually be issued within 50 business days.⁷³

With appropriate procedural rules – including time limits and restrictions on information that may be relied on – arbitration will unquestionably provide for more efficient resolution of disputes between airlines and airports when compared with the current options available to

⁶⁹ For example, this issue is discussed in the QCA's final decision on the Dalrymple Bay Coal Terminal 2019 draft access undertaking (decision dated March 2021), section 4.4.1.

⁷⁰ National Gas Rules, rule 101A.

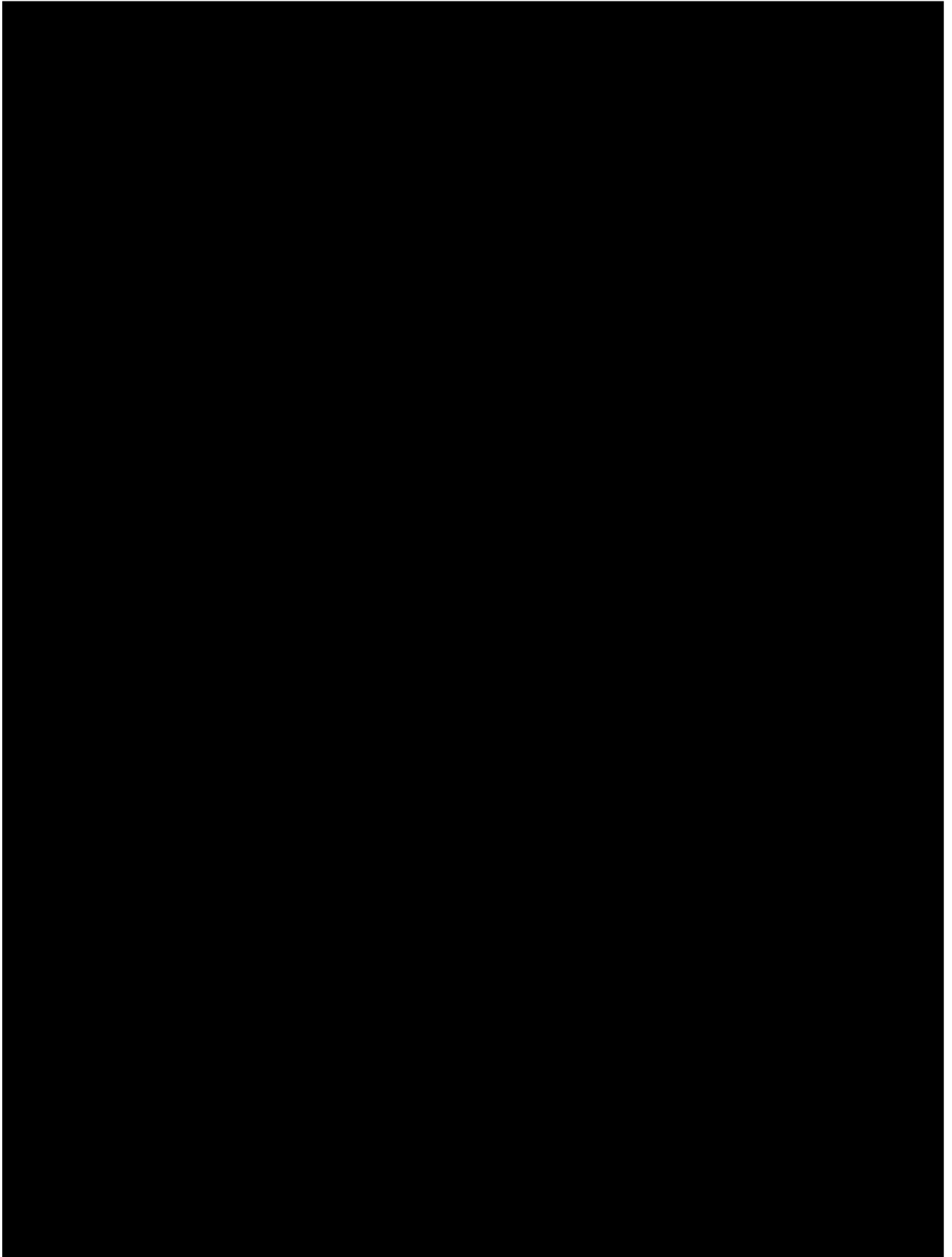
⁷¹ National Gas Rules, rule 105G.

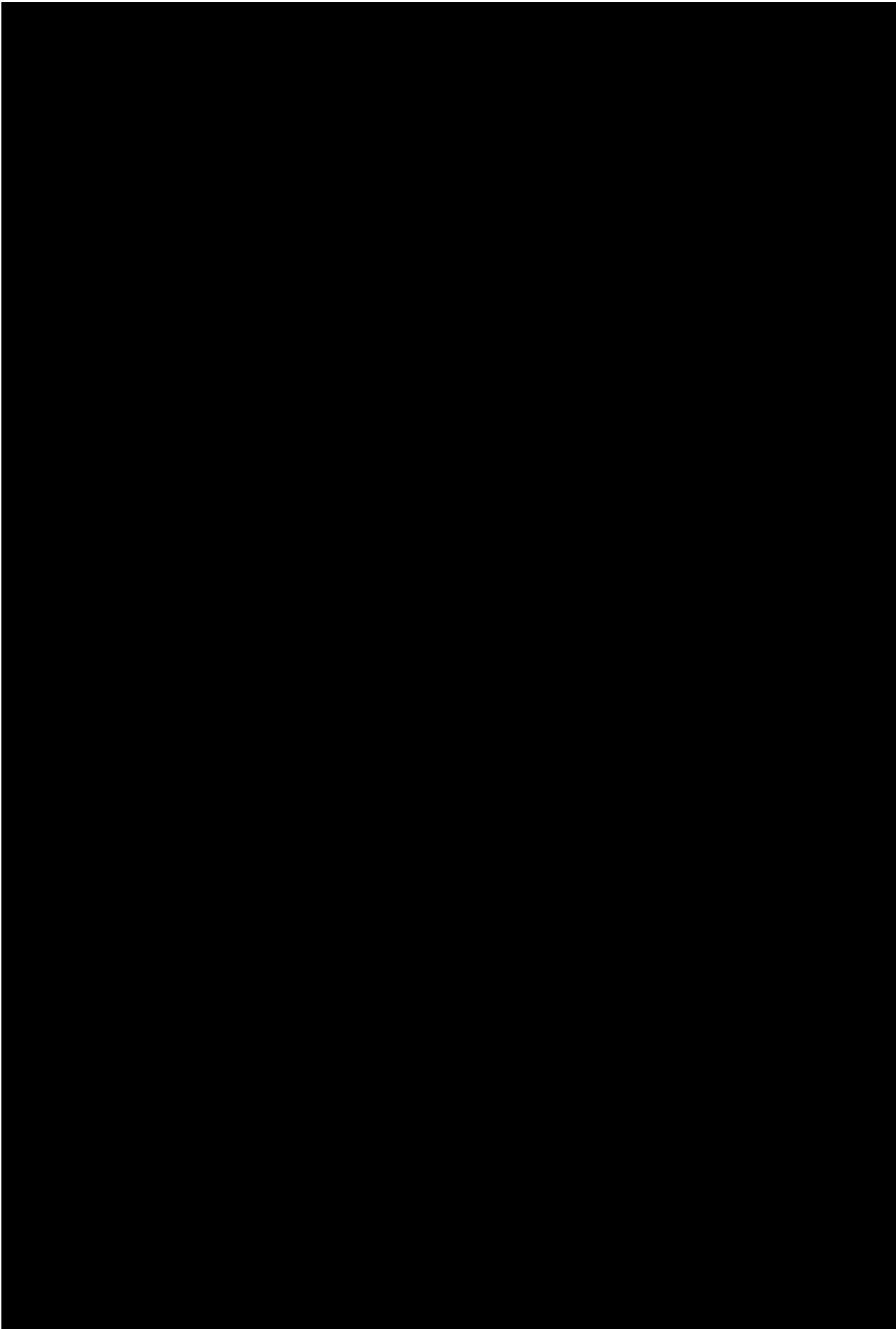
⁷² *More detailed information on airport performance: ACCC's final advice – Productivity Commission recommendation 9.4* https://www.accc.gov.au/system/files/ACCC%20final%20advice%20on%20financial%20information%20May%202023_0.pdf

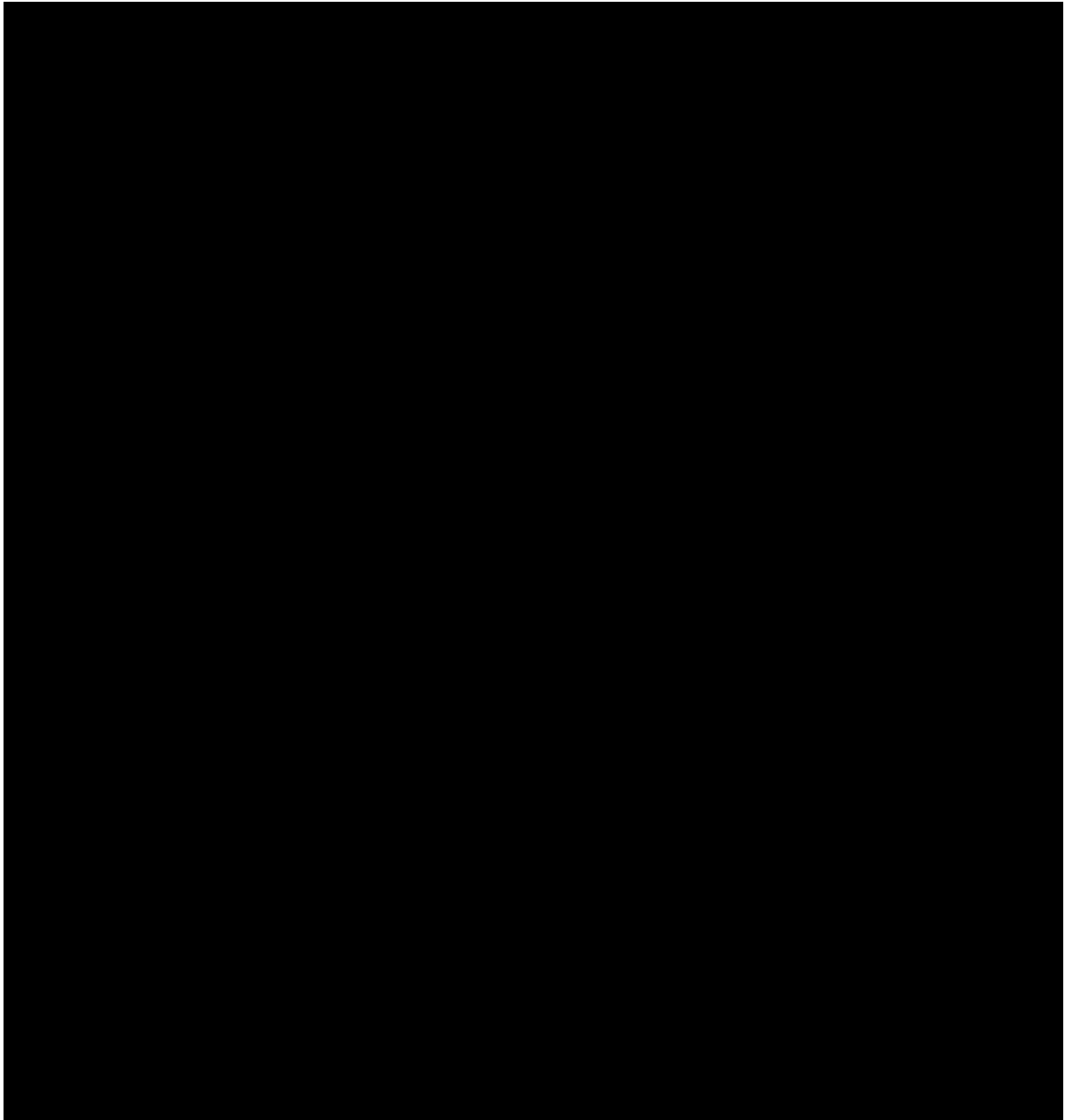
⁷³ National Gas Rules, rule 113X.

those parties. Currently, in the event of a pricing dispute airport operators will commonly threaten to charge airlines significantly higher charges, unilaterally set by the airport, on a “Conditions of Use” basis until the airline agrees to the airports pricing proposal. In response, airlines no longer have recourse to the National Access Regime under Part IIIA of the Competition and *Consumer Act 2010 (Cth)* because airports are not vertically integrated, and airlines only available option is to either pursue through court proceedings a claim of misuse of market power under s.46 of the *Competition and Consumer Act 2010 (Cth)* or to seek to enforce contractual rights (if any) that have previously been agreed by an airport. In this context, other airlines have felt compelled to withhold payment of charges levied by the airport and have then been subject to court proceedings commenced by the airport for the recovery of those charges levied by the airport, at rates unilaterally and arbitrarily set by the airport. Arbitration also has the advantage that a dispute will be resolved by an expert body, such as the ACCC, rather than the courts of each relevant state jurisdiction.

Annexure A – Case Studies







PART 2: SLOTS

Key Takeaways

- Virgin Australia is committed to fair slot allocation, compliance with the SADM Act and the WASG, as well as providing reliable and efficient operations at Sydney Airport.
- Virgin Australia complies with the independently regulated slot management system and the associated legislation.
- Virgin Australia cancellations at Sydney Airport result from operational complexities and are not for the purpose of slot hoarding.
- Virgin Australia supports improvements to slot management efficiency at Sydney Airport but changes to the 80/20 rule should not be pursued.
- Slot availability is concentrated during peak periods but there is still significant availability throughout the week at Sydney Airport.
- Virgin Australia's slot holdings reflect its optimal schedule to serve customer needs and its aspirations to be a viable and competitive force in the Australian aviation market.

9.11 Virgin Australia complies with the independently regulated slot management system

Virgin Australia's slot portfolio is carefully managed to ensure its viability and competitiveness in the market and to deliver a network and frequency of services that enables Virgin Australia to challenge that of Qantas Group. Any assertions that Virgin Australia are currently hoarding slots, or have hoarded slots in the past, at Sydney Airport are unfounded. Virgin Australia's slot holdings reflect its genuine ambition to serve passenger demand.

Virgin Australia has always operated within the framework set out by the Sydney Airport Demand Management Act 1997 (SADM Act). Virgin Australia complies with both the spirit and the letter of the regulations and requirements stipulated by this legislation.

The slot system at Sydney airport is based upon the SADM Act and the Worldwide Airport Slot Guidelines (WASG). The WASG is updated from time to time and is overseen by the Worldwide Airport Slot Board (WASB). The WASB is comprised of industry technical representatives from Airlines, Airport Council International and Worldwide Airport Coordinators Group. Australia is represented on the WASB by the CEO of Airport Coordination Australia (ACA) as the current Chair and a senior representative from Sydney Airport Corporation Limited (SACL).

In Australia, the slot system is administered by ACA, which acts as an independent slot coordinator. ACA is funded by airline remuneration as per proportion of held slots and has a board of directors. The ACA Board has an independent Chair and Virgin Australia, Sydney Airport, Qantas and the Regional Aviation Association of Australia (RAAA) all hold seats on the Board.

The key principles of the slot guidelines at Sydney Airport are as follows:

- The 80/20 rule, implemented in the WASG and reflected in the SADM Act, mandates that airlines must utilise their slots for a minimum of 80 per cent of the time to maintain them for the subsequent scheduling season.
- If an airline fails to meet this requirement without a valid justification, the slot is not returned to them, causing them to lose their "historical" access.
- The calculation rate for historic precedence applies to a slot series and not a day's operation. A slot series is a flight that has a gate movement at a specified time on a specified day of week on a specified date and is a minimum of five consecutive weeks.
- A slot series can be a minimum of five weeks or a maximum of 31 weeks. The Northern Summer (NS) season is 31 weeks in duration (last Sunday in March until the last Saturday in October). Therefore, a maximum of six flights (20 per cent) could be cancelled (for a variety of reasons inc. operational/engineering) during this 31-week period. If seven flights were cancelled, historical precedence to the slot would be lost.
- Under the WASG, applications are made seasonally for the NS and (Northern Winter) NW scheduling seasons.

In addition to Sydney Airport, ACA also provides slot management services at:

- Brisbane, Adelaide, Perth and Darwin (Domestic and International)
- Cairns, Gold Coast and Melbourne (International only)

Both Brisbane and Perth have some limited local rules, but in all other respects follow the WASG. Having a single slot manager (ACA) responsible for all Australian ports means that there is consistency in the application of the WASG. This provides a level of certainty for Virgin Australia, and other airlines, unlike the COVID period where each state applied different rules at different times. Similarly other jurisdictions that Virgin Australia operates to adhere to the WASG without local rules.

Consistent with these principles, for the NS23 and NW23 seasons, Virgin Australia returned more than 6,100 slots at Sydney Airport, which is equivalent to sixteen slots per day. This demonstrates Virgin Australia's commitment to fair slot allocation and compliance with the slot system at Sydney Airport. Virgin Australia retained only the slots that it intended to use to form an optimal schedule to serve passenger demand. In 2021 Virgin Australia returned 9,052 slots at Sydney Airport following the discontinuation of Tigerair which is equivalent to a further 24 slots per day.

(a) Cancellations result from operational complexities and are not for the purpose of slot hoarding

Virgin Australia does not hold slots that it does not intend to fly in any given season. Virgin Australia categorically rejects assertions from Sydney Airport and Canberra Airport that it is acquiring and hoarding slots for strategic reasons and selectively cancelling flights to prevent new entrants accessing slots. None of these assertions regarding Virgin Australia are supported by evidence.

There has been an incorrect linkage in public commentary between the daily cancellation rate and the 80/20 use it or lose it utilisation rate. These are two fundamentally different metrics. The daily cancellation rate on a particular market is across many flights across different time bands and therefore different slots. As outlined in the section above, the 80/20 rule is for one slot across the season for a minimum of five weeks. As an example, for the NS season there are 31 weeks so there are a maximum of 31 instances of a 0700 SYD arrival slot on a Monday.

Flights are delayed, and sometimes cancelled, for a variety of operational reasons, including adverse weather, safety incidents, crew shortages and Air Traffic Control issues. When these events occur, features of Sydney Airport, like curfews, hourly landing limits, and runway limitations, exacerbate any disruptions. Sometimes it is not possible to reschedule disrupted services and cancellations occur. Sydney Airport is the busiest airport in Australia, facilitating the most connections. The high volume of flights and passengers make delays more likely.

These dynamics are distinct from other airports in the country, which means that the challenges faced at Sydney Airport are not necessarily reflective of the broader aviation landscape in Australia. It is not the case that these cancellations are occurring in order to game the 80/20 rule.

While a number of voices in recent public discussions have suggested that a stricter “use it or lose it” approach to slot allocation at Sydney Airport would increase competition and lead to reduced airfares for Australians, the reality is more complex. Overhauling the slot system, which currently adheres to international standards, would not alleviate the operational and weather limitations inherent to Sydney Airport. These constraints pose challenges that are beyond the scope of the slot allocation process.

In FY23, Virgin Australia passenger numbers on the Sydney-Melbourne route reached 103.6 per cent of the equivalent numbers in FY19, indicating a strong recovery from the impact of the COVID-19 pandemic. While it is true that Virgin Australia’s cancellation rates on this route are unfortunately still higher than pre-COVID levels (7.9 per cent in FY23 compared to 5.3 per cent in FY19), these cancellations are impacted by a range of factors referenced earlier in the submission including air traffic control shortages, weather events (including single runway operations), and crew shortages. They are emphatically not a result of any deliberate attempt to “game” the slot system as has been suggested in recent public discussion.

(b) Virgin Australia supports improvements to slot management efficiency at Sydney Airport but changes to the 80/20 rule should not be pursued

Virgin Australia has actively participated in industry working groups with the Department of Transport and Infrastructure, following the Harris Review of the Sydney Airport Demand Management scheme. In June 2023, Virgin Australia responded to 20 proposed initiatives by the Department, which aimed to address unutilised capacity, regional access, delays after significant disruptions, and compliance, governance, and administration issues at Sydney Airport.

These initiatives, which were largely supported by Virgin Australia, have the potential to provide additional peak slots at the airport by enhancing flexibility within the 80 movements per hour cap at Sydney Airport. These changes, if implemented, would improve overall efficiency and competition. Importantly, based on modelling provided by the Federal Department of Transport and Infrastructure, these adjustments could potentially create up to seven additional peak slots per day for both existing airlines and new entrants, further promoting opportunities for additional slots at Sydney Airport. Virgin Australia awaits the Federal Government’s confirmation of the next steps and implementation plans for these proposed initiatives.

While Virgin Australia supports improvements to the system at Sydney Airport, it does not support changes to the 80/20 rule and believe that the WASG must be applied consistently at a global level. Maximising traffic volumes at congested airports is achievable if there is alignment with the rules adhered to by the broader aviation community. Additionally, alignment with these rules allows airlines to develop their schedules and publish tickets with certainty up to 12 months in advance. This benefits consumers by allowing them to make travel plans and book tickets well ahead of their planned travel. According to IATA, the 80/20 rule results in the slot constrained airports having more than 95 per cent of their capacity being utilised⁷⁴.

⁷⁴ International Air Transport Association, *Worldwide Airport Slots: Fact Sheet*, April 2023, p 3. <https://www.iata.org/en/iata-repository/pressroom/fact-sheets/fact-sheet---airport-slots/>

It has also been suggested through the SADM Review that the definitions in the SADM Act and Compliance Scheme should be better aligned with the definitions in the WASG. Virgin Australia believes that the Government should only legislate the key points that reflect specific local rules. That is those specifically linked to Curfew, regional New South Wales access, movement caps and noise sharing. Virgin Australia suggests that legislation should only direct reference to the current WASG for all other matters. This is because when specific aspects of the WASG are prescriptively legislated, they become inflexible, and it becomes more difficult to modify as necessary to reflect changes in industry best practice.

The WASG is regularly revised to reflect the industry's recommendations for improvements based on current best practices. For example, the current legislation states that a 'New Entrant' remains classified as such until they secure four slots in a day. But the WASG was updated on 1 June 2020 to increase this requirement to six slots in a day meaning that new entrants could have accessed additional slots if the WASG definition was adopted. By adopting this proposal, the Department can reduce administrative burden by focusing on rules to address relevant local requirements and letting consistent industry best practices, as reflected in the WASG, take precedence in all other cases.

- (c) **Slots availability is concentrated during peak periods but there is still significant availability throughout the week at Sydney Airport**

SUMMER 20 NAC CHART-SYD								
Local	UTC	MON	TUES	WED	THUR	FRI	SAT	SUN
0600-0659	2000-2059	C	C	C	C	C	C	C
0615-0714	2015-2114	C	C	C	C	C	C	C
0630-0729	2030-2129	X	X	X	X	C	C	C
0645-0744	2045-2144	X	X	X	X	X	C	C
0700-0759	2100-2159	X	X	X	X	X	C	C
0715-0814	2115-2214	X	X	X	X	X	C	C
0730-0829	2130-2229	X	X	X	X	X	C	C
0745-0844	2145-2244	X	X	X	X	X	C	C
0800-0859	2200-2259	X	X	X	X	X	C	C
0815-0914	2215-2314	X	X	X	X	X	C	C
0830-0929	2230-2329	X	X	X	X	X	C	C
0845-0944	2245-2344	X	X	X	X	X	C	C
0900-0959	2300-2359	X	X	X	X	X	C	C
0915-1014	2315-0014	X	X	X	X	X	C	C
0930-1029	2330-0029	X	X	X	X	X	C	C
0945-1044	2345-0044	X	X	X	C	X	C	C
1000-1059	0000-0059	X	X	X	C	X	C	C
1015-1114	0015-0114	X	X	X	C	X	C	C
1030-1129	0030-0129	X	X	X	C	X	C	C
1045-1144	0045-0144	C	C	C	C	C	C	C
1100-1159	0100-0159	C	C	C	C	C	C	C
1115-1214	0115-0214	C	C	C	C	C	C	C
1130-1229	0130-0229	C	C	C	C	C	C	C
1145-1244	0145-0244	C	C	C	C	C	C	C
1200-1259	0200-0259	C	C	C	C	C	C	C
1215-1314	0215-0314	C	C	C	C	C	C	C
1230-1329	0230-0329	C	C	C	C	C	C	C
1245-1344	0245-0344	C	C	C	C	C	C	C
1300-1359	0300-0359	C	C	C	C	C	C	C
1315-1414	0315-0414	C	C	C	C	C	C	C
1330-1429	0330-0429	C	C	C	C	C	C	C
1345-1444	0345-0444	C	C	C	C	C	C	C

1400-1459	0400-0459								
1415-1514	0415-0514								
1430-1529	0430-0529								
1445-1544	0445-0544								
1500-1559	0500-0559	C			C			C	
1515-1614	0515-0614	C						C	
1530-1629	0530-0629								
1545-1644	0545-0644								
1600-1659	0600-0659								
1615-1714	0615-0714				C			C	
1630-1729	0630-0729	C	C		X		C	X	
1645-1744	0645-0744	C	C		X		C	X	
1700-1759	0700-0759	X	X		X		X	X	
1715-1814	0715-0814	X	C		X		X	X	
1730-1829	0730-0829	X	C		X		X	X	
1745-1844	0745-0844	X	X		X		X	X	
1800-1859	0800-0859	X	X		X		X	X	
1815-1914	0815-0914	X	X		X		X	X	
1830-1929	0830-0929	X	C		X		X	X	
1845-1944	0845-0944	X			C		X	X	
1900-1959	0900-0959	C					C	X	
1915-2014	0915-1014						C	X	
1930-2029	0930-1029								
1945-2044	0945-1044								
2000-2059	1000-1059								
2015-2114	1015-1114								
2030-2129	1030-1129								
2045-2144	1045-1144								
2100-2159	1100-1159								
2115-2214	1115-1214								
2130-2229	1130-1229								
2145-2244	1145-1244								
2200-2259	1200-1259								
2215-2314	1215-1314								
2230-2329	1230-1329								
2245-2344	1245-1344								

Notes: Pre-COVID (2019/2020) early morning slots were fully subscribed in Sydney – with less than four slot pairs available between 6am and 1045am. While post-COVID demand is still variable, slot availability is nearly identical – 630am-1045am is still full and prior to 630am Friday is fuller, while Tuesday/Wednesday are less full.

The pressure on slot availability at Sydney Airport is primarily concentrated during peak hours of the morning and evening. The upcoming opening of the Western Sydney Airport should assist in alleviating capacity constraints and potentially provide opportunities for airlines at both airports, especially for freight services. This expansion will bring additional capacity to the Sydney basin, presumably at a lower cost, stimulating competition and benefiting consumers.

While there are times of the day where slot availability is limited, there is still significant availability throughout the week. Data for NW23 also shows that Rex's operations between Sydney and Adelaide, Brisbane, Gold Coast and Melbourne run across 28 flights per day. Over 50per cent of these flights are supplied using slots allocated within the defined peak period.

Bonza has publicly raised concerns about its access to peak slots at Sydney Airport. However, it is important to note that Bonza did not make any requests for slots at Sydney Airport for the NS23, NW23 or the NS24 seasons. Bonza CEO Tim Jordan is on the public record acknowledging the cost challenges associated with their low-cost business model in operating at Sydney Airport:

*In terms of Sydney airport, I guess any city which is just served by one airport, has issues in that regard. They're not as keen to come to the table maybe as other locations or maybe they don't see the opportunity ... So we're quite enthusiastic about Sydney but it has to be at the right pricing.*⁷⁵ Tim Jordan, CEO, Bonza

⁷⁵ Australian Aviation, Sydney Slots Are Domestic Aviation's 'Biggest Issue', Says Bonza CEO, June 5 2023. <https://australianaviation.com.au/2023/06/sydney-slots-are-domestic-aviations-biggest-issue-says-bonza-ceo/>.

As outlined in the Airport Regulation section of this submission, there is a direct connection between achieving fair access to airport services, and a competitive domestic aviation market. In recent public discourse, various stakeholders have expressed the need for improved access to Sydney Airport to facilitate the expansion of new airlines. However, these discussions have not considered the impact of negotiation of price and terms for airport services on the competitiveness of these new entrant airlines, as well as all other airlines. The costs associated with accessing airport infrastructure play a significant role in determining the viability of entering new routes and sustaining or growing operations, not only for low-cost carriers but also for established carriers. The alignment of these costs with each airline's business model is a crucial factor that determines their ability to compete and meet passenger demand.

(d) Virgin Australia's slot holdings reflect its optimal schedule to serve customer needs

Since emerging from voluntary administration in November 2020, Virgin Australia's fleet has grown by more than 60 per cent, with a further 36 new generation Boeing 737 aircraft on order. These actions and expansion plans clearly demonstrate Virgin Australia's commitment to growth and serving the needs of its passengers.

Virgin Australia is committed to fair slot allocation, compliance with the SADM Act and the WASG, as well as providing reliable and efficient operations at Sydney Airport. Virgin Australia has supported several of the proposed changes by the Department of Infrastructure to enhance flexibility and access within the existing slot constraints at Sydney Airport.

Virgin Australia's current slot holdings reflect its optimal schedule to serve customer needs and its aspirations to be a viable and competitive force in the Australian aviation market. Virgin Australia remains dedicated to working collaboratively with stakeholders to ensure a fair and efficient aviation industry in Australia.

10 Disability Access

Key Takeaways

- Virgin Australia strives to provide safe and accessible air travel services for all guests and is committed to working with industry stakeholders and the disability community to develop safe and workable solutions to reduce barriers to air travel.
- Virgin Australia provides a range of assistance to support customers with disability across all touchpoints in the customer journey, from booking through to collection of baggage at a destination port.
- There are opportunities to improve how the travel industry provides services to customers with disability, including in the areas of access to information, standardisation of policies related to mobility aid carriage and assistance animals, and staff training.
- Solving broader challenges with service provision to customers with disability and ensuring consideration is given to the end-to-end journey requires an open, transparent and collaborative approach between industry participants.
- Virgin Australia supports the proposal from Airlines for Australia and New Zealand (A4ANZ) for the establishment of an industry or Government-led roundtable with representatives from airlines, airports, organisations representing customers with disability, aviation security screening providers, and ground transport operators.
- Third party suppliers to the industry such as aircraft manufacturers, ground services providers and reservation platform providers have a significant role to play in supporting airlines with the provision of accessible air travel. Consideration should be given as to how these suppliers are engaged in any industry or Government-led forum.

10.1 Background

Virgin Australia operates a domestic and short haul international airline and makes long haul international air services available via its airline partner network. In 2023, the airline carried 18.3 million passengers across its domestic services. In that same period, approximately 471,000 people (5.3%) had a specific service request added to the booking, indicating to Virgin Australia that a customer required additional assistance when travelling.

Virgin Australia's core values represent the 'Virgin way of working' and 'Virgin way of being' and form the basis of its commitment to inclusion and diversity. Virgin Australia is committed to living those values in its business every day. The values are:

- **We put safety first** – we put the health and safety of our people, customers and communities above all else, and we don't compromise on it;
- **We have a big heart** – we put our customers first and we care for our people, customers and community;
- **We do the right thing** – we do everything with integrity, challenge everyone to do the right thing, and constantly change and improve everything we do; and
- **We own it** – we embrace responsibility and work collaboratively to be better together.

Transport, including air travel, plays a critical role in all aspects of life. Virgin Australia recognises the positive impacts accessible travel can have on people's health, social life, education and employment and supports the Australian Government's ambition of removing barriers to accessible transport for people with disabilities.

Virgin Australia acknowledges the concerns raised by people with disability and disability advocacy groups in respect to barriers to air travel, including during the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.⁷⁶ Virgin Australia welcomes the opportunity to work with the disability community and aviation industry participants to achieve the aim of reducing barriers to accessible air travel.

10.2 Virgin Australia's approach to respecting human rights, diversity and inclusion

Virgin Australia takes its obligations to respect and protect the human rights of its team members and customers very seriously.

The importance and value of operating in an environment that is both inclusive and accessible is acknowledged by Virgin Australia. As a business, Virgin Australia is proud of the approach it takes to support team members with disabilities and encourages all team members to bring their unique self to work. This is reflected across several key frameworks and recent initiatives:

- Virgin Australia's 'Belonging Policy' (previously the Diversity and Inclusion Policy) outlines its commitment to creating a culture that makes everyone feel safe and valued and includes six diversity pillars: Social Impact, Gender Equity, Ability, Cultures and Origins, Pride, and Generations. Under this Policy, Virgin Australia's commitments include:
 - Ensuring that Virgin Australia's corporate culture and values at all levels support diversity and inclusion in the workplace whilst maintaining a commitment to a high performance culture;
 - Ensuring that recruitment and selection practices at all levels are appropriately structured so a diverse range of candidates are considered, guarding against any conscious or unconscious biases that might discriminate against certain candidates;
 - Designing and implementing programs and processes that will assist in the development of a broader and more diverse pool of skilled and experienced team members and that, over time, will prepare them for senior management and board positions.
- Virgin Australia's Ability Network, established under the Ability pillar for the Belonging Policy, functions as a supportive and inclusive group for people with disability who work within the organisation. It aims to promote awareness, understanding, and advocacy for employees with disability, which creates a workplace that accommodates diverse needs and encourages equal opportunities.
- Virgin Australia developed its first Human Rights Policy in 2023, which outlines its commitment to respecting human rights. The policy will be implemented across the Virgin Australia Group in 2024.

Virgin Australia's approach to diversity and inclusion is reflected in its commitment to providing accessible and inclusive travel experiences to all customers, including customers with disability. Virgin Australia offers a broad range of services across each of the touchpoints in the customer journey, which are discussed further in this submission in section 10.5. The support Virgin Australia provides to customers requiring specific assistance is also reflected in Virgin Australia's Guest Accessibility Plan.

Virgin Australia also understands that the accessibility and assistance needs of its customers will be different, even for customers with the same or similar disabilities. For that reason, Virgin Australia's aim is to work with customers to understand their specific requirements for their travel journey.

Feedback plays an important role in how Virgin Australia designs and modifies its service offering. Virgin Australia receives feedback from different sources, including through its membership of the Aviation Access Forum, partnerships with disability advisory groups, and directly from customers.

⁷⁶ Australian Government, *Royal Commission into Violence, Abuse, Neglect, and Exploitation of Young People*, September 2023, p 37.

When feedback is received, it is considered by Virgin Australia's specialist internal teams to identify where opportunities for improvement can be adopted.

10.3 Current regulatory framework

Virgin Australia recognises that solving the current challenges with providing accessible air travel requires an approach that looks beyond compliance with the law. However, it is acknowledged that the law, and supporting regulations and standards play an important role in laying the foundations for an accessible and inclusive air travel experience.

The current regulatory framework consists of several layers, primarily incorporating disability discrimination and safety legislation at both the state and Federal level, and the Disability Standards.

Below is a non-exhaustive list of relevant Australian legislation and regulations:

Table 1: Relevant legislation to accessibility

Disability / discrimination	Aviation-specific	Other
<ul style="list-style-type: none"> Disability Discrimination Act 1992 (Cth) (DDA) Disability Standards for Accessible Public Transport 2002 (Cth) (Transport Standards) State and territory discrimination legislation. 	<ul style="list-style-type: none"> Civil Aviation Act 1988 (Cth) Civil Aviation Regulations 1988 (Cth), Civil Aviation Safety Regulations 1998 (Cth) and other related legislative instruments (such as Manuals of Standards and Civil Aviation Orders) Aviation Transport Security Act 2004 (Cth) and Aviation Transport Security Regulations 2006 (Cth) 	<ul style="list-style-type: none"> State and territory work health and safety legislation and regulations Privacy Act 1988 (Cth)
Disability / discrimination	Aviation-specific	Other
<ul style="list-style-type: none"> Disability Discrimination Act 1992 (Cth) (DDA) Disability Standards for Accessible Public Transport 2002 (Cth) (Transport Standards) State and territory discrimination legislation. 	<ul style="list-style-type: none"> Civil Aviation Act 1988 (Cth) Civil Aviation Regulations 1988 (Cth), Civil Aviation Safety Regulations 1998 (Cth) and other related legislative instruments (such as Manuals of Standards and Civil Aviation Orders) Aviation Transport Security Act 2004 (Cth) and Aviation Transport Security Regulations 2006 (Cth) 	<ul style="list-style-type: none"> State and territory work health and safety legislation and regulations Privacy Act 1988 (Cth)

As an airline operating and marketing domestic and international airline services, Virgin Australia is subject to both Australian regulatory frameworks and the laws of countries to which it operates or sells its services. For example, Virgin Australia sells codeshare services of United Airlines, so it is required to comply with some elements of the U.S. Code of Federal Regulations and the United States Code.

Airlines operate in an environment where the safety of customers, team members and the public is treated with the highest priority. This is reflected in the obligations imposed on airlines and other third parties under both Australian and international civil aviation laws and regulations.

The application of, and intersection between, disability discrimination laws, the Disability Standards and safety legislation can impose challenges on air operators in designing an inclusive and accessible air travel experience that meets the needs of the broadest range of customers with disability.

In Virgin Australia's experience, some common issues where challenges can arise include:

- Restrictions on an airline's ability to transport certain types of mobility devices and medical equipment because of dangerous goods restrictions in civil aviation legislation and workplace health and safety law.
- Requirements to comply with both the Disability Discrimination Act 1992 and civil aviation legislation regarding the carriage of assistance animals in the aircraft cabin.

- There are some references to airlines' obligations under other prescribed laws (such as section 47(2) of the *Disability Discrimination Act 1992 (DDA)*), but legislation and supporting regulation relating to disability access and assistance does not necessarily consider the practicality of an airline providing disability assistance while also complying with other obligations.

Disability Transport Standards

The *Disability Standards for Accessible Public Transport 2002 (Cth) (Transport Standards)* are developed under the DDA and set out the standards for accessibility that public transport operators and providers are required to comply with.

In 2021, the Government commenced a reform process to modernise the Transport Standards. Stage 1 and 2 of this process covered 76 areas of reform. The first 16 areas were confirmed by Infrastructure and Transport Ministers in February 2022 and the remaining 60 areas are currently the subject of Government approval processes. Stage 1 reforms cover topics including requirements for staff training, assistance animal toileting facilities, accessibility requirements relating to airport infrastructure, and the provision of information in multiple formats.³

This modernisation process is occurring in addition to the 2022 Review of the Transport Standards, which is currently being undertaken by Government (noting there is a requirement for the Transport Standards to be reviewed every five years to ensure they are effectively removing discrimination against people with disability with respect to transport services).

Virgin Australia complies with the existing Transport Standards to the extent that the standards relate to airlines. However, the Transport Standards do not always neatly apply in the aviation context. This is particularly evident where aircraft are carved out of certain requirements for conveyances, or where the Transport Standards are applicable to equipment or infrastructure that impacts an airline customer's journey, but where the airline does not have control over the equipment or infrastructure.

The current modernisation and review processes underway provide an opportunity to more clearly articulate how the Transport Standards should apply in circumstances where there is shared accountability for meeting the relevant standard.

10.4 Industry forums and partnerships

Virgin Australia recognises the importance of collaborative engagement with industry participants and disability advocacy groups in the design and delivery of accessible air travel services.

Virgin Australia is a member of the Aviation Access Forum (**AAF**), which was established in 2013 as an advisory body to the Australian Government, focusing on policy positions for disability access, and aviation-related operational and administrative issues for customers with disability. To this end, the AAF played an important role in supporting the Australian Government's initiative to encourage airline and airport operators to establish and publish Disability Access Facilitation Plans.

The AAF has the potential to play a vital role across a broad spectrum of aviation industry issues, including advising Government on policy issues relating to accessible air travel and education for industry participants, disability advocacy groups and the public. However, Virgin Australia submits that the AAF is not currently fulfilling this role to its greatest potential. Recommendations for restructuring the AAF are discussed further below in section 10.8.

Virgin Australia is also engaged in several initiatives aimed at enhancing connection and improving air travel experiences for people with disability:

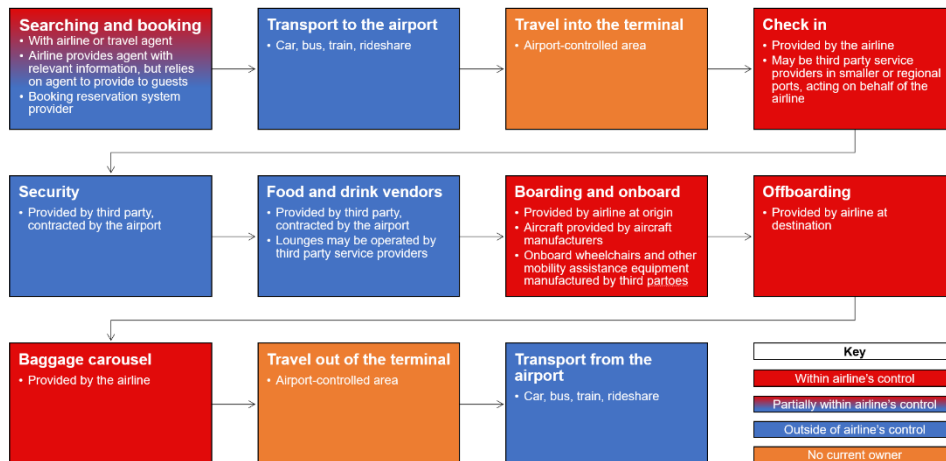
- **Membership of Australian Network on Disability:** membership of this forum provides Virgin Australia with access to extensive experience and knowledge from numerous leading organisations in Australia that prioritise the inclusion of people with disability as both employees and customers. This collaboration enhances Virgin Australia's understanding of accessibility challenges and provides valuable tools and resources to foster a disability-confident business environment.

- **Partnership with What Ability in August 2023:** What Ability is a registered NDIS provider focussed on community access for people with disability. Virgin Australia provides interstate travel for NDIS participants to enjoy travel experiences and engage with the community. This partnership also creates meaningful opportunities for the airline's team members to engage with What Ability, to understand more about disability in the community and how Virgin Australia can continue to improve on its diversity and inclusion journey.
- **Initiative with Inclusion Foundation:** The Inclusion Foundation helps people with Down Syndrome and intellectual disability to find opportunities for meaningful and long-term work. Virgin Australia is working with the Inclusion Foundation on this initiative by supporting people with Down Syndrome and intellectual disability experience in the airport environment. At the end of the program, Virgin Australia intends to employ one of the program participants in our Melbourne Airport ground services team. This initiative has larger impact by building organisational knowledge and capability to scale employment of people with disability in the airline operational setting.
- **Shift20 initiative:** led by the Dylan Alcott Foundation, the initiative focusses on increasing the visibility of people with disability in advertising. Virgin Australia has included a person with a disability in its two most recent photography shoots and contributed funding for promotion of the initiative to business leaders and consumers.

10.5 The air travel journey

The air travel journey for guests has multiple touchpoints and interfaces with services provided by a range of stakeholders. Airlines are rightly a key stakeholder in this journey, but it is important to recognise that all service providers have an important role to play in the provision of an accessible and inclusive air travel experience.

The below diagram provides a brief overview of a standard domestic air travel journey and the stakeholders involved in and responsible for each step of the journey.



Virgin Australia recognises that this journey can become more complex for customers transiting between domestic and international flights or transiting between airlines for multi-flight travel. This is particularly the case in circumstances where multiple service providers are involved across each of the different parts of the journey. Section 10.8 below discusses recommendations on industry collaboration to help address these challenges.

10.6 Working to provide accessible and inclusive services

The types of assistance that Virgin Australia can provide for customers with disability are set out primarily on its website and in its Guest Accessibility Plan. Assistance is offered at multiple touchpoints along the air travel journey:

- **Flight searching:** Virgin Australia's website sets out comprehensive information about the assistance it provides to customers with disability when providing its flight services, so that prospective customers can make an informed decision about making flight bookings with Virgin Australia. Virgin Australia understands the importance of maintaining an accessible website in accordance with the Web Content Accessibility Guidelines. The website is regularly audited for compliance with the guidelines, and Virgin Australia also periodically engages with customers with disability to conduct reviews. Issues identified during these reviews are actively fixed and managed.
- **Booking:** Virgin Australia offers three key channels for customers to make, change or cancel a flight booking: on its website, by calling its Guest Contact Centre, or through a travel agent. In addition, if a customer has already made a flight booking and requires specific assistance for that booking, the customer can also submit this request online, by calling the Guest Contact Centre and speaking with Virgin Australia's dedicated Medical team, or through their travel agent. These channels provide the customer with options for booking that best suit their needs.
- **Travelling with assistance animals:** Virgin Australia works with its customers with disability who request to travel with an assistance animal, to ensure that the assistance animal meets the definition specified in the DDA and is suitably trained so that it can travel safely and in accordance with operational procedures in the aircraft cabin.
- **Mobility assistance:** Virgin Australia provides a range of services related to mobility assistance needs. This includes use of wheelchairs throughout the airport and in the aircraft cabin where needed, equipment to assist with transferring from a wheelchair into their seat onboard the aircraft and back to a wheelchair on arrival and support with carriage of customers' baggage. Customers requiring mobility assistance can also be accompanied to the baggage carousel where Virgin Australia team members are available to assist.
- **Hidden disability assistance:** Virgin Australia provides customers with the opportunity to request assistance when managing a hidden disability while travelling. Virgin Australia will discuss accessibility options with the customer to understand their specific needs and provide assistance where possible throughout the end-to-end journey.

The above is not an exhaustive list of the assistance provided by Virgin Australia to customers with disability, and more information can be found in Virgin Australia's Guest Accessibility Plan. Virgin Australia has identified a need to update its Plan to reflect changes to its operation and service offering that has occurred since the current Plan was released in 2018. Virgin Australia expects to release an updated Plan in 2024.

10.7 Industry challenges

The aviation industry operates in a uniquely complex environment, with a key focus on safety. Balancing a safety-first approach with the need to provide accessible air travel services to guests with disability can present challenges. In Virgin Australia's experience, the provision of assistance may be impacted by:

- The current structure of the regulatory landscape;
- The involvement of multiple stakeholders in the journey;
- The availability of resources such as equipment and staff; and
- Access to information by customers regarding limitations on the services that airlines are able to provide.

(a) *Aviation safety requirements and laws requiring the provision of accessible travel do not always work harmoniously*

As noted earlier in this submission, airlines must comply with a range of legislative requirements in the provision of air travel services, including disability discrimination legislation and safety specific legislation. Safety legislation and supporting regulations set out requirements and procedures for managing space and weight restrictions, the safe carriage of dangerous goods, passenger security screening, the health and safety of employees and contractors, privacy obligations and the safe and effective management of any potential emergency situations.

In some instances, tension exists between aviation-specific safety legislation and regulations and disability discrimination legislation. Some key examples of this include:

(i) Assistance animals

- Virgin Australia provides services to customers travelling with assistance animals as defined under the DDA.
- Where an assistance animal is not accredited by state or territory legislation or by an accredited training organisation, the definition of “assistance animal” under the DDA requires an airline to make an assessment of whether the animal has been 1) trained, 2) to assist a customer to alleviate the effect of their disability, and 3) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.
- However, airlines are also required to operate its services safely, and the pilot in charge on the day of travel is ultimately responsible for ensuring the safety of the flight is not adversely affected by the presence of an assistance animal.
- Additionally, there are differing training and accreditation processes for assistance animals between states and territories (or no process at all), which creates uncertainty when assessing whether an animal meets the definition of an assistance animal under the DDA. These issues can make it challenging to balance the provision of safe air travel without opening the door to claims of disability discrimination.

(ii) Disability aids

- The definition of “disability aid” under the DDA is broadly defined. With the exception of some limited guidance on the carriage of batteries in mobility aids, there is no clear guidance on the parameters of what equipment constitutes a disability aid. This lack of clarity fails to consider new devices and technology that may assist customers with disabilities.
- There is an increase in customers with disability using battery-powered devices (such as e-scooters, e-bikes and other similar devices) as disability aids, where the batteries do not meet dangerous goods requirements, or the device is not manufactured with air travel in mind.
- This presents the risk that the device malfunctions when carried in the cargo hold or that an airline cannot accept the device for carriage because of its non-compliance with aviation-specific regulations.
- Additionally, there are some circumstances where Virgin Australia may accept a device for carriage when it is classified as a disability aid, but not when used as a regular device due to safety concerns with the device.

- There is currently no dispensation in the DDA to allow an airline to request evidence that the device meets the definition of a disability aid (similar to section 54A of the DDA relating to assistance animals). This means it can be difficult for airlines to assess requests for carriage of these devices and can present challenges with balancing their obligations to customers with disability, while ensuring the safe operation of air travel.

(iii) Transport Standards:

- The Transport Standards contain several requirements which are not relevant to an aircraft, or are applicable to equipment or infrastructure that an airline does not control when providing air travel services. For example, there are requirements to provide access paths in a certain way which would impact airline customers but would be controlled by an airport as part of their infrastructure.
- Virgin Australia is supportive of the review processes currently underway to modernise and improve the effectiveness of the Transport Standards.

(b) A lack of clear guidance on roles and accountabilities for stakeholders involved in the travel journey

The travel journey requires various stakeholders to assist customers with disability. This means that the approach to the assistance provided through the end-to-end journey is not always consistent.

Virgin Australia is aware that this experience can be stressful and challenging for customers with disability because there is a lack of clarity about what assistance will be provided, who the service provider is, and the way the assistance will be provided. This is exacerbated when customers with disability are travelling to and from different destinations with different airlines, because there are no clear standards or guidelines for practically providing accessible travel that each service provider needs to use as the baseline for assistance.

In seeking to address existing challenges with accessible air travel, consideration needs to be given to the coordination of services between providers at each of the different stages of the customer journey.

The Aviation Green Paper suggests that the aviation sector make significant investments in relation to the carriage of mobility aids. Virgin Australia is supportive of initiatives which are designed to make the carriage of mobility aids easier for customers with disability. However, it considers that the issue requires consideration on multiple fronts, including current regulatory requirements/restrictions on the carriage of mobility aids, workplace health and safety requirements, equipment and aircraft manufactures, ground handling services providers, and airports.

Active participation by all relevant stakeholders in the design of processes not only in respect of the carriage of mobility aids but accessible travel experiences more broadly will enable collaboration of subject matter experts to address challenges that are not the sole responsibility of participants in the travel journey.

(c) Equipment, training and the operational environment

In the absence of clear guidelines on the provision of required equipment and training for team members, airlines have generally adopted their own processes and procedures to ensure they meet the needs of their customers with disability while complying with their legal obligations. Virgin Australia recognises that this in itself can result in challenges for customers who receive an inconsistent service depending on the airline they are travelling with.

There are some challenges in making equipment available to customers in the airport environment:

- Airlines carry large numbers of customers on their services. Virgin Australia invests in equipment which services as broad a range of its customers as possible, however, customers can have diverse needs and airlines may not always have equipment that suits their specific requirements.
- To be able to provide the specific assistance that is best suited to the customer, airlines require different equipment and enough of the same equipment to assist multiple customers at the same time. Airlines can operate across large airports with significant distances between check in and departure gates, or between departure gates. This can, at times, have an impact on the timely provision of mobility assistance in the airport terminal, or the provision of necessary equipment to support transfer of customers from the departure gate to the aircraft.
- There are currently no prescribed training standards for airline team members who provide services to customers with disability. Frontline team members receive training on ways to best support the travel journey for customers with disability when they commence their roles with Virgin Australia. This training focuses on interacting and communicating with customers with disability with compassion and integrity, and how to provide a seamless journey through the airport, onboard and at their destination. Frontline teams are trained to understand the different specific service requests, including how to operationalise the requested assistance in a safe and inclusive way. Virgin Australia notes that staff training was identified as a critical reform in the Decision Regulation Impact Statement for Stage 1 reforms of the Disability Standards,⁵ to ensure consistency of training and better accessibility outcomes and comfort for customers with disability.
- Airlines generally have less team members staffing regional and remote areas due to a small number of flights, which can exacerbate service delivery challenges for people with disability.
- Airlines are subject to operational requirements at airports concerning time on the gate and access to departure and landing slots. Striking this balance between these considerations and the need to provide accessible air travel requires industry wide consultation.

Virgin Australia recognises the Australian Government's expectation that providers in the aviation industry make significant investment to improve the travel experience for people with disability, including in the areas of equipment and staff training. Virgin Australia submits that addressing these challenges requires collaboration with the disability community and advocates and participants in the aviation industry.

(d) Provision of information across service providers in the end-to-end journey is not consistent

Virgin Australia recognises the need for a 'whole of journey' approach to the delivery of accessible air travel services. Key to this is the provision of consistent and integrated information by stakeholders who provide services that span the air travel journey. Currently, airlines and airports provide information about their services and accessibility features available, including via Disability Access Facilitation Plans. However, these plans are not developed in a coordinated way between airlines and airports, which can sometimes result in inconsistent, overlapping or out-of-date information being provided to customers.

Virgin Australia considers that challenges with information dissemination and access should be one of the elements addressed through industry consultation.

10.8 Recommendations

Achieving an ambition of reducing barriers to air travel requires collaboration and consultation between the disability community and disability advocates, industry participants that contribute to the delivery of air travel services, and Government.

Virgin Australia supports the proposal by A4ANZ to convene an industry-led or Government-led roundtable with representatives from key stakeholders in the air travel journey (including airlines, airports, organisations representing customers with disability, aviation security screening providers, and ground transport operators).

Key topics of focus for this collaboration should include:

- (a) Development of an industry-wide framework which outlines roles and accountabilities for stakeholders in the provision of accessible air travel, and how services and the provision of information can be coordinated.
- (b) Opportunities to improve the current regulatory framework.
 - (i) Virgin Australia considers that the current regulatory framework is generally appropriate, but proposes that the following actions may benefit both customers with disability and industry stakeholders:
 - The development of customer-facing guidance, in consultation with industry stakeholders, about the intersection of obligations under disability and discrimination legislation, aviation-specific legislation and other legislation;
 - Review and propose amendments to the DDA and supporting legislative instruments where appropriate (for example, update the provisions relating to assistance animals and disability aids under the DDA), or supplement existing legislation with guidance; and
 - Consideration and implementation of changes to the Transport Standards following the current review processes to better address specific considerations relevant to the aviation environment.
- (c) The role of the AAF and how the forum could be restructured to improve effectiveness.
 - (i) Virgin Australia supports the Government's proposal to restructure the AAF to provide a more robust forum for the benefit of customers with disability, as well as industry participants. This review could consider the following:
 - Reviewing the Terms of Reference for the AAF in consultation with industry to ensure they remain fit for purpose;
 - Broader industry participation in the forum, whether as members, associate members or industry representatives;
 - Increased use of and reliance on data, subject matter expert input and fact-based discussions in considering how to address challenges and opportunities for improvement; and
 - Improving the transparency of the AAF's engagement with Government on key policy issues for the benefits of all members.
- (d) Development of a national framework for the training and accreditation of assistance animals to ensure consistent outcomes for customers. The framework should consider the following:
 - (i) Guidance on minimum training standards for assistance animals that are assessed under s 9(2)(c) of the DDA, which would outline the amount of training and evidence that is required to meet s 9(2)(c) of the DDA; and
 - (ii) Regulations regarding what animal species are and are not considered to be appropriate assistance animals for the purpose of air travel, in consideration of aviation safety regulations that airlines are required to comply with.

- (e) Improving the way in which information regarding accessibility of services is developed and made available, including:
 - (i) Exploring opportunities for improving how information is shared between service providers in the customer journey;
 - (ii) Adopting a consistent approach to the development of Disability Access Facilitation Plans of airlines and airports; and
 - (iii) Opportunities to engage with the disability community in ensuring that Disability Access Facilitation Plan templates fit for purpose and address the information needs of customers.
- (f) Examining opportunities to adopt universal design principles regarding airport/airline infrastructure and service delivery models to ensure air travel is accessible to the broadest possible range of customers with disability.
- (g) Options for improving accessibility of equipment and team members for facilitating assistance.
 - (i) Airports and airlines should explore opportunities for sharing equipment and resources to provide a more integrated approach in delivering services to customers with disability in the airport environment. This could include sharing investment costs between airports and airlines. This could be considered in the context of recommendation (a).

11 Aviation Information Technology

Key takeaways

- The aviation industry's reluctance to embrace technological change is apparent in its limited innovation with IT systems, as demonstrated by the continued use of Passenger Services Systems since the 1980s. This stagnant approach adversely impacts the economic viability of airlines.
- The domestic aviation sector has initiated the shift towards adopting new technologies to secure its competitive edge.
- Virgin Australia's strategic investments in technology have not only enhanced the customer experience, but also position the airline as a leading technological innovation in the Australian aviation industry.
- The Australian Government should proactively collaborate with key stakeholders to address challenges and explore opportunities in Generative Artificial Intelligence (**Gen AI**) for aviation.
- The United States' AI framework should be adopted to guide the Government's policy and legislation effectively.

11.1 Aviation Information Technology

(a) **The global aviation industry's reluctance to embrace technological change has impacted the economic viability of airlines**

Over the last 30 years, the aviation industry has faced a series of disruptions that have been a barrier for technological innovation. This has been caused by deregulation of the industry, the rapid expansion of the internet, and the adoption of modern technology, particularly by low-cost carrier airlines. The interaction between airlines and customers – typically facilitated by the Passenger Services Systems (**PSS**) – has been largely unchanged since the 1980s and is one of the best examples of the lack of substantial changes in the industry.

(b) **The domestic aviation industry has already started the transition to new technology to ensure its competitiveness**

Many industry participants have realised they must adapt to new technology to be competitive. Low-cost carriers, in contrast to traditional airlines, have recently implemented systems that do not rely on inter-airline or travel agency connections that PSS have traditionally facilitated. Additionally, in the industry there is a comprehensive plan to overhaul and modernise PSS onto a more adaptable platform, such as Offer & Order & Service & Deliver (**OOSD**). These changes demonstrate how airlines worldwide recognise the urgent need to update their technology infrastructure to meet the expectations of modern travellers.

(c) **Successful implementation of technology requires collective action from key stakeholders to ensure seamless integration and customer buy in**

The requirements for intra-operability between airlines and travel agents that pervade the aviation industry are a barrier against innovation because they disincentivise individual airlines from technological transformation. Individual airlines can take the initiative to transition to new technology, but it comes with challenges and significant costs. This inter-dependence should be discouraged as it creates stagnation, an aversion to innovation within individual airlines, and ultimately a lack of progress in the aviation industry.

Therefore, widespread change at scale will require a collective commitment of resources from both airlines and travel agents globally, as well as their technology providers. A coordinated approach will ensure that systems and processes align harmoniously, which can lead to seamless integration of new technology and minimise disruptions. Additionally, industry participants can create a more unified and consistent customer experience across the aviation sector by working together without necessarily driving inter-dependence. This will foster trust, familiarity, and buy-in from consumers, which is essential for a successful transition.

Furthermore, the Australian Government should consider what efforts it can do to accelerate innovation in the aviation industry. The Government could do this within international forums such as the International Civil Aviation Organization (*ICAO*), and in collaboration with regulators in other jurisdictions.

(d) Opportunities

Virgin Australia has identified opportunities from the adoption of new technology in the aviation industry:

- (i) Modern technology will ensure airlines are more adaptable to new government, legislative, or customer requirements.

Low-cost carriers have already been able to leverage technological innovations for a competitive advantage, and in doing so have driven some of the major innovation within the aviation industry in the last forty years. The transition to OOSD will make it easier for airline operators to comply with new regulations as they will be able to make more efficient decision-making, policy adjustments, and respond more efficiently to new circumstances.

- (ii) The aviation industry will benefit from improved employee attraction and retention due to the mainstream adoption of more modern technology.

The Government must work with relevant stakeholders to remove barriers that have led to stagnation in the industry and create an innovative culture within the sector. This will allow airline operators to keep up with technological developments in other industries, as well as attract technology experts to aviation and ensure the sector keeps up with innovation in other sectors. Additionally, employee retention will lead to more experienced and dedicated staff, contributing to improved safety and customer satisfaction.

- (iii) The ongoing modernisation of technology will reduce barriers to entry and open the door for technology companies to consider entering the sector.

While a handful of major technology providers continue to dominate the aviation industry, an increase in technology firms supporting the sector will encourage innovation and lead to more competition. Furthermore, increased competition of technology companies in the aviation industry will benefit consumers and improve services.

11.2 Virgin Australia has invested in technology to improve the customer experience

Virgin Australia's investment in new technology demonstrates its commitment to enhancing the overall customer aviation experience. While Virgin Australia acknowledges that these are initial steps that form part of a long-term commitment, the technologies that Virgin Australia has developed and deployed during 2023 have delivered improved outcomes for passengers:

(a) *Baggage Tracking*

In August 2023, Virgin Australia became the first Australian airline to provide a tracking tool for its luggage. Virgin Australia has leveraged this technology to reduce mishandled baggage rates by 60 per cent from August to September 2023. Additional outcomes seen since August include:

- Guest baggage complaints have reduced by 31 per cent;
- The OTP delays due to bag search duration have reduced by 34 per cent;
- Baggage security events have decreased by 58 per cent; and
- Baggage claims have reduced by 10 per cent.

(b) **Virgin Australia's Rapid Rebook tool has improved the re-accommodation process**

In February 2023, Virgin Australia established the Rapid Rebook tool that enables guest to self-serve changes to their travel in the event of disruption. This has reduced rebooking times from hours to minutes. Virgin Australia offers passengers who face flight disruptions a range of choices and a convenient method to secure hotel accommodation and taxi services where applicable under its Guest Compensation Policy. Virgin Australia's improved process ensures passengers are provided with immediate assistance, but also offers customers peace of mind during an otherwise stressful situation.

Since the Rapid Rebook tool has gone live, Virgin Australia has:

- Re-accommodated over 350,000 guests;
- Over 20 per cent of guests opted to use self-service to change their flight, which equates to the avoidance of a potential 70,000+ contacts to the Guest Contact Centre or guest services.
- Issued over 10,000 hotel rooms via self-service (an average of +30/day).

11.3 Engagement with key aviation stakeholders is essential to understand the challenges and opportunities presented by Gen AI

Virgin Australia recommends the Australia Government proactively engages with key stakeholders on the challenges and opportunities presented by Gen AI. The Australian Government must take a leadership role to ensure there is responsible development and implementation of AI which benefits the aviation industry and Australian society more broadly.

On 30 October 2023, US President Joe Biden issued an executive order (**EO**) on AI to provide guidance on how AI should be developed and deployed across organisations. The EO is guided by eight principles and priorities, which cover issues such as the protection of privacy, civil liberties, and managing AI risks.

The Australian Government should consider adopting a similar framework to guide policy development and legislative approach with respect to Gen AI. While this technology has the potential to positively impact all areas of society, it also presents risks, and it is vital that the aviation industry, and broader economy, are given a roadmap for the development of appropriate regulation on Gen AI development and its use, given the importance to both the aviation industry and the broader economy.