



Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

Senate Select Committee, Commonwealth Bilateral Air Services Agreements

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PARLIAMENT OF AUSTRALIA • THE SENATE

SENATOR THE HON. BRIDGET McKENZIE

Shadow Minister for Infrastructure, Transport and Regional Development

Leader of the Nationals in the Senate

Senator for Victoria

13 September 2023

Mr Jim Betts

Secretary

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

GPO Box 594

CANBERRA ACT 2601

Via email: jim.betts@infrastructure.gov.au

Dear Mr Betts,

On 5 September 2023 the Senate resolved to establish the Select Committee on Commonwealth Bilateral Air Service Agreements. The Committee has been tasked to report to the Senate within a short timeline, by 9 October 2023.

I write to request your cooperation with the Committee's inquiry, in anticipation officials from the Department of Infrastructure, Transport, Regional Development, Communications and the Arts may be called to attend a public hearing and provide evidence to support the investigations and deliberations of the Committee.

In particular, I request your assistance in making available suitable senior officials with knowledge relevant to the Committee's term of reference, to attend any public hearings the Department is requested to appear at.

Further, Department officials attending the public hearings should be suitably briefed to enable them to answer questions in relation to the matters outlined in the attached document. This includes officials having available to them as reference material any documents referred to in the attachment.

Given the tight timelines for the Committee to report, officials should endeavour to answer all questions at the public hearings and avoid taking questions on notice.

Thank you for your consideration of this important matter and for your efforts to ensure officials do their best to prepare in advance to present to the Committee, providing succinct and factual information.

Yours sincerely,


Bridget McKenzie

Attachment**Matters for the Department of Infrastructure, Transport, Regional Development, Communications and the Arts to be briefed on ahead of attendance at public hearings of the Select Committee on Commonwealth Bilateral Air Service Agreements**

Provide a timeline of the decision process.

Provide a list of organisations or individuals formally and informally consulted.

Dates and relevant details of any meetings, correspondence, or representations between unions and the Department, or the Minister's office, regarding the Qatar Airways application.

Dates and relevant details of any meetings, correspondence, or representations between Qantas and the Department, or the Minister's office, regarding the Qatar Airways application.

Dates and relevant details of any meetings, correspondence or representations between Virgin Australia and the Department, or the Minister's office, regarding the Qatar Airways application.

Dates and relevant details of any meetings, correspondence or representations between Qatar Airways (or any organisations acting on their behalf) and the Department, or the Minister's office, regarding the Qatar Airways application.

Dates and relevant details of any meetings, conversations or correspondence between the Department and any of the departments of Foreign Affairs and Trade, the Prime Minister and Cabinet, the Treasury, or Finance, regarding the Qatar Airways application.

Was the ACCC consulted regarding the decision?

- a. Details, briefing material, dates of meetings

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**Australian Government****Department of Infrastructure, Transport,
Regional Development, Communications and the Arts****Secretary
Jim Betts****EC23-005398**

Senator the Hon Bridget McKenzie
Chair
Senate Select Committee on Commonwealth Bilateral Air Services Agreements
Senator for Victoria
Parliament House
CANBERRA ACT 2600

Dear Senator McKenzie

Thank you for your letter of 13 September 2023 regarding the establishment of the Select Committee on Commonwealth Bilateral Air Services Agreements.

The Department will be making a submission to assist the Committee with its examination of bilateral air services agreements covering the nature of these agreements, the processes by which they are established and updated, and negotiations that have taken place since 2016.

We will seek to be as comprehensive as possible in our submission while noting, as you will appreciate, that Australia has air services agreements with more than 100 countries covering the rights of airlines of Australia and our bilateral partners.

We will assist the Committee with the matters raised in the attachment to your letter, noting that the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, has claimed public interest immunity for documents subject to Senate Orders for the Production of Documents No 297 and 299 by yourself and Senator Rice.

I have instructed that senior officials from the Department with relevant experience and expertise are available and prepared to attend hearings and assist the Committee, as you have requested.

Yours sincerely

Jim Betts

15 September 2023

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TIMELINE OF RESPONSE TO 2023 QATAR DECISION

| | |
|---|---|
| 2 August 2022 | The Department seeks stakeholder views on the bilateral air services forward negotiating program and priorities. |
| 16 August 2022 | Request from Qatar Civil Aviation Authority (CAA) for bilateral consultations for increased capacity under the Australia – Qatar air services arrangements. |
| 30 September 2022 | The Department seeks Qantas and Virgin comment on future Aust-Qatar air services arrangements. |
| 14 October 2022 | Qantas response on future Qatar air services arrangements provided. |
| 26 October 2022 | Virgin Australia response on future Qatar air services arrangements provided. |
| 17 November 2022 | Department provides proposed bilateral air services forward negotiating program and priorities to Minister. |
| 1 December 2022 | Minister signs response to proposed air services forward negotiating program and priorities. |
| 4 January 2023 (received MO on 9 January) | Department provides to Minister proposed negotiating mandate for air services negotiations with Qatar |
| 10 July 2023 | Minister made decision. |
| 14 July 2023 | Response from the Department sent by email to the QCAA conveying Australian Government's decision. |
| 20 July 2023 | DFAT Embassy in Qatar also provides TPN to Qatar with copy of Department's letter. |

TIMELINE OF THE 2018 QATAR DECISION

| | |
|---------------------|---|
| July 2018 | Then Minister McCormack agrees to the Department commencing discussions with the Qatar CAA over addition of anti-competitive provisions in an updated Memorandum of Understanding (MoU) as condition of agreeing to additional 7 services covering the four major airports. |
| 2018- 2019 | During 2018 and 2019 there were a series of written exchanges and meetings between the Department and Qatar CAA over the terms of the updated draft of the MoU. |
| 2020-2021 | Bilateral negotiations around the world put on hold from early 2020 and the first half of 2021 due to COVID-19. |
| June 2021 | QCAA wrote to Department accepting Safeguards Article. |
| July – October 2021 | COVID restrictions remain in place – Qatar advised that giving effect to the updated MoU would be progressed once Australia eased border restrictions |
| December 2021 | With the easing of border restrictions from November 2021 the then Minister Joyce approved the Department moving to seek Qatar CAA agreement to the updated MoU. |
| 21 January 2022 | Updated MoU co-signed by both parties and came into effect. |

OFFICIAL: Sensitive

SENATE SELECT COMMITTEE – BILATERAL AIR SERVICES**BILATERAL SYSTEM AND NEGOTIATIONS**

- The bilateral system which governs international air services arrangements is not perfect but it is the system that continues to be adopted by countries around the world.
- It is a system that requires the agreement of both parties to create or update air services arrangements. We cannot take unilateral action.
- It is important to note that changes to bilateral air services agreements have to be agreed at Government-to-Government level with ultimate completion of arrangements being at treaty or equivalent status.
- It is also the case that Australia and our bilateral partners generally do not reveal publicly the details of their negotiating mandates and what they are seeking to achieve in the lead up to and during bilateral air services talks.
- This approach has been followed with successive Ministers and Governments reflecting the sensitivity of bilateral talks seeking agreed international aviation rights for the airlines of both countries.
- As such the Department can share with the Committee the process we follow in providing advice to the Minister in seeking determining bilateral country negotiation priorities and individual negotiating mandates.
- This includes how we incorporate the views of key stakeholders.
- We will also seek to provide the timelines involved in those processes.
- We hope the Committee will appreciate that we should not however, reveal the details of such advice provided to current or former Ministers.
- In this regard we note that in relation to the production of documents the Minister has advised the Senate that this advice would, or might reasonably be expected to, disclose the nature of bilateral relations with Australia's foreign partners that we have given undertakings to protect.
- As such the Minister has advised there is public interest in not disclosing such discussions so that the Government's negotiations over air services agreements with a range of countries can continue unimpeded.
- As we indicate in our submission the Department's role is to provide advice to the Minister for consideration on proposed bilateral air services priorities and negotiating mandates for future bilateral air services talks.
- Approval of these priorities and individual country mandates is, and has been in the past, a matter for the Minister.
- Thank you Chair and Committee members.

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LETTER FROM SENATOR MCKENZIE – 13 SEPTEMBER 2023

A timeline of the current and previous Qatar capacity consideration processes

- Attachment A has suggested key dates and events in both cases which we can use to respond to questions – but we cannot provide details of advice given to current or previous Ministers.

Provide a list of organization or individuals formally and informally consulted.

- The Department has a wide list of stakeholders that it consults with over bilateral country negotiation priorities.
- It sought the views of these stakeholders on 2 August 2022 for the period Feb 2023- March 2024 and subsequently received stakeholder comments over the next two months including from airports including Perth.
- In relation to available capacity for Australian and Qatari airlines being considered in the negotiating mandate for Qatar, we also sought the views of our two major international airlines groups, Qantas and Virgin Australia on 30 September 2022.

Dates and relevant details of any meetings, correspondence or representations between unions and the Department, or the Minister's office, regarding the Qatar Airways application

- Nil

Dates and relevant details of any meetings, correspondence, or representations between Qantas and the Department or the Minister's Office, regarding the Qatar Airways application

- In response to the Department's request of 30 September 2022, the Department received Qantas' submission on 14 October 2022.

Dates and relevant details of any meetings, correspondence or representations between Virgin Australia and the Department, or the Minister's office, regarding the Qatar Airways application.

- In response to the Department's request of 30 September 2022, the Department received Virgin Australia's submission on 26 October 2022.

Dates and relevant details of any meetings, correspondence or representations between Qatar Airways (or any organisations acting on their behalf) and the Department, or Minister's office regarding the Qatar Airways application

- The application for additional capacity under the Australia-Qatar air services agreement was received from the Qatar Civil Aviation Authority on 16 August 2022.

Dates and relevant details of any meetings, conversations or correspondence between the Department and any of the department of Foreign Affairs and Trade, the Prime Minister and Cabinet and Treasury or Finance, regarding the Qatar Airways application.

- The Department shared with DFAT a copy of the draft letter from the Department to the Qatar Civil Aviation Authority advising them of the Minister's decision on 13 July 2023 and let DFAT know the letter had been sent on 14 July 2023.

Was the ACCC consulted regarding the decision?

- Treasury rather than the ACC is included as part of our bilateral negotiation priority consultation processes given they are responsible for competition policy.

ACCC Details, briefing material, dates of meetings

- The Department does consult with the ACCC on broader aviation policy settings as was undertaken in the development of the Aviation Green Paper which covers competition and international aviation negotiation policy. The Department is aware of the ACCC's general support for promoting competition in air services agreements.


Australian Government
**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

| Stakeholder Consultation List | |
|---|--|
| Adelaide Airport Limited | Melbourne Airport |
| Airlines for Australia & New Zealand (A4ANZ) | Newcastle Airport Limited |
| Airnorth | Northern Territory Airports Pty Ltd |
| Alliance Airlines | NSW Department of Premier and Cabinet |
| Attorney-General's Department | Pacific Air Express |
| Austrade | Perth Airport |
| Australia Pacific Business Councils | Port Hedland International Airport |
| Australian Airports Association | Qantas Group |
| Australian Border Force | QLD Department of Tourism, Innovation and Sport |
| Australian International Pilots Association | Queensland Airports Limited |
| Australian Tourism Export Council | South Australian Tourism Commission |
| Avalon Airport | Sunshine Coast Airport |
| Board of Airline Representatives of Australia | Sydney Airport Corporation Limited |
| Brisbane Airport Corporation Pty Ltd | Tasman Cargo Airlines |
| Broome International Airport | Tasmania Department of State Growth |
| Cairns Airport Pty Ltd | Tasmanian Chamber of Commerce and Industry |
| Canberra Airport | Toowoomba Wellcamp Airport |
| Chamber of Commerce Northern Territory | Tourism & Events Queensland |
| Civil Aviation Safety Authority | Tourism and Transport Forum |
| Department of Agriculture and Water Resources | Tourism Australia |
| Department of Foreign Affairs and Trade | Tourism NT |
| Department of Home Affairs | Tourism Tasmania |
| Department of the Prime Minister and Cabinet | Tourism Western Australia |
| Department of Treasury | VIC Department of Jobs, Skills, Industry and Regions |
| Destination NSW | Virgin Australia International |
| Hobart Airport | Visit Victoria |
| International Air Services Commission | VisitCanberra |
| Invest Victoria | WSA Co |
| Launceston Airport | |

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Transport, Regional Development, Communications and the Arts

Inquiry into Commonwealth Bilateral Air Services Agreements

Submission to the Senate Select Committee on Commonwealth
Bilateral Air Service Agreements.

September 2023

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Transport, Regional Development, Communications and the Arts

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Australia's Bilateral Air Services Agreements

Introduction

International aviation is a key driver of Australia's economy, supporting the growth of tourism, business and trade.

The COVID-19 pandemic and border restrictions has been the most devastating external shock to international aviation in its history, but the industry is bouncing back.

Australia has one of the most open international markets in the world. We have agreements with over 100 countries and open capacity access arrangements with our seven current biggest international arrival markets: New Zealand, China, US, UK, Japan (excluding Haneda), India and Singapore.

Bilateral agreements are achieved at Government to Government level through treaties and supplemented through Memorandums of Understanding and exchanges of letters signed by Government aviation officials.

In essence these agreements outline and provide access rights for international airlines of both countries.

In the Aviation Green Paper, the Government has indicated that through bilateral negotiations, it intends to continue to seek to advance Australia's national interest including looking to enhance Australia's international aviation capability, and access to key international passenger and freight markets.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts' (the Department) key roles in relation to bilateral air services are:

- to provide advice to the Australian Government on proposed negotiating mandates for bilateral negotiations with other countries; and
- to conduct negotiations with other countries aviation officials to seek agreement on new or updated air services arrangements, consistent with mandates approved by the Minister for Infrastructure, Transport, Regional Development and Local Government.

Approval of mandates for each individual bilateral negotiation is a matter for the Minister for Infrastructure, Transport, Regional Development and Local Government.

International Air Services Framework

The Chicago Convention of 1944 sets up the framework for international civil aviation. The Convention enshrines the principle of sovereignty over the airspace above the state's territory and confirms that scheduled international air services cannot operate without special agreements between governments.

Markets for international air services are closed until and unless governments agree between them to open the market, through bilateral air services agreements. Even then, this exists only to the extent the governments agree to open the market.

Bilateral air services agreements are treaty level, legally binding and enforceable agreements that allow for scheduled international air services between countries.

These agreements and their supporting Memoranda of Understandings (MoUs) agreed by aviation officials, specify the numbers and types of services and traffic rights that airlines of both countries are allowed to operate.

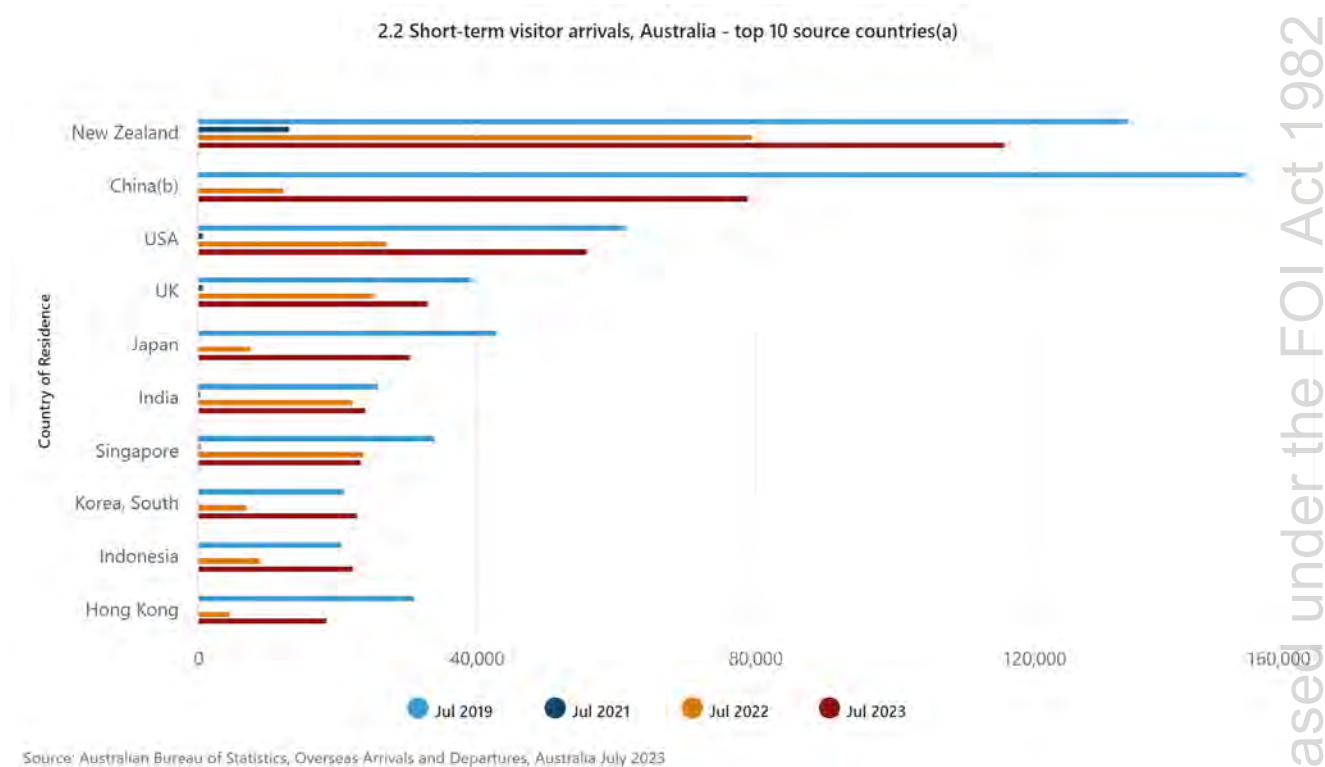
Capacity is negotiated on a reciprocal basis as part of an approach which focusses on progressive liberalisation benefitting our tourism and trade interests, as well as leveraging better access and opportunities for Australian airlines.

The bilateral air services agreement system which countries around the world have kept outside the General Agreement on Trade in Services processes, remains the fundamental means of advancing international aviation rights. Numerous efforts to progress multilateral aviation agreements in multilateral fora have generally not been successful given a wide disparity of international views on air services agreement policy approaches.

Air Services Agreements

Australia has one of the most open international markets in the world.

We have agreements with over 100 countries and our open capacity access agreements cover the top seven source countries for visitor arrivals to Australia in July 2023 representing just over half of international passengers and flights coming into Australia.



For other agreements, the policy of successive Governments has been to negotiate bilateral agreements that provide 'capacity ahead of demand'.

This approach has meant that airlines have the ability to plan to access future routes subject to their own commercial considerations and subject to meeting the safety and security requirements of both countries. In only a handful of cases, airlines are unable to access sufficient capacity under the bilateral arrangements to meet their commercial requirements.

The Department publishes a list of all Australia air services agreements on our website – in the section entitled: [Australia's air services agreements & arrangements](#). Copies of the treaty text can be found on the DFAT Treaties Database.

The Agreements set the overarching legal framework for services between two countries. Key provisions include designation of airlines, application of national laws, airlines' rights to establish offices, deploy staff, remit currency, customs duties, safety and security frameworks, and the routes that may be operated.

In order to enter into force, Air Services Agreements are required to undergo [Australia's treaty making process](#), including approval of Ministers, Federal Executive Council approval, tabling in the Parliament and consideration by Joint Standing Committee on Treaties.

Supporting Memorandum of Understanding (MOU) are used to outline detailed commercial opportunities between countries. In the lead up to consideration of MOU aeronautical authorities of both countries seek their respective Minister's approval for their respective negotiating mandates.

MOU's are generally signed between 'aeronautical authorities' and can include, capacity entitlements (number of seats or frequency of services), code share rights and traffic rights for airlines of both countries.

MoUs are not made public as they can contain confidential commercial information, however the key aspects of our MOU's (i.e. the capacity entitlements) are made available to stakeholders as required.

Air services negotiations

Bilateral agreements are negotiated between Governments by Government officials.

Requests for updated or new air services arrangements are put forward by the aviation authority of one country to another – this could be through a formal letter or informal discussions.

The Department seeks agreement from the Minister for Infrastructure, Transport, Regional Development and Local Government on negotiating positions for future bilateral talks.

Markets are prioritised factoring in a range of factors including, but not limited to, stakeholder support and whether provisions in current agreements remain appropriate.

Attached are updates on capacity available for Australian international airlines after completion of air services negotiations ([Attachment 1](#)) and for foreign airlines ([Attachment 2](#)).

Forward program of negotiation priorities

The Australian Government establishes a bilateral air services forward negotiating program to deliver on the Government's policy agenda for international aviation. The forward work program is not publicly available.

While Australia may have a specific priority or position that we are seeking to progress in our air services arrangements, some of our bilateral partners may have different priorities and different views.

Any negotiations require both bilateral partners' agreement, and Australia cannot unilaterally make changes to air services agreements. Many other countries (and their airlines) are still recovering from COVID-19 and may not yet be ready to negotiate increased bilateral air services arrangements.

The Department consults widely with Australian stakeholders including airlines, airports, tourism bodies, state governments and other departments in developing advice to the Minister on the proposed program.

Allocating Australian Capacity

Australian capacity is allocated by the International Air Services Commission (IASC), an independent statutory authority. Its determinations of capacity entitlements are made to existing and prospective Australian international carriers for the operation of scheduled international services. The IASC's role is set out in the *International Air Services Commission Act 1992*.

Once an Australian airline is allocated capacity and they meet Australia's safety and security requirements they can begin operating scheduled international services to that market.

Operating services to Australia

Airlines make their own commercial decisions on whether to operate air services, irrespective of the opportunities that exist in bilateral air services agreements. In order to operate direct services to Australia, foreign airlines must meet Australia's regulatory safety and security requirements.

This includes holding a [Foreign Air Transport Air Operator's Certificate \(FATAOC\)](#) from the Australian Civil Aviation Safety Authority (the aviation safety regulator) and seeking an approved [Transport Security Program](#) from the Department of Home Affairs.

If these approvals are obtained, foreign airlines can then apply to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for an [International Airline Licence](#). Details of the requirements to obtain a licence are available on the Department's website.

The Department publishes on its website a [summary of International airline approved timetables](#) following the start of the Northern Winter and Northern Summer timetable periods.

Consultations and Settlement of Disputes

Bilateral air services agreements generally include a clause of Consultation and Settlement of Dispute. Either country can request consultations in relation to a number of Articles in the agreements, generally including Designation and authorisation, Revocation or Suspension of Opening Authorizations, Aviation Security and Safety. These consultations are required to begin within a period of 60 days, unless agreed otherwise.

Should a dispute arise in relation to the interpretation or application of the Agreement, which cannot be settled between the bilateral countries, air services agreements also include a Settlement of Dispute Clause which is submitted to an arbitral tribunal.

Aviation recovery and capacity

The number of scheduled international passenger flights to Australia are projected to return to around 91 percent of pre-COVID levels by the end of September 2023.



In terms of the number of airlines, 61 international airlines (57 passenger and 4 cargo) are now operating to Australia, a return to pre-COVID levels, compared to just 34 airlines at the peak of COVID-19.

Already this year two new airlines, T'Way Air (Korea) and VietJet Air (Vietnam), have commenced services to Australia for the first time.

Australia has gone from 2.9 million passengers for the year ended March 2022 to 25.5 million passengers for the year ended March 2023. This is still short of the 40.5 million for the year ended March 2020.

While international airlines continue to recover and schedule additional capacity there are a number of markets that are already operating above pre-COVID levels. This includes Fiji, Sri Lanka, UK and India.

The Australia – India market in particular has shown strong growth with Air India doubling services to Australia and Qantas significantly re-entering the Indian market.

Seat utilisation for international services to and from Australia for the January – March quarter 2023 is high at more than 88% for outbound and 78% for inbound flights.

There is a lot of available capacity under many of our current bilateral air services agreements that are not being used by Australian or foreign airlines.

1,857 international flights operated into Australia in the first week of September 2023. It is expected that global international passenger traffic will return to pre-COVID-19 levels over the next twelve months as airlines announce new flights and this additional demand stimulates competition and encourage more competitive air fares on international routes.

We will have our next indicator of how our international aviation recovery is continuing to progress when we receive the international airline timetables for the next international timetable period commencing at the end of October this year.

Air Services Agreements since 2016

The Department holds air services negotiations and exchanges of correspondence with countries in accordance with the priorities established, as outlined above and as opportunities arise.

Since 2016 a number of major open access agreements have been put in place, including with China and India, as well as significant capacity increases to a number of markets including the United Arab Emirates, Malaysia, Philippines, South Korea and Vietnam.

Challenges remain in progressing Australia's international bilateral aviation policy, for example previous attempts by Australia to achieve a more open access type agreement with the EU have not progressed, while talks with some countries since 2016 did not always lead to updated or increased air services arrangements.

There was also a major pause to bilateral air services negotiations for several years due to COVID (2020-2022).

In the second half of 2022, with the re-opening of most international borders, a doubling of capacity available under our bilateral air services arrangements was negotiated with our Pacific Island neighbours Samoa and Tonga, providing additional capacity for multiple Australian airlines. This was put into effect through an updated MOU and exchange of correspondence respectively between aeronautical agencies.

Conclusion

The recent Aviation Green Paper proposes that the Australian Government continue the current 'Capacity ahead of demand' approach and negotiate 'Open Skies' style agreements to bilateral air services negotiations where it is in the national interest and can be bilaterally agreed.

This approach has already facilitated strong growth in our international aviation markets pre-COVID and is expected to do so as the market recovers over the short, medium and long term.



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

ATTACHMENT 1

Growth Potential for Australian Airlines

September 2023

Existing Bilateral Markets

Markets served by an Australian airline during the Northern Summer 2023 season

| Market | Capacity limit ¹ | In use ² | Available | Growth potential ³ |
|------------------|-----------------------------|---------------------|-------------|-------------------------------|
| Canada | Majors*: 9,000 seats | 708 seats | 8,292 seats | 1171% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| Chile | 4,000 seats | 944 seats | 3,056 seats | 324% |
| China | Open | 2,079 seats | Unlimited | Unlimited |
| Cook Islands | 3,000 seats | 1,440 seats | 1,560 seats | 108% |
| Fiji | Majors: 6,900 seats | 6,899 seats | 1 seat | 0% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| Hong Kong | Majors: 70 services | 12 services | 58 services | 483% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| India | Majors@: Open | 1,785 seats | Unlimited | Unlimited |
| Indonesia | Majors*: 25,000 seats | 24,913 seats | 87 seats | 0.3% |
| | Others: Open | 7,200 seats | Unlimited | Unlimited |
| | ERP ⁴ : 2,500 | 0 seats | 2,500 seats | - |
| Italy | 7 services | 3 services | 4 services | 133% |
| Japan | Open | 21 services | Unlimited | Unlimited |
| | Haneda: 21 services | 21 services | 0 | 0% |
| New Caledonia | 2,400 seats | 870 seats | 1,530 seats | 176% |
| New Zealand | Open | 40,723 seats | Unlimited | Unlimited |
| Papua New Guinea | 3,520 seats | 1,044 seats | 2,476 seats | 237% |

Growth Potential for Australian Airlines

| Market | Capacity limit ¹ | In use ² | Available | Growth potential ³ |
|----------------|------------------------------------|---------------------|--------------|-------------------------------|
| Philippines | Manila & Clark: 10,700 seats | 2,079 seats | 8,621 seats | 415% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| | | | | |
| Samoa | 2,000 seats | 1,226 seats | 774 seats | 63% |
| Singapore | Open | 14,566 seats | Unlimited | Unlimited |
| South Africa | Majors: 21 services | 7 services | 14 services | 200% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| South Korea | 9,500 seats | 2,231 seats | 7,260 seats | 326% |
| Thailand | Majors [#] : 20,000 seats | 5,429 seats | 14,571 seats | 269% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Timor-Leste | 21 service | 7 service | 14 services | 200% |
| Tonga | Majors: 1,600 seats | 348 seats | 1,252 seats | 360% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| United Kingdom | Open | 5,047 seats | Unlimited | Unlimited |
| United States | Open | 15,953 seats | Unlimited | Unlimited |
| Vanuatu | Majors [*] : 4,000 seats | 880 seats | 3,120 seats | 354% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Vietnam | Majors: 42 services | 6 services | 36 services | 600% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| | ERP ⁴ : 7 services | 0 services | 7 services | - |

¹ All figures are on an 'each way, each week' basis. Sub-limits may apply in some markets. 'Majors' refers to Australia's major gateway airports of Sydney, Melbourne, Brisbane and Perth.

^{*} 'Majors' refers to Australia's major airports of Sydney, Melbourne (including Avalon), Brisbane and Perth.

[#] 'Majors' refers to Bangkok, Phuket, Utapao and Chiang Rai

@ 'Majors;' refer to Mumbai, New Delhi, Kolkata, Chennai, Bangalore and Hyderabad

² Capacity utilisation is the maximum figure for September / October based on approved timetables as at 11 September 2023.

³ 'Growth potential' is calculated as the ratio of available capacity to capacity in use.

⁴ The Enhanced Regional Package (ERP) provides additional capacity in agreed markets (up to a limit) for services that operate via or beyond to a point in Australia other than Sydney, Melbourne, Brisbane and Perth.

Unserved Markets

Markets without Australian airline operated services during the Northern Summer 2023 season

| Market | Capacity limit ¹ | Market | Capacity limit ¹ |
|----------------|---|----------|---|
| Argentina | 2,800 seats | France | 3 services |
| Austria | Open | Germany | 25 services |
| Azerbaijan | Majors: 7 services Others: Open | Greece | Majors: 7 services Others: Open |
| Bahrain | Majors: 12 services Others: Open | Hungary | Majors: 7 services Others: Open |
| Bangladesh | 5 services | Ireland | Majors: 7 services Others: Open |
| Belgium | Majors*: 7 services Others: Open | Israel | Majors: 7 services Others: Open |
| Brazil | 14 services | Jordan | Majors: 7 services Others: 7 services ERP ² : 7 services |
| Brunei | Majors: 27 services Others: Open | Kenya | Majors: 7 services Others: Open |
| Cambodia | Majors: 7 services Others: 7 services ERP ² : 7 services | Kiribati | Majors: 7 services Others: Open |
| Cote d'Ivoire | Majors: 7 services Others: Open | Kuwait | Majors: 7 services Others: 7 services ERP ² : 7 services |
| Croatia | 7 services | Laos | Majors: 7 services Others: 7 services ERP ² : 7 services |
| Cyprus | Larnaka & Pafos: Open | Lebanon | 2 services |
| Czech Republic | Majors: 7 services Others: Open | Macau | 3 services |
| Denmark | 2,800 seats | Malaysia | Majors: 42,100 seats Others: Open |
| Egypt | Majors: 7 services Others: Open | Malta | Majors: 2 services Others: Open |
| Mauritius | Majors: 7 services | Qatar | Majors: 28 services |

Growth Potential for Australian Airlines

| Market | Capacity limit ¹ | Market | Capacity limit ¹ |
|-------------|---|----------------------|--|
| | Others: Open | | Others: Open ERP ² : 7 services |
| Mexico | Majors [#] : 4 services Others: Open | Saudi Arabia | Riyadh & Jeddah: 6 services Dammam: Open |
| Morocco | Majors [@] : 7 services Others: Open | Serbia | Majors: 7 services Others: Open |
| Myanmar | Yangon: 7 services Others: Open | Seychelles | Majors: 7 services Others: Open |
| Nauru | Majors [*] : 7 services Others: Open | Solomon Island | Majors: 2,000 Others: Open |
| Nepal | Kathmandu: 7 services Others: 28 services | Spain | Madrid & Barcelona: 7 services Others: Open |
| Netherlands | 2,800 seats | Sri Lanka | Majors: 16 services Others: Open |
| Nigeria | 7 services | Sweden | 2,800 seats |
| Niue | 500 seats | Switzerland | Open |
| Norway | 2,800 seats | Taiwan | Open |
| Oman | Majors: 4 services Others: Open ERP ² : 7 services | Türkiye | Majors: 7 services Others [%] : |
| Pakistan | 4 services | United Arab Emirates | Majors: 168 services Others |
| Palau | 1,200 seats | Timor-Leste | 21 services |
| Peru | 7 services | Tonga | Majors: 1,600 seats Others: Open ERP ² : 7 services |
| Poland | Majors: 2,800 seats Others: Open | Zimbabwe | 1,600 seats |

¹All figures are on an 'each way, each week' basis. Sub-limits may apply in some markets. 'Majors' refers to Australia's major gateway airports of Sydney, Melbourne, Brisbane and Perth.

* 'Majors' refers to Australia's major airports of Sydney, Melbourne (including Avalon), Brisbane and Perth

#. 'Majors' refers to Mexico City, Guadalajara, Monterrey and Cancun.

@ 'Majors' refers to Casablanca, Marrakech, Agadir and Rabat.

% 'Others' refers to Samsun Carsmaba, Nevsehir Kapadokya and Gaziantep

²The Enhanced Regional Package (ERP) provides additional capacity in agreed markets (up to a limit) for services that operate via or beyond to a point in Australia other than Sydney, Melbourne, Brisbane and Perth.



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

ATTACHMENT 2

Growth Potential for Foreign Airlines

Published: April 2023

Existing Bilateral Markets

Markets served by a foreign airline with their own aircraft during the Northern Summer 2023 season

| Market | Capacity limit ¹ | In use ² | Available | Growth potential ³ |
|-----------|--------------------------------|---------------------|--------------|-------------------------------|
| Brunei | Majors: 23 services | 5 services | 18 services | 360% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| Canada | 9,000 seats | 4,186 seats | 4,814 seats | 115% |
| Chile | 4,000 seats | 3,040 seats | 960 seats | 32% |
| China | Open | 17,042 seats | Unlimited | Unlimited |
| Fiji | Majors: 7,900 seats | 7,900 seats | 0 seats | 0% |
| | Others: Open | 332 seats | Unlimited | Unlimited |
| Hong Kong | Majors: 70 services | 66 services | 4 services | 6% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| India | Open | 5,120 seats | Unlimited | Unlimited |
| Indonesia | Majors: 25,000 seats | 12,811 seats | 12,189 seats | 95% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| | ERP ⁴ : 2,500 seats | 0 seats | 2,500 seats | - |
| Japan | Open | 4 services | Unlimited | Unlimited |
| | Haneda: 21 services | 21 services | 0 services | 0% |
| Malaysia | Majors: 36,500 seats | 27,576 seats | 8,924 seats | 32% |
| | Others: Open | 2,581 seats | Unlimited | Unlimited |
| Mauritius | Majors: 7 services | 2 services | 5 services | 250% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| Nauru | Majors: 7 services | 3 services | 4 services | 133% |

| Market | Capacity limit ¹ | In use ² | Available | Growth potential ³ |
|-------------------|-------------------------------|---------------------|--------------|-------------------------------|
| | Others: Open | 0 services | Unlimited | Unlimited |
| New Caledonia | 2,400 seats | 1,422 seats | 978 seats | 69% |
| New Zealand | Open | 34,434 seats | Unlimited | Unlimited |
| Papua New Guinea | 3,520 seats | 2,303 seats | 1,217 seats | 53% |
| Philippines | Majors: 10,700 seats | 8,892 seats | 1,808 seats | 20% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Qatar | Majors: 28 services | 28 services | 0 services | 0% |
| | Others: Open | 7 services | Unlimited | Unlimited |
| | ERP ⁴ : 7 services | 7 services | 0 services | 0% |
| Republic of Korea | Majors: 9,500 seats | 7,631 seats | 1,869 seats | 24% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Singapore | Open | 48,999 seats | Unlimited | Unlimited |
| Solomon Islands | Majors: 2,000 seats | 576 seats | 1,424 seats | 247% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Sri Lanka | Majors: 14 services | 10 services | 4 services | 40% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| Taiwan | Open | 6,570 seats | Unlimited | Unlimited |
| Thailand | Majors: 20,000 seats | 9,660 seats | 10,340 seats | 107% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| UAE | Majors: 168 services | 91 services | 77 services | 85% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| United Kingdom | Open | 1,512 seats | Unlimited | Unlimited |
| United States | Open | 13,806 seats | Unlimited | Unlimited |
| Vanuatu | Majors: 4,000 seats | 1,530 seats | 2,470 seats | 161% |
| | Others: Open | 0 seats | Unlimited | Unlimited |
| Vietnam | Majors: 42 services | 29 services | 13 services | 45% |
| | Others: Open | 0 services | Unlimited | Unlimited |
| | ERP ⁴ : 7 services | 0 services | 7 services | - |

¹All figures are on an 'each way, each week' basis. Sub-limits may apply in some markets. 'Majors' refers to Australia's major gateway airports of Sydney, Melbourne, Brisbane and Perth.

²Capacity utilisation is the maximum figure based on approved timetables as at the start of the Northern Summer 2023 scheduling season.

³'Growth potential' is calculated as the ratio of available capacity to capacity in use.

⁴The Enhanced Regional Package (ERP) provides additional capacity in agreed markets (up to a limit) for services that operate via or beyond to a point in Australia other than Sydney, Melbourne, Brisbane and Perth.

Unserved Markets

Markets without own-operated foreign airline services to Australia during the Northern Summer 2023 season

| Market | Capacity limit ¹ | Market | Capacity limit ¹ |
|----------------|---|--------------------|---|
| Argentina | 2,800 seats | Egypt | Majors: 7 services Others: Open |
| Austria | Majors: 5,600 seats Others: Open | Ethiopia | 7 services |
| Azerbaijan | Majors: 7 services Others: Open | Finland | 2,800 seats |
| Bahrain | Majors: 7 services Others: Open | France | 3 services |
| Bangladesh | 5 services | France (Polynesia) | 7 services |
| Belgium | Majors: 7 services Others: Open | Germany | 25 services |
| Brazil | 14 services | Greece | Majors: 7 services Others: Open |
| Cambodia | Majors: 7 services ² Others: 7 services | Hungary | Majors: 7 services Others: Open |
| Colombia | Majors: 7 services Others: Open | Ireland | Majors: 7 services Others: Open |
| Cook Islands | 3,000 seats | Israel | Majors: 7 services Others: Open |
| Cote d'Ivoire | Majors: 7 services Others: Open | Italy | 7 services |
| Croatia | Majors: 7 services Others: Open | Jordan | Majors: 7 services ² Others: 7 services |
| Cyprus | Majors: 14 services Others: Open | Kenya | Majors: 7 services Others: Open |
| Czech Republic | Majors: 7 services Others: Open | Kiribati | Majors: 7 services Others: Open |
| Denmark | 2,800 seats | Kuwait | Majors: 7 services ² Others: 7 services |

| Market | Capacity limit ¹ | Market | Capacity limit ¹ |
|-------------|---|--------------|---|
| Laos | Majors: 7 services ² Others: 7 services | Peru | 7 services |
| Lebanon | 2 services | Poland | Majors: 2,800 seats Others: Open |
| Macau | 3 services | Russia | 2 services |
| Malta | Majors: 2 services Others: Open | Samoa | 2,000 seats |
| Mexico | Majors: 4 services Others: Open | Saudi Arabia | Majors: 4 services ² Others: Open |
| Morocco | Majors: 7 services Others: Open | Serbia | Majors: 7 services Others: Open |
| Myanmar | Majors: 7 services Others: Open | Seychelles | Majors: 7 services Others: Open |
| Nepal | Majors: 7 services Others: Open | Spain | Majors: 7 services Others: Open |
| Netherlands | 2,400 seats | South Africa | Majors: 21 services Others: Open |
| Nigeria | 7 services | Sweden | 2,800 seats |
| Niue | 500 seats | Switzerland | Open |
| Norway | 2,800 seats | Timor-Leste | 21 services |
| Oman | Majors: 4 services ² Others: Open | Tonga | Majors: 1,600 seats Others: Open |
| Pakistan | 7 services | Turkey | 7 services |
| Palau | 1,200 seats | Zimbabwe | 1,600 seats |

¹All figures are on an 'each way, each week' basis. Sub-limits may apply in some markets. 'Majors' refers to Australia's major gateway airports of Sydney, Melbourne, Brisbane and Perth.

²The Enhanced Regional Package (ERP) provides additional capacity in agreed markets (up to a limit) for services that operate via or beyond to a point in Australia other than Sydney, Melbourne, Brisbane and Perth.

Select Committee – Commonwealth Bilateral Air Service Agreements – Submission Summary

| # | Author / Organisation | Type | Key Points |
|---|---|----------|---|
| 1 | Australian Travel Industry Association (ATIA) | Industry | <ul style="list-style-type: none"> Supports the continued policy of negotiating bilateral air services arrangements that provide <u>capacity ahead of demand</u>. Recommends the Minister makes public: the reason and rationale for any bilateral air services decision; the factors pertaining to any consideration of the national interest; and the reasons for why they agree or disagree with expert advice. Recommends the ACCC reviews and publicly releases its assessment of the consumer benefit of each bilateral air services application. Recommends the travel and tourism industry, airports and airlines, must be enabled to review each bilateral request and make recommendations. Recommends that Australia increase the number of 'open skies' arrangements, particularly with like-minded Indo-Pacific countries, to increase competition and lower airfares. |
| 2 | Sydney Airport | Airport | <ul style="list-style-type: none"> Advocates the <u>further liberalisation of bilateral air service agreements including open skies arrangements and/or expanded capacity ahead of demand</u>. Recommends that ASAs provide no less than five years of growth to give international airlines ongoing certainty about future opportunities to operate services to Australia. Highlights the discrepancy of the United Arab Emirates operating just 84 of 168 weekly permitted flights, compared with Qatar which is utilising all 28 of its permitted flights to gateway airports, which leads to consumers having less choice and paying higher airfares. Highlights China as an example of the benefits derived from open skies agreements as it has resulted in higher passenger numbers, higher international tourist expenditure and lower airfares. Considers that regulatory components of the aviation framework, including bilateral air service agreements, are outdated and no longer fit for purpose and should be modernised. Advocates for the reform of the slot and demand management scheme at Sydney Airport to generate improved access for airlines, enhanced compliance, and penalties for the misuse of slots. |
| 3 | Airport Coordination Australia (ACA) | Industry | <ul style="list-style-type: none"> Provides slot coordination services to airports in Australia and overseas as an Australian-owned private company. Considers that air traffic rights are a matter for government, but notes that ACA will allocate slots on the condition that bilateral air services arrangements are approved. |
| 4 | WAFarmers | Industry | <ul style="list-style-type: none"> Represents the broadacre grains and livestock farming sector in Western Australia. Notes that air freight routes from Perth to the Middle East have opened up new opportunities to expand markets for premium Western Australian produce (e.g. lamb, sheep meat). Notes that exports of products with short lifespans such as chilled lamb and beef have benefitted from the growth of passenger traffic since the commencement of the Qantas-Emirates partnership, noting that dedicated air cargo flights are cost-prohibitive. |

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| | | | <ul style="list-style-type: none"> Says the failure to return to pre-COVID international flight levels has impacted the high-end export sectors and supports any opportunity to increase capacity. Notes the total capacity to the Middle East and North Africa for sheep meat exports is down from 160 tonnes per day (pre-COVID) to approximately 66 tonnes per day (April 2023). Considers that the Qatar decision impacts the tourism sector and soaring airfares, but also air freight opportunities, which is often overlooked in the debate. Notes that Qatar is the third largest market in the Middle East and North Africa for Australian chilled beef and boxed sheep meat (\$135m in 2021-22). |
| 5 | Accommodation Australia | Industry | <ul style="list-style-type: none"> Considers that improved aviation access from international visitor source countries to Australia is critically important to the accommodation sector. Believes the sector's employment levels and economic contribution will not fully recover until international holiday visitor numbers return to pre-COVID levels. Notes that most international holiday and business travellers stay in hotels, motels and guesthouses in Australia, staying for over 96 million nights and spending \$8 billion in the year to March 2023. Supports the Department's ambition that the Government aims to be "working within the bilateral system to <u>liberalise air services arrangements and progressively remove restrictions on routes, capacity and airline ownership</u>" [Bilateral air services system, Department website], but questions if the Qatar decision positively contributes to fulfilling this ambition. Urges the Government to explain the Qatar decision and argues for it to be reviewed. Believes that the bilateral agreement system should be more transparent; that (where possible) decisions should be fully explained and subject to appeal; and that any decision by the Minister should consider the needs of the tourism sector. Questions why, if an application for extra flights is refused by the Minister, a compromise of lesser flights should not be offered or negotiated, and where an alternative is offered, why this should not be made publicly available. |
| 6 | ACT Government | Government | <ul style="list-style-type: none"> Notes that direct flights create opportunities for Canberra and region exporters, ease of access for diplomatic and government business, and a boost for tourism. Previously, inbound tourism, trade, business and investment opportunities were enhanced by daily connections to Canberra on Singapore Airlines and Qatar Airways. Observes that air services arrangements are a matter for the Australian Government to negotiate with foreign countries, but emphasises that the <u>negotiations should ensure legitimate two-way opportunities to facilitate trade, investment and tourism</u>. Believes that bilateral agreements should be structured to provide <u>incentives for airlines to access regional airports beyond the major international gateways</u> (e.g. additional slots into gateway airports being contingent on flying into regional airports). Notes that demands for international air travel from Australia is exceeding supply. For the ACT, the Indian market has recovered strongly, returning to 94 per cent of pre-COVID numbers for the year ending March 2023. |
| 7 | Australian Airports Association | Industry | <ul style="list-style-type: none"> A lack of competition has led to higher airfares and lower service levels. High airfares are the main deterrent to international travel, with an undersupply of seats a key driver. |

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| | | | <ul style="list-style-type: none"> Australia's international routes are highly concentrated in terms of both airlines and alliances on almost all routes except to China and the USA. This includes tourism growth markets (China, Japan, Malaysia, India, South Korea, Sri Lanka, Vietnam) and trunk routes to hubs like Singapore and Qatar. Supports a more <u>liberal ASA framework, including open skies to enhance connectivity</u> and competition and earlier renegotiation to provide more certainty for airlines and airports. Supports coordination across Australian governments on attracting and retaining international routes. |
| 8 | Productivity Commission | Government | <ul style="list-style-type: none"> Australia's <u>international aviation policy settings have generally worked well</u>. Restrictions on access impede competition. Greater access to Sydney, Melbourne, Brisbane and Perth, would have net benefits to Australia. Supports more transparent cost-benefit analysis, including a clear statement on how the Government assesses the national interest and how trade-offs between different groups' interests are made. Capacity on some routes has been a recurring issue, including Hong Kong, Malaysia and Qatar. Providing unrestricted access would simplify airline and airports' decision-making. |
| 9 | Australian Meat Industry Council | Industry | <ul style="list-style-type: none"> Meat exports were valued at \$16.1 billion in 2021-22. Reduced flight numbers continue to present challenges for the industry. Encourages Government to maximise airfreight capacity, <u>including increasing access for international airlines</u>, to provide more options for chilled meat exporters. |
| 10 | Australian Chamber - Tourism | Industry | <ul style="list-style-type: none"> Capacity constraints stunt the growth of tourism, Australia's fourth largest export, and inflate airfares. Demand to and from Qatar outweighs capacity. Qantas won't return to full capacity until at least March 2024. Australia is behind leading aviation markets on number of open skies agreements. The ACCC should publicly review the consumer benefits of each bilateral request. There should also be <u>sufficient opportunity for tourism, aviation and export sensitive industries to provide input</u> on each request. The outcomes of ASA decisions should be published, including reasoning. |
| 11 | Queensland Airports Limited | Airport | <ul style="list-style-type: none"> A daily service with mainly European inbound visitors could add \$160 million to a local economy. Supports the continued <u>dispersal of economic benefits into regional Australia</u>. |
| 12 | Brisbane Airport | Airport | <ul style="list-style-type: none"> The international recovery has been uneven, with connectivity to Europe behind. Supply constraints have hindered the ability to cater for demand. Supports expanded capacity to enable an additional Brisbane/Doha service. Supports a more balanced, transparent and strategic approach to ASAs, particularly <u>earlier renegotiation of arrangements to provide more certainty for airlines and airports</u>. Supports better coordination between bilateral negotiations and incentives offered by airports to airlines serving priority markets. |
| 13 | | | |

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| 14 | AvLaw Consulting | Industry – Aviation Consultancy | <ul style="list-style-type: none"> The implications of decisions regarding additional air services requires international comparisons. Other countries have encountered comparable challenges that Australia may consider, including; case studies and international experiences, list of learned lessons, recommended practice and applying global perspectives to Australia's situations The decisions surrounding the addition of air services have far-reaching effects on the economy of Australia. Their effects span numerous industries, including tourism, hospitality, and freight transportation. Essential to ensure impartiality and openness in decisions regarding ASAs. |
| 15 | Austrade | Federal Government | <ul style="list-style-type: none"> Responsible for the implementation of THRIVE 2030, the national strategy for the long-term sustainable growth of the visitor economy. Engages regularly with the Department on domestic and international aviation matters, including on the Aviation White Paper process since 2022. Austrade and Infrastructure have hosted joint roundtable meetings with industry stakeholders and members of the Australian Standing Committee on Tourism to enable direct provision of views on the Aviation White Paper. As part of this engagement, Infrastructure sought Austrade's views on the forward program for bilateral air services negotiations in the second half of 2022. Austrade encourages a strong emphasis on the contribution the visitor economy makes to the Australian economy, particularly in regional Australia. This approach aims to ensure that <u>enough capacity is negotiated to meet current and future demand from our key aviation markets as well as emerging markets</u>, aligned with the Australian Government's diversification agenda. |
| 16 | Broome International Airport (BIA) | Airport | <ul style="list-style-type: none"> BIA are seeking to establish direct flights from South East Asia, a direct link has already been tested by successful trial services in 2018 and 2019. Whilst currently designated as a restricted international airport, an application has been made to the Australian Government to facilitate final design approval of the international elements of the terminal, and service future international flights to depart and arrive from BIA on a regular basis. BIA believe there should be some consideration as to how agreements can assist <u>in creating opportunity for improved connectivity and economic development</u> of remote Northern Australia. |
| 17 | Board of Airline Representatives of Australia (BARA) | Industry – Association | <ul style="list-style-type: none"> BARA support <u>open access wherever possible</u>. Any growth in international aviation capacity, bring additional visitors to Australia who spend money and <u>generate economic activity</u>. BARA's input is sought from the Department of Infrastructure whenever existing arrangements are being discussed, most recently Vietnam and Türkiye. |
| 18 | Dr Peter Forsyth | Independent - Monash University | <ul style="list-style-type: none"> Much of the impact of the additional Qatar Airways flights will be felt by foreign airlines. A good option would be for Australia to move to an open skies approach where feasible with its bilateral partners. This would involve a greater emphasis on competition, moderating the emphasis given to the interests of airlines. |
| 19 | Victorian Chamber of Commerce and Industry | Industry Body | <ul style="list-style-type: none"> The Victorian Chamber understands forward planning is of an ad-hoc nature. This process would benefit from a more strategic approach including wide ranging consultation, to promote proactivity in aviation and deliver a stronger service. Further ensuring decisions are made with transparency to ensure untapped aviation capacity is realised. ASAs through an 'Open Skies' approach would help <u>develop Australia's international air services</u>. |

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| | | | <ul style="list-style-type: none"> Suggested review and reforms to the legislation and frameworks that impact aviation capacity. Largely with reform to the airport planning system and the <i>Airports Act</i> which is amplifying physical constraints (eg. Terminal Upgrades). |
| 63 | Darwin International Airport | Airport | <ul style="list-style-type: none"> Darwin has direct international air services to/from Singapore (Singapore Airlines), Denpasar (Qantas) and Dili (Air North) only. Passenger demand is heavily skewed to the winter or 'dry' season. Given Darwin's remoteness, <u>attracting domestic and international air services is difficult and there are limited growth opportunities.</u> Population growth in Darwin is challenged due to a lack of air services and/or high airfares. Adding international air services alone would do little to resolve this problem. One opportunity would be to <u>enable international airlines to improve domestic air connectivity</u> via the carriage of domestic passengers to other Australian airports. |
| 64 | Canberra Airport | Airport | <ul style="list-style-type: none"> The domestic market is dominated by three major domestic airlines, limiting airline competition. Cancellation rates are high and for Canberra are consistently the worst in Australia. There is a role for the ACCC in monitoring the domestic airline markets and to report quarterly on levels of airline competition, capacity, fare levels as well as on time performance and cancellations. |
| 65 | National Farmers' Federation | Agriculture | <ul style="list-style-type: none"> NFF supports greater competition in Australia's domestic and international aviation sector. Reliable, efficient and competitive freight to key markets for Australia's major agricultural commodities is essential. Reducing the cost of freight supports increased profitability for Australian farms and the livelihoods of farmers, and reduces prices for consumers. Air freight is particularly important for perishable agricultural industries (e.g. red meat, dairy, fruit, vegetables and seafood), with short windows of time to transport these products to overseas consumers. |
| 66 | Qatar Civil Aviation Authority (QCAA) | Foreign Government | <ul style="list-style-type: none"> QCAA worked to achieve liberal aviation arrangements and requested enhancements to the traffics rights believing that greater connectivity will support trade and tourism opportunities, benefit consumer and cement our economic and cultural ties. Current provisions of the air services agreement and the Safeguard article provides the platform to move forward in bilateral aviation relations. Increasing capacity entitlement would not damage competition in the Australian market, but would rather improve it for the benefit of the consumers. Have requested consultations under Article 16 of the air services agreement to better understand the reasons for the decisions and to work with the Department to build a road map for future enhancement of traffic rights. |
| 67 | Regional Express (Rex) | Airline | <ul style="list-style-type: none"> Rex is making an official complaint to the ACCC about Qantas' behaviour of dumping excess capacity on regional routes, which lessens competition by forcing Rex out. Qantas enjoys substantial market power within Australia due to its size, scale and financial firepower. It has the ability to shift capacity and price discriminate on any route, while retaining its market position and remain profitable overall. The effect of Qantas' conduct is to substantially lessen competition on regional routes, forcing out smaller operators like Rex and leaving Qantas with a monopoly, requiring regional communities to pay more for regional air services. |

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| 70 | Virgin Australia | Airline | <ul style="list-style-type: none"> Expanding capacity for Qatar Airways will create more competition between carriers. Qatar decision has a negative impact for Australian consumers by way of higher airfares, and a lost opportunity for Australia's tourism sector and exporters reliant on competitive air freight services. Qatar decision disadvantages Virgin Australia's competitiveness with Qantas, and strengthens the already strong partnership between Qantas and Emirates Airlines. |
| 71 | Qatar Airways | Airline | <ul style="list-style-type: none"> Qatar Airways outlined their request for an additional 28 services per week to Australia's main airports and an additional 7 flights under the Enhanced Regional Package. During COVID the airline continued operating to Australia, providing critical connecting, transporting medical supplies and supporting supply chains. Qatar Airways also supported the evacuation of Australian nationals from Afghanistan, transported Afghan nations under the humanitarian visa program and to accommodate vulnerable Australian passengers following the explosion in Beirut. Qatar Airways outlined their commitment to global sustainable aviation, to net zero carbon emissions by 2050, the signing of sustainable aviation fuel (SAF) offtake agreements and certification under the IATA Environment Assessment Program. |

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| 20 | Name withheld | Concerns about Qantas frequent flyer program. |
| 21 | Name withheld | Concerns about Qantas frequent flyer program and COVID flight refunds. |
| 22 | Name withheld | Concerns about Qantas flight credits. |
| 23 | Name withheld | Concerns about Qantas frequent flyer program. |
| 24 | Name withheld | Concerns about Qantas flight credits and frequent flyer program. |
| 25 | Name withheld | Concerns about Qantas frequent flyer program. |
| 26 | Name withheld | Concerns about Qantas frequent flyer program. |
| 27 | Name withheld | Concerns about Qantas frequent flyer program, customer service and price of airfares. |
| 28 | Name withheld | Concerns about Qantas frequent flyer program and points. |
| 29 | Name withheld | Concerns about Virgin Australia's frequent flyer program and flight credits. |
| 30 | Name withheld | Concerns about Qantas and Jetstar domestic flight cancellations, fare differences and refunds. |
| 31 | Name withheld | Concerns about Qantas frequent flyer program, lack of seat availability and customer service. |
| 32 | Name withheld | Concerns about Virgin Australia and Jetstar COVID flight credits and domestic flight cancellations. |
| 33 | Name withheld | Concerns about Qantas frequent flyer program and flight availability. |
| 34 | Name withheld | Complaint about Qantas domestic flight and services during COVID. |
| 35 | Name withheld | Concerns about the Qantas frequent flyer program and value of points. |
| 36 | Name withheld | Concerns about Qantas frequent flyer and rewards program. |
| 37 | Name withheld | Concerns about Qantas frequent flyer program and points. |
| 38 | Name withheld | Concerns about Qantas frequent flyer program, refunds and customer service. |
| 39 | Name withheld | Complaint about a cancelled Qantas international flight, customer service and additional costs to return to Australia. |

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| 40 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 41 | Name withheld | Concerns about Qantas frequent flyer program and cancellation of points. |
| 42 | Name withheld | Concerns about Qantas refund policy and providing frequent flyer points as compensation. |
| 43 | Name withheld | Concerns about Qantas frequent flyer program, value of points and cost of domestic flights during COVID. |
| 44 | Name withheld | Concerns about Qantas frequent flyer program and cancellation of points. |
| 45 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 46 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 47 | Name withheld | Concerns about Qantas frequent flyer program. |
| 48 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 49 | Name withheld | Concerns about the use of Qantas frequent flyer points to upgrade. |
| 50 | Name withheld | Concerns about Qantas frequent flyer program, the purchase of additional points for an upgrade, customer services and refund policy. |
| 51 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 52 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 53 | Name withheld | Concerns about Qantas frequent flyer program and expiry of points. |
| 54 | Name withheld | Concerns about Qantas frequent flyer program and expiry of points. |
| 55 | Name withheld | Concerns about Qantas frequent flyer program and placing status on hold. |
| 56 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 57 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 58 | Name withheld | Concerns about Qantas frequent flyer program and the value of points. |
| 59 | Name withheld | Concerns about Qantas frequent flyer program, the value of points and the cost of international flights. |
| 60 | Name withheld | Complaint about the cost of an international flight and withdrawal from account. |
| 61 | Name withheld | Concerns about accessing Qantas frequent flyer points. |
| 62 | Name withheld | Concerns about the Qantas and the cost of airfares, flight cancellations, refunds and frequent flyer points. |

Some stakeholders suggest cabotage could also help

Competition could theoretically be enhanced if it was easier for foreign airlines to operate in the Australian domestic market.

Cabotage is the carriage of domestic traffic by foreign airlines. At present, the Government generally permits cabotage only in exceptional circumstances. Usually, this is when a demand exists that no Australian operator is able to satisfy, for example, the carriage of oversize mining equipment requiring extra-large aircraft, or the large movements of horses associated with the Melbourne Spring Racing Carnival.

Australia has also exchanged cabotage rights with New Zealand as part of a Single Aviation Market agreement, but New Zealand operators have not sought to exercise these entitlements. It is rarely permitted in foreign jurisdictions, although European countries have exchanged cabotage rights with each other as part of the single European aviation market.

The issue has been regularly raised by some stakeholders over the last decade, with proponents suggesting an easing of cabotage restrictions could increase competition and services while lowering consumer costs.

Further liberalising cabotage arrangements raises a range of difficulties related to the high degree of reliance on foreign regulators and regulatory frameworks to achieve policy outcomes:

- Cabotage raises regulatory considerations. In contrast to existing 'investment cabotage' arrangements, Australia would primarily rely on foreign regulators for safety oversight.
- 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.

A case-by-case approach to cabotage

The 2009 Aviation White Paper indicated the Australian Government would consider trading cabotage rights strategically with a major trading partner such as Europe or the US, provided safety concerns were met and reciprocal access was provided.

The 2009 White Paper also indicated the Australian Government would consider providing cabotage on a unilateral basis in exceptional circumstances, for example if a foreign carrier sought to operate a route which is not currently served by Australian airlines or which requires a government subsidy (such as routes between some of Australia's external territories). The Australian Government considers this approach is likely to remain appropriate.

It is expected there will continue to be occasions when the Australian industry is unable or unwilling to provide a service, in which case a short-term dispensation may be accommodated. Negotiations with a major trading partner regarding cabotage rights are not expected to occur in the short-medium term.

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.



With airlines no longer competing ‘head to head’ and instead focusing on market niches, the Australian Government recognises a reduction in competitive tension could adversely impact outcomes for consumers. Australian The Government considers the existing ‘case-by-case’ approach to cabotage is likely to remain appropriate.

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.

- What types of data and analysis should the Australian Government produce to support aviation competition outcomes?
- Would the Australian Government’s publication, in consultation with industry, of a decision-making framework and guide for short term cabotage dispensations support clarity of current processes to manage future decisions to implement longer-term cabotage arrangements?
- What should the Australian Government take into account in designing the terms of reference for the proposed Productivity Commission Inquiry?

International aviation



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Released under the FOIA Act 1982 by the Department of Infrastructure,
Transport, Regional Development, Communications and the Arts

International aviation is an integral part of the Australian aviation landscape, maintaining connectivity with the rest of the world and attracting visitors from abroad to our shores. The revitalisation of international markets following the pandemic will continue to ensure growth for Australian business, trade and tourism.

Historically, governments across the world have been heavily involved in international aviation markets. Access to routes and air fares were tightly regulated through a complex regulatory framework, with most governments owning a national 'flag carrier' airline.

Over the last 30 years, Australia has been at the forefront of international market deregulation and liberalisation by privatising Qantas and our major airports, and removing impediments to competition while protecting the national interest. This approach has delivered more flights, lower prices and more innovation, and has helped facilitate substantial growth for our visitor economy.

While the Australian Government privatised Qantas in the mid-1990s, foreign ownership restrictions continue to apply to Australian international airlines to protect the national interest and ensure access to traffic rights agreed under the bilateral framework are limited to 'Australian' airlines.

Australia is significantly involved in helping to shape the international aviation regulatory framework through our active participation in the ICAO, and helping to promote improved safety, security, sustainability and connectivity outcomes in the Asia-Pacific region, including through capacity and capability building programs and assistance.

The new routes and passenger growth that has accompanied liberalisation has placed additional demands on government border processing services (customs, immigration, security and biosecurity), as have industry requests for consideration of major expansions to, or new, international airports considered through a national interest framework.



11.1 Bilateral settings

Key issues

- COVID-19 has been the most devastating external shock to international aviation in its history, but the industry is bouncing back and by September 2023 around 91 percent of pre-COVID international scheduled flights are expected to operate to Australia.
- Inbound and outbound aviation capacity should be ahead of demand to ensure it is not an impediment to future growth which can deliver economic and connectivity benefits to Australia.
- The Australian Government negotiates bilaterally with foreign governments to agree access rights for international airlines.
- Through bilateral negotiations, the Government seeks to advance Australia's national interest, including looking to enhance Australia's international aviation capability, and access to key international passenger and freight markets.
- Australia's negotiation approach takes into account the views of a range of government, industry and community stakeholders including our international airlines and airport operators, tourism and trade operators representing passenger and freight interests.

Stakeholder feedback

- Many stakeholders saw benefits in ensuring ample capacity is available well in advance of demand. For example, Melbourne Airport recommended 'the Green Paper also considers the efficacy of the Bilateral Service Agreements (BSA) process to ensure the forward negotiation frameworks are future focused as opposed to a just-in-time policy approach.'²¹⁵
- Some stakeholders suggested bilateral settings support a strong Australian-based industry. For example, Qantas Group suggested the Australian Government ensure its approach 'does not compromise the national interest inherent in the development and maintenance of a strong Australian aviation sector.'²¹⁶

The bilateral system is the global framework for international aviation

Under the global bilateral system, international flights between markets cannot occur unless their respective governments provide market access. Australia has bilateral air services arrangements with over 100 countries.

Successive governments have sought 'capacity ahead of demand'

The policy of successive Governments has been to negotiate bilateral agreements that provide 'capacity ahead of demand'. In a number of cases, Australia has secured an 'open-skies' style agreement with major aviation markets, which remove restrictions on flights.

215 Melbourne Airport (2023) *Aviation White Paper – Terms of Reference*, Department of Infrastructure, Transport, Regional Development, Communications and the Arts website.

216 Qantas Group (2023) *Qantas Group Submission To The Aviation White Paper Terms Of Reference*, Department of Infrastructure, Transport, Regional Development, Communications and the Arts website.

Capacity is negotiated on a reciprocal basis as part of an approach which focusses on progressive liberalisation benefitting our tourism and trade interests, as well as leveraging better access and opportunities for Australian airlines.

Some agreements also include limits on capacity that airlines can operate to specific major gateways in each country – in Australia these gateways are Sydney (KSA), Melbourne (Tullamarine), Brisbane and Perth airports.

Australia's 'capacity ahead of demand' approach has meant that airlines have the ability to plan to access future routes subject to their own commercial considerations and subject to meeting the safety and security requirements of both countries. In only a handful of cases, airlines are unable to access sufficient capacity under the bilateral arrangements to meet their commercial requirements.

Australian capacity is allocated by the International Air Services Commission

The International Air Services Commission (IASC), an independent statutory authority, allocates capacity entitlements to existing and prospective Australian international carriers for the operation of scheduled international services. The IASC's role is set out in the *International Air Services Commission Act 1992*.

In considering applications for capacity, the IASC uses public benefit criteria set out in a policy statement issued by the Minister. These criteria include the applicant's reasonable capability to obtain the necessary regulatory approvals and licences to operate the route, and its ability to implement the proposed services, competition, consumer benefit, promotion of tourism and trade and any other relevant information.

The Australian Government has a forward program of negotiation priorities

The Australian Government has established a bilateral air services forward negotiating program to deliver on the Government's policy agenda for international aviation, prepared in consultation with government and industry stakeholders. The forward program is not publicly available.

The program has identified opportunities that can benefit the Australian economy, increase connectivity, encourage greater tourism, trade and investment, and enable future growth and competition in Australia's international aviation markets. The Department seeks to hold discussions with a range of countries, including those with capacity pressures under the bilateral arrangements.

The current approach to bilateral air services negotiations appears well adapted to continue to seek benefits in the national interest including providing further opportunities for our aviation, tourism and trade industries and providing connectivity and competition benefits for passengers.

The approach has already facilitated strong growth in our international aviation market pre-COVID and is expected to do so as the market recovers over the short, medium and long term.

Over time it is proposed to look to increase the level of capacity ahead of demand and, where it is in the national interest and with the agreement of our bilateral partners, seek to remove airport specific limitations.



The Australian Government proposes to continue the current 'Capacity ahead of Demand' approach, and negotiate 'Open Skies' style agreements where it is in the national interest and can be bilaterally agreed.

- Are there other issues or concerns associated with the Australian Government's approach to negotiating aviation bilateral agreements that you wish to highlight?
- What opportunities exist to improve the approach to international negotiations?

11.2 Foreign investment in Australian international airlines

Key issues

- Majority Australian ownership has been an ongoing requirement for Australian international airlines while allowing for the provision of some foreign capital.
- The Australian Government would welcome views on whether any changes should be considered to current provisions on foreign investment in Australian international airlines to protect the national interest.

Stakeholder feedback

- The Australian Government received limited feedback on foreign investment issues in response to the Terms of Reference. The Business Council of Australia suggested 'government should review and potentially revise any barriers to the access of capital in the aviation industry', including 'foreign ownership restrictions that are currently in place for some parts of the industry'.²¹⁷

Foreign investment is governed by Australian laws and bilateral air services agreements

Foreign ownership requirements for Australian international airlines (other than Qantas) are governed by the *Air Navigation Act 1920* (ANA). Section 11A stipulates the Minister may require no more than 49 per cent of the total value of the issued share capital of the airline to be held by foreign persons.

Ownership restrictions on Qantas are included in the *Qantas Sale Act 1992*, along with a range of additional operational restrictions intended to maintain the company's Australian character. Following amendments in 2014, the foreign ownership elements are consistent with the ANA restrictions applicable to other Australian international airlines.

Ownership restrictions may also be included in air services arrangements, which contain ownership and control restrictions to ensure only airlines 'belonging' to the countries party to the agreement can access the traffic rights granted under the agreement.

Australia facilitates the more liberal 'incorporation and principal place of business' (IPPB) criteria which are focussed on where an airline is based and which country has effective regulatory oversight of the airline rather than on who owns the equity of the company.

All foreign investment is subject to consideration by The Treasury

In addition to the requirements under the QSA and the ANA, all foreign investment in Australian international and domestic airlines is subject to foreign investment screening under the *Foreign Acquisitions and Takeovers Act 1975* (the Act).

²¹⁷ Business Council of Australia (2023) *Pre-Green Paper submission*, Department of Infrastructure, Transport, Regional Development, Communications and the Arts website.

The Australian Government continues to have a legitimate policy interest in scrutinising foreign investment in Australian airlines. The current foreign investment screening process enables the Australian Government to address the national interest in this context.



- Are there problems or potential improvements related to the Australian Government's approach to managing foreign investment in Australian international airlines?

11.3 Aviation International Engagement

Key issues

- Australia can further build on its strong record of international engagement to promote the safety and security of aviation in the Asia-Pacific, and to help shape global and regional aviation frameworks to reflect our strategic interests.
- International aviation engagement can be resource intensive, seek difficult to measure outcomes, and require perseverance and sustainability in approach.
- A key challenge is for Australia to maximise its international and regional engagement in aviation, including in Pacific capability and capacity building.

Stakeholder feedback

- The Australian Government received limited feedback on Australia's overall approach to international engagement in response to the Terms of Reference, noting that these roles are largely being performed by Government agencies.

Australia has maintained a strong record of global aviation leadership...

Since the ICAO's inception in the 1940's, Australia has demonstrated strong commitment and leadership in the international civil aviation sector, working collaboratively globally, with our regional neighbours and with industry on standards and recommended practices (SARPs), guidance and advisory material.

ICAO's strategic objectives cover aviation safety, security and facilitation, air navigation, economic development and environmental protection.

Australia also actively participates in the Asia-Pacific region where air travel is vital to economic development and social connectivity, working closely with our neighbours to provide aviation capacity and capability building assistance.

...in both the International Civil Aviation Organization...

Australia maintains a Permanent Mission in ICAO's Montreal headquarters and was successfully re-elected to Part I of the ICAO Council at the 41st Assembly in Montreal in October 2022 as one of 11 States of chief importance in air transport on the 36-member Council.

Australia, as a member state of ICAO, makes financial contributions to ICAO to help sustain its ongoing global and regional operations noting the ever-increasing demands being placed on the Organization.

Officials and experts from a number of Government agencies also make a significant technical and leadership contribution to a wide range of ICAO panels, working groups and task forces.

Our ongoing active engagement with ICAO will be critical in the development of global policies and advice on key emerging challenges in areas such as the environment and facilitation, as well as in aviation safety, air navigation and aviation security.

...as well as in regional capacity building

Australia continues to provide assistance to regional partners, including established programs in Indonesia and Papua New Guinea.

Targeted transport safety assistance has been provided to Indonesia since 2007 under the Indonesia Transport Safety Assistance Package (ITSAP).

Since the program's inception, key outcomes have been achieved with Indonesia including:

- development of Indonesia's own flight data recorder facility for the download and analysis of aircraft Cockpit Voice Recorder and Flight Data Recorder 'black boxes', and
- establishing an autonomous, self-funded air navigation service provider (AirNav) and improved sharing of transboundary flight information between both countries.

The Australian Government also provides funding and expertise to Papua New Guinea including building agency capability in the PNG transport sector.

More broadly, the Australian Government currently provides a significant amount of assistance across the aviation sector to Pacific Island countries such as the Federated States of Micronesia, Fiji, Kiribati, Nauru, Palau, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The Australian Government is currently investing in a multi-year Sustainable Pacific Aviation program that will grow to reflect Australia's commitment to assist in the coming years.

In addition, Australia provides financial and technical assistance to Pacific States including through DFAT-funded support to the Pacific Aviation Safety Office (PASO). PASO provides regulatory aviation safety services for 10 Pacific island states.

Australia has also enabled secure aviation travel and trade in the South-East Asia and South Asia region through its Transport Security International Capacity Building (TSCIB) program. The TSCIB program helps deter in-bound security risks to Australian airports and improves security standards for passengers travelling in the region, through targeted activities to uplift the security skills, governance and processes of aviation transport security regulators and operators in partner countries.

International engagement is challenging but can achieve multiple benefits

It remains strategically important for Australia to maintain our active participation and aviation leadership globally. Australia has maintained a strong record of aviation leadership and is well regarded as a global leader that provides important, valued, and high-quality assistance to regional partners.

Maintaining Australia's ICAO Council position puts us in a position to significantly influence the priorities of ICAO, and the development of SARPs to benefit our national, regional and global interests.

Recent experience demonstrates the importance of our ICAO engagement. For example:

- Australia has been a proponent and supporter of the ICAO established Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) since its inception in 2016, which provides a global framework for reducing global international aviation emissions.
- Australia supported the establishment of a long-term aspirational goal (LTAG) for international aviation of net zero carbon emissions by 2050, which was agreed at the ICAO Assembly in October 2022.
- Australia was an active member of the ICAO Council's Aviation Recovery Task Force (CART) which developed a range of practical, aligned guidance material to support States and industry manage and respond to the international aviation impacts of COVID-19.

- Australia co-chaired with industry, an Asia-Pacific regional taskforce that shared experiences and lessons learnt from COVID-19, which will help with future management of pandemics in international aviation.

In the Pacific region, during COVID-19 DFAT assured connectivity to and from 13 countries in the Pacific and Timor-Leste, through the Pacific Flights Program, by supporting over 600 flights.

Following the progressive return to a more stable international aviation operating environment, the Australian Government is focusing on opportunities to enhance its longer-term aviation support in the Pacific, including enhancing regional safety, connectivity and sustainability outcomes. The development of a strong aviation industry is vital for Pacific economies and livelihoods – increasing interconnectedness and people-to-people links across the region and with Australia. A stable, peaceful and resilient Pacific region is central to Australia's interests and national security.



The Australian Government proposes to continue its program of international and regional aviation engagement including capability and capacity building in the Asia-Pacific. The Australian Government will also consider additional opportunities to provide support, such as a targeted Pacific program that collaborates closely with other countries and Pacific aviation organisations.

- What areas should Australia target through its international aviation programs?
- Are there opportunities for improvement and where would the greatest benefits be achieved?

11.4 International airport designation and development

Key issues

- A sustainable network of international airports provides access to international tourism and trade markets for our major capital and regional cities and surrounding communities.
- Border agencies face increasing resourcing pressures to continue to provide services at all designated international airports.
- The challenge is to ensure international airport policy settings reflect available border agency resourcing and maintain Australia's internationally recognised security and biosecurity standards while facilitating international tourism and trade development.

Stakeholder feedback

- Some stakeholders emphasised the benefits of policy settings that support the dispersal of tourists beyond the major capital cities.

Access to border agency services – the New and Redeveloping International Ports Framework

The *Air Navigation Act 1920* requires international flights to take off and land at airports designated for such purposes under section 9. This provides an administrative mechanism to ensure international flights only operate at airports with appropriate border services (biosecurity, immigration and customs control).

Airport operators seeking to introduce international services at an airport where no border services are provided, or where there is a change to an existing business model that impacts border services capabilities, apply to the Department to obtain agreement in accordance with a national interest New and Redeveloping International Ports Framework.

The Framework establishes a process to help ensure that border services are available at airports when they are required. Airport operators are advised that they are responsible for costs associated with relevant infrastructure and facilities required to support international services. This includes any costs associated with establishing or redeveloping a border services capability at the port incurred by the Australian Government.

Proposals are assessed to determine whether they are in the national interest. The Department coordinates advice to the Australian Government on proposals in consultation with Home Affairs, DAFF, and other relevant agencies.

Criteria for the national interest assessment include:

- Financial sustainability and expected economic benefits
- Alignment with Australia's strategic interests (which include biosecurity, national and border security)
- Expected tourism, trade and investment benefits
- Expected rural and regional benefits

- Expected social benefits
- Appropriate infrastructure in place and regulatory approvals obtained
- Funding and resourcing

Increased numbers of international airports place pressures on border agencies...

Growth in the network of Australian international airports (increasing from 9 in 2009 to 16 in 2019), has placed ongoing resourcing pressures on border agencies to facilitate international services.

This includes border agency engagement in a range of activities, including the finalisation and approval of terminal design, well ahead of construction being commenced. Accordingly, effective border agency engagement from the early planning phase of airport development is critical to ensure fit for purpose facilities are completed and to minimise any additional expenses of remediating issues later in the completion of international airport terminal projects. Border agencies also require significant lead-time around ongoing staffing and recruitment to facilitate airport redevelopment.

The criteria, process and/or cost recovery arrangements may require refinement to ensure future decisions on proposals for new or expanding international airports reflect the national interest. This is particularly the case for airports that have only occasional international scheduled services and where there are resourcing and cost recovery issues for intermittent border agency requirements.

The expected future growth in international airline services will place further demands on border agencies.

...and pressure on our security and biosecurity arrangements

COVID-19 and concerns over biosecurity threats, such as Foot and Mouth Disease, have given rise to concerns over security and biosecurity risks associated with further increasing the number of international airports in Australia and the demands these are placing on our border agencies.

Noting that international airports facilitate trade and travel, but also potentially provide a gateway for illegal activity to be undertaken, the Australian Government will explore new technologies to automate processes and separate those wishing to undertake legitimate trade and travel from those who are not.

Changes to the current arrangements may be appropriate

The Australian Government is considering changes to the current Framework for the Provision of Border Services at New and Redeveloping Ports, having regard to the benefits and costs of border services arrangements at international airports, the roles of Government agencies and industry, funding arrangements and mitigating risks to Australia's border protection arrangements.



The Australian Government is considering changes to the Framework for designating international airports and associated funding issues.

- What issues should be considered in changing the Framework for the Provision of Border Services at New and Redeveloping International Ports?

| FOI No | Request | Status |
|------------|---|-----------|
| FOI 24/017 | <p>Copies of documents as defined below, dated between 1 June 2022 and 18 July 2023 held by the Department relating to the request from Qatar Airways for additional air routes in Australia:</p> <p>a) Copies of correspondence including emails between Qatar Airways and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department);</p> <p>b) Copies of correspondence between Qatar Airways and the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister);</p> <p>c) Copies of briefings from the Department to the Minister;</p> <p>d) Copies of any instructions from the Minister or the Minister's office to the Department;</p> <p>e) Correspondence between the Minister and the Minister for Trade and Tourism;</p> | Finalised |
| FOI 24/024 | I request all documents supplied by the Department to Minister King regarding Qatar Airways' application to operate 28 new flights each week between Doha and Sydney/Melbourne. Where there is a brief that has been signed, the scope of this request is for the signed version of then brief. | Finalised |
| FOI 24/025 | I request please all documents held by the Department that constitute Departmental analysis relating to Qatar Airways' application to operate 28 new flights each week between Doha and Sydney/Melbourne. Where there is a brief that has been signed, the scope of this request is for the signed version of then brief. The scope of this request is between 1 July 2022 and the date of this request. | Finalised |
| FOI 24/026 | All correspondence between Qantas and the Department regarding market access of foreign airlines sent between 1 July 2022 and the date of this request. Where there is a letter that contains other matters, I include in the scope of this request the entire letter. | Finalised |
| FOI 24/032 | <p>The applicant has requested access to:</p> <p>The documents I am seeking access to are copies of documents as defined below, dated between 1 June 2022 and 24 July 2023 held by the Department relating to the request from Turkish Airlines for additional capacity in Australia:</p> <p>a) Copies of correspondence including emails between Turkish Airlines and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department);</p> <p>b) Copies of correspondence between Turkish Airlines and the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister);</p> <p>c) Copies of briefings from the Department to the Minister; and</p> <p>d) Copies of any instructions from the Minister or the Minister's office to the Department;</p> <p>e) Correspondence between the Minister and the Minister for Trade and Tourism;</p> | Finalised |
| FOI 24/034 | <p>I wish to lodge an FOI request for the reasons behind the decision to refuse Qatar Airways additional landing rights into Australian capital cities.</p> <p>In particular I am interested in:</p> <ul style="list-style-type: none"> - Finalised briefing notes to the Minister on this issue - Requests from the Minister and/or her office to the Department on this issue - Correspondence to the Minister and/or the Department from Qantas on the Qatar application - Requests for meetings from Qantas with the Department and/or the Minister/Minister's staff on the Qatar application - Records of meetings held with Qantas by the Minister/Minister's staff and/or the department on the Qatar application. | Finalised |
| FOI 24-035 | <p>The scope of their request now reads:</p> <ul style="list-style-type: none"> - information about applications by airlines to increase their capacity in Australia as well as the subsequent decision by the Department to either approve or deny these requests. - any modelling the Department has on increasing airline capacity in Australian capital cities and/or its effects. - all correspondence between Minister King and Mr Alan Joyce regarding airline capacity OR competition between June 1 2022 and 3 August 2023. | Finalised |

| | | |
|------------|--|---------------|
| | I am writing to request correspondence (including briefings, advice, emails and documents) sent between the Department and Minister Catherine King and her office related to the request from the Qatar Civil Aviation Authority for increased bilateral air rights. The timeframe scope of this request is between 1 August 2022 to receipt of this email. | |
| FOI 24/048 | For the same period, I am also seeking any related correspondence, internal correspondence, briefings, emails, and reports on the Qatar Civil Aviation Authority's request which mention either Qantas, or a lawsuit that five Australian women are leading against Qatar Airways over an incident at Doha Airport. | with FOI team |
| FOI 24/073 | All emails sent and received by Richard Wood, first assistant secretary for International Aviation, Technology and Services, concerning Qatar Airways' application to fly more flights to Australia | Finalised |
| FOI 24/075 | We seek any correspondence between the department and the minister's office as well as any minutes and briefings relating to the decision to reject Qatar Airways' bid to schedule more flights into Australia. We are also seeking any correspondence on the Qatar Airways decision between the Minister's office and the office of the Prime Minister. | with FOI team |
| FOI 24/076 | The applicant has requested access to: - All briefs prepared for Minister for Transport Catherine King or her office on Qatar Airways' request to launch extra flights to Australia. - Please exclude emails, text messages or any other kind of communication which is not a departmental brief for the Minister or her office. - Limit search to documents produced in April, May, June and July, 2023. | Finalised |
| FOI 24/077 | All advice from the Department of Transport and Infrastructure to the Transport minister concerning a request by Qatar Airways to expand flights into Australia since January 1, 2023. I further request correspondence between Qatar Airways and the department or minister that is in the possession of the department and between Qantas and the department or minister that is in the possession of the department on the subject since January 1, 2023. | with FOI team |
| FOI 24/081 | Submissions, briefings, talking points or other documents provided by the Department to the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, that relate to access by Qatar Airways to Australia's aviation market. | with FOI team |
| FOI 24/082 | Any departmental advice and/or reports in relation to Qatar Airways' application for additional bilateral air rights, in the time period from July 1, 2022 to July 31, 2023. | with FOI team |
| FOI 24/088 | <ul style="list-style-type: none"> •All electronic documents (including email correspondence and written advice) which informed the Minister's decision that the recent application by Qatar Airways to fly an extra 21 flights a week into Sydney, Melbourne and Brisbane would not be in the national interest; •Where documents (including email correspondence and written advice) exist that informed the Minister's decision described above, but these are not available in electronic form, copies of the physical documents (either electronic or physical copies, whichever is more convenient); •Any internal policy documents or guidelines produced by the Department that define the 'national interest' in the context of the type of decisions made by the Minister in relation to Qatar Airways. •Any records, both in draft form and final, that were produced by the Minister as a record of her decision, including the correspondence that was sent to Qatar Airways advising them of the Minister's decision. •Any email correspondence produced by the Minister or Minister's office informing stakeholders other than Qatar Airways of her decision | with FOI team |
| FOI 24/089 | I would like to request a copy of the letters sent by Minister King or her office to the women subject to strip searches by Qatari officials ahead of denying Qatar Airways extra flights. | with FOI team |

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| FOI 24/104 | <p>On 14 September 2023, the department accepted a Freedom of Information (FOI) request on transfer from Minister King's office for a request they received on 7 September 2023 requesting access to:</p> <p>+ July 10 letter from Minister King to women behind class action against Qatar Airways</p> <p>+ 1 June 2022 to 11 September 2023 - correspondence including emails from Minister King, Minister King's office and divisions including: Domestic Aviation and Reform, International Aviation, Technology and Services, Airports, International Aviation and Aviation White paper, as well as letters, meeting minutes, formal correspondence from any of Minister King's staff AND Minister King herself, to Qatar Airways</p> <p>+ 1 June 2022 to 11 September 2023 - Qatar Airways correspondence including emails, letters and meeting minutes to the Prime Minister and his office, Minister King and any of Minister King's office staff and divisions including: Domestic Aviation and Reform, International Aviation, Technology and Services, Airports, International Aviation and Aviation White paper, about the benefits of additional flights to and from Australia</p> <p>+ 1 June 2022 to 11 September 2023 all correspondence including emails, letters, briefs, submissions, reports and formal correspondence between Minister King and Minister King's office and any of the other ministers including the Prime Minister, in regards to the decision on Qatar Airways</p> <p>+ 1 October 2022 to 11 September 2023 - all correspondence from Minister King and Minister King's office including emails, letters and meeting minutes with Qantas CEO Alan Joyce regarding Qatar Airways additional flights</p> <p>+ 1 October 2022 to 11 September 2023 - all correspondence from Minister King and Minister King's office including emails, letters and meeting minutes with Virgin Australia CEO Jayne Hrdlicka regarding Qatar Airways additional flights</p> <p>+ Please exclude correspondence related to the processing of FOI requests related to Qatar Airways</p> | with Action Officer |
|------------|--|---------------------|



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

FOI EXEMPTIONS

Decision-Maker Exemption Guide

This guide is designed to provide practical assistance to decision-makers (and action officers) on the use of exemptions under the Freedom of Information Act 1982 (FOI Act). As a decision-maker, you are responsible for making decisions regarding the release or exemption of documents.

Decision-makers should have regard to the Guidelines provided by the Office of the Australian Information Commissioner (OAIC) when making a decision on access regarding documents held by the department. Information compiled within this guide is sourced from advice issued by the OAIC and the Department of the Prime Minister and Cabinet.

The FOI Act gives a person a legally enforceable right of access to government documents unless the document is an exempt document. The FOI Act applies to most Australian Government ministers and agencies, and Norfolk Island public sector agencies and official documents.

Commonly used FOI exemptions by the department have been summarised below for quick reference. Please refer to the FOI Team should you require a detailed explanation regarding the application of an exemption and the relevant provisions under the FOI Act.

Exemptions

| | |
|-------------|---|
| S.33 | Documents affecting national security, defence or international relations |
| S.34 | Cabinet documents |
| S.37 | Documents affecting enforcement of law and protection of public safety |
| S.38 | Documents to which secrecy provisions of enactments apply |
| S.42 | Documents subject to legal professional privilege (LPP) |
| S.45 | Documents containing material obtained in confidence |
| S.47 | Documents disclosing trade secrets or commercially valuable information |

Conditional Exemptions

| | |
|--------------|---|
| S.47B | Commonwealth-state relations |
| S.47C | Deliberative processes |
| S.47D | Financial or property interests of the Commonwealth |
| S.47E | Certain operations of agencies |
| S.47F | Personal privacy |
| S.47G | Business affairs |
| S.47J | Australia's economy |

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Exemptions under the *Freedom of Information Act 1982*

Exemptions under the FOI Act ensure that sensitive information is properly protected. A person has a legally enforceable right of access to a document held by the department or an official document of a minister unless the document is exempt. Please refer to [Part 5](#) (Exemptions) and [Part 6](#) (Conditional Exemptions) of the FOI Guidelines¹.

| Exemptions | |
|----------------|---|
| S.7 | <p>Exemption of certain persons and bodies</p> <p>An agency or Minister is exempt from the operation of the FOI Act in relation to intelligence agency documents received by the agency or Minister.</p> <p>An exempt document is a document that contains a summary of, or an extract or information from an intelligence agency document, to the extent that it contains such a summary, extract or information².</p> |
| S.12(2) | <p>Part not to apply to certain documents (Norfolk Island - access period material)</p> <p>A person is not entitled to obtain access to a document or part of a document that became a document of a Norfolk Island agency <u>more than 5 years before</u> the commencement of this subsection³ (<i>Norfolk Island Legislation Amendment Act 2015</i> (commenced on 26 May 2015), unless the document contains:</p> <ul style="list-style-type: none"> • personal information about that person; or • information relating to that person's business, commercial or financial affairs; or • the document, or that part of the document, is a document or a part of a document access to which is reasonably necessary to enable a proper understanding of a document of a Norfolk Island agency to which that person has lawfully had access⁴. <p>Note: this exemption would apply to documents dated prior to 26 May 2010.</p> |
| S.13 | Documents in certain institutions (documents relating to collection material). |
| S.33 | <p>Documents affecting national security, defence or international relations</p> <p>Exempts documents if their disclosure would or could reasonably be expected to cause damage to the Commonwealth's security, defence or international relations, or divulge information communicated in confidence to the Commonwealth by a foreign government or international organisation. This includes information communicated pursuant to a treaty or formal instrument on protection of classified information⁵.</p> |
| S.34 | Cabinet documents |

¹ Exemptions and Conditional Exemptions under the *Freedom of Information Act 1982*, 1 September 2011, <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/exemptions-and-conditional-exemptions-under-the-freedom-of-information-act-1982/>

² Section 7, *Freedom of Information Act 1982*, Compilation No.91, 1 July 2018, p.20.

³ Section 12(2), p.40.

⁴ Section 12(2), p.40.

⁵ Section 34, 1 September 2011.

| | |
|-------------|---|
| | <p>Section 34 protects the confidentiality of the Cabinet process including Cabinet Committees. Exempt documents: Cabinet submissions, official records of the Cabinet, briefings to a Minister on the Cabinet submission, and drafts of Cabinet submissions, official records and Cabinet briefings⁶.</p> <p>Includes a document that is a copy, part of or an extract from an exempt document (s.34(2)), and a document that contains information that would reveal a Cabinet deliberation or decision, except where the deliberation or decision has been officially disclosed (s.34(3))⁷.</p> <p>Where a document has a close connection with Cabinet but may not necessarily be covered by the Cabinet exemption, the potential application of section 47C should be considered. Drafts of Cabinet documents are exempt under section 34, however this exemption may not extend to other earlier documents which inform the preparation of drafts or other preliminary documents in the Cabinet process. The potential application of section 47C to preliminary documents should be considered⁸.</p> |
| S.37 | <p>Documents affecting enforcement of law and protection of public safety</p> <p>Section 37 exempts documents where disclosure would or could reasonably be expected to affect law enforcement or public safety:</p> <ul style="list-style-type: none"> • prejudice the conduct of an investigation of a breach, or possible breach of the law; • disclosing lawful methods of an investigation, or prejudicing methods for protecting public safety⁹. <p>This exemption refers to the investigative or compliance activities of an agency and the enforcement or administration of the law, including that of public safety. This exemption is not directed at the agency's obligations to comply with the law, but applies to a function connected with investigating breaches of the law, enforcement or administration¹⁰. Please refer to the FOI Guidelines.</p> |
| S.38 | <p>Documents to which secrecy provisions of enactments apply</p> <p>Exempt documents to which secrecy provisions apply are documents or information contained within a document that is prohibited under a provision of another Act; and either</p> <ul style="list-style-type: none"> • that provision is specified in Schedule 3 (FOI Act); or • section 38 is expressly applied to the document or information in the document, by that secrecy provision or another provision of that or any other enactment. <p>An applicant has a right of access to an exempt document if the relevant secrecy provision does not prohibit disclosure to the applicant, or where a document contains the applicants own personal information (except if disclosure is prohibited under the <i>Migration Act 1958</i>)¹¹.</p> |
| S.42 | <p>Documents subject to legal professional privilege (LPP)</p> |

⁶ Section 34 (5.55 and 5.59), 14 June 2019, <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-5-exemptions/>

⁷ Section 34, 1 September 2011.

⁸ Department of the Prime Minister and Cabinet, *FOI Guidance Notes*, July 2011, p.9.

⁹ Section 37 (5.79).

¹⁰ Section 37 (5.81).

¹¹ Section 38, 1 September 2011.

| | |
|--------------|---|
| | <p>Exempts a document if it is of such a nature that it would be privileged from production in legal proceedings on the grounds of legal professional privilege¹².</p> <p>LLP applies to some but not all communications between legal advisers and clients. It is the purpose of the communication that is determinative¹³.</p> <p>Documents are not exempt if the person entitled to claim LPP waives the claim (s.42(2))¹⁴. The waiver of privilege may be express or implied¹⁵. Refer to the FOI Guidelines. Section 42 does not apply to an agency's operational information.</p> |
| S.45 | <p>Documents containing material obtained in confidence</p> <p>Exempts documents where the person who provided the confidential information would be able to bring an action under the general law for breach of confidence to prevent disclosure, or to seek compensation for loss or damage arising from disclosure¹⁶.</p> |
| S.46 | <p>Documents disclosure of which would be contempt of Parliament or contempt of court</p> <p>Exempts documents if public disclosure would, apart from the FOI Act and any immunity of the Crown:</p> <ul style="list-style-type: none"> • be in contempt of court; • be contrary to an order or direction by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; • infringe the privileges of the Parliament of the Commonwealth or a State, or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or Norfolk Island¹⁷. |
| S.47 | <p>Documents disclosing trade secrets or commercially valuable information</p> <p>Exempts documents disclosing trade secrets or commercially valuable information whose value would be or could reasonably be expected to be destroyed or diminished if the information were disclosed¹⁸.</p> |
| S.47A | <p>Electoral rolls and related documents</p> <p>Exempts electoral rolls, including print, microform and digital copies of an electoral roll¹⁹. This exemption further extends to electoral rolls (or part of an electoral roll) of a State or Territory of a Division or Subdivision (within the meaning of the Commonwealth Electoral Act) prepared under that Act (s.47A(1))²⁰.</p> |

¹² Section 42 (5.126).

¹³ Section 42 (5.128).

¹⁴ Section 42 (5.144).

¹⁵ Section 42 (5.146).

¹⁶ Section 45, 1 September 2011.

¹⁷ Section 46 (5.181).

¹⁸ Section 47, 1 September 2011.

¹⁹ Section 47A, 1 September 2011.

²⁰ Section 47A (5.210).

Conditional Exemptions

Application of the public interest test to conditional exemptions

An agency or Minister must give access to a conditionally exempt document unless at the time disclosure would, on balance, be contrary to the public interest (S.11A(5)). The FOI Act sets out certain factors that favour access and some that must not be taken into account (S.11A(3) and (4))²¹.

| Conditional Exemptions - Public Interest s11A(5) | |
|--|--|
| S.47B | <p>Commonwealth-state relations</p> <p>Conditionally exempts documents if their disclosure would or could reasonably be expected to damage Commonwealth-State relations or relations with Norfolk Island, or disclose information communicated in confidence by or on behalf of a government or authority of State to the Commonwealth or the Government of Norfolk Island²².</p> |
| S.47C | <p>Deliberative processes</p> <p>Deliberative matter includes opinions, advices or recommendations that have been obtained, prepared or recorded, and consultations or deliberation that have taken place, as part of the deliberative processes relating to the functions of an agency, a minister or the Government of the Commonwealth or Norfolk Island. Operational information (as defined in s.8A) and purely factual material are not deliberative matter.</p> <p>Does not apply to:</p> <ul style="list-style-type: none"> • reports of scientific or technical experts; • reports of a body or organisation established within an agency; • records of a final decision given in the exercise of a power or of an adjudicative function (s.47C(3))²³. |
| S.47D | <p>Financial or property interests of the Commonwealth</p> <p>Conditionally exempts documents if their disclosure would have a substantial adverse effect on the financial or property interests of the Commonwealth or Norfolk Island.</p> <p>Relates both to expenditure and revenue-generating activities, including intellectual property and the Crown's interests in natural resources²⁴.</p> |
| S.47E | <p>Certain operations of agencies</p> <p>Conditionally exempts documents if their disclosure would reasonably be expected to affect certain operations of agencies on one or more of the following grounds:</p> <ul style="list-style-type: none"> • prejudice to the effectiveness of procedures or methods for the conduct of tests, examinations or audits; |

²¹ Conditional Exemptions, 1 September 2011.

²² Section 47B, 1 September 2011.

²³ Section 47C, 1 September 2011.

²⁴ Section 47D, 1 September 2011.

| | |
|--------------|--|
| | <ul style="list-style-type: none"> • prejudice to the attainment of the objects of particular tests, examinations or audits; • a substantial adverse effect on the management or assessment of personnel; • a substantial adverse effect on the proper and efficient conduct of operations²⁵. |
| S.47F | <p>Personal privacy</p> <p>Conditionally exempts documents if their disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).</p> <p>An agency or Minister must take into account:</p> <ul style="list-style-type: none"> • the extent to which the information is well known; • whether the person to whom the information relates is known to be associated with the matters dealt with in the document; • the availability of the information from publicly accessible sources; • any other relevant matters (s.47F(2)). <p>Access can be given to a qualified person nominated by the applicant if it would be detrimental to the applicant's health or well-being to be given direct access to the documents. The qualified persons include medical practitioners, psychiatrists, psychologists, counsellors and social workers²⁶.</p> |
| S.47G | <p>Business affairs</p> <p>Conditionally exempts documents if their release would disclose information about a person's business or professional affairs, or the business, commercial or financial affairs or an organisation or undertaking, and the disclosure:</p> <ul style="list-style-type: none"> • would or could reasonably be expected to unreasonably affect those lawful affairs, or • could reasonably be expected to prejudice the supply of information to the Commonwealth, Norfolk Island or agency. <p>Consider also the trade secrets or commercially valuable information exemption (s.47)²⁷.</p> |
| S.47J | <p>Australia's economy</p> <p>Conditionally exempts documents if their disclosure would reasonably be expected to have a substantial adverse effect on Australia's economy (including on a particular sector of the economy or the economy of a particular region), by:</p> <ul style="list-style-type: none"> • influencing a decision or action, or • giving a person or class of persons an undue benefit or detriment in relation to their business by providing premature knowledge of an action or inaction. <p>Documents include those containing matter relating to currency or exchange rates, interest rates, taxes, financial regulation and foreign investment²⁸.</p> |

²⁵ Section 47E, 1 September 2011.

²⁶ Section 47F, 1 September 2011.

²⁷ Section 47G, 1 September 2011.

²⁸ Section 47J, 1 September 2011.

Sydney Airport Corporation Limited
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Sydney International Airport, NSW 2020 Australia

T +61 2 9667 9111

SYD

7 November 2022

Mr. Richard Wood
First Assistant Secretary - International Aviation, Technology and Services
Department of Infrastructure, Transport, Regional Development,
Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

Via email: richard.wood@infrastructure.gov.au

Dear Mr Wood,

Bilateral Air Services Agreements

Following recent media reports, I am writing to reaffirm that Sydney Airport remains an active supporter and advocate in Qatar Airways' ongoing request for fairer traffic rights under the Qatar/Australia Bilateral Air Services Agreement. As has been outlined to your International Aviation team, Qatar remains Sydney Airport's number one focus with regards to negotiation on Bilateral Air Services Agreements (**ASA**).

The aviation recovery from the COVID 19 pandemic is currently hindered by a mismatch between the strong demand for travel and the low seat supply into and out of Australia. This is leading to unsustainable airfares, and we believe will, if not addressed, eventually put downward pressure on demand - hindering recovery post pandemic.

Qatar Airways are currently experiencing ~95% load factors into and out of Sydney and we believe the business case for additional services is clear.¹ Beyond the obvious export trade benefits for fresh meat and fruit (noting that two-way trade between Qatar and Australia rose as high as \$2.17b in 2018), providing competition in the market would deliver benefits to Australian producers, suppliers, and the travelling public.

Background

The current ASA between Australia and Qatar, implemented in March 2016, allows for up to 28 flights per week for airlines of both countries to fly to Australia's four gateway airports. The success of the Doha-Sydney route saw Qatar Airways up-gauge from a B777 to an A380 within a year of commencing these flights, and demand for seats on this route grew strongly prior to COVID. The ability of Qatar to meet that demand is, however, now capacity constrained.

Qatar's geographic location, and Qatar Airways' extensive network, make it an ideal transit point for traffic to and from Europe, Western Asia, and Africa. Any capacity increase between Australia and Qatar will accordingly open up high volume markets beyond the Middle East.

Additional daily services to Australia, for example, could help stimulate further tourist demand, but in the current market, would importantly create much needed supply. Qatar Airways have indicated they see significant scope to expand their services here. With a large proportion of people travelling between Europe and Australia doing so via the Persian Gulf region, the negotiation of an enhanced agreement is vital to support the continued growth of tourism and trade coming through the Middle East to Australia.

¹ Flying a daily A380 aircraft with ~450 seats.



Looking ahead

If the Qatar-Australia ASA is not enhanced, Australia will miss out on receiving additional services from Qatar Airways, along with the important flow of tourism and trade benefits. With a 2021 Deloitte Access Economics study undertaken for Sydney Airport finding the average value of a single A380 international daily service at \$227 million per year, and all international services at \$130 million per year, the opportunity cost to the Australian economy is substantial.

With Qatar Airways serving 16 cities in Europe not served by other Middle Eastern carriers, as well as unique destinations in Africa, the Middle East and Asia, much of the 34% pre-COVID growth between Doha and Australia would not have occurred without their services. Qatar Airways provide an important option for travellers between Australia and Europe, as well as other airports, and the absence of further services could be expected to prolong high airfares and in turn deter travellers from visiting Australia.

The recent codeshare announcement between Qatar and Virgin Australia will also promote competition, generate market growth, and will further benefit the travelling public, particularly given the current high price of airfares. While Virgin Australia are rebuilding their business to compete in the domestic market, they will rely more than ever on codeshare agreements to compete internationally, and by extension, domestically. The current ASA with Qatar hinders that ability.

Importance of air freight for exports

Australian exporters using air freight services would also miss out on vital access to overseas markets drawn from Qatar Airways. The expansion in air-traffic through the Persian gulf over the last 10-15 years has unlocked significant export opportunities for Australian sheep-meat in the region for processors such as Fletchers International Exports. Middle Eastern consumers have a cultural affinity for sheep-meat, but typically have a strong preference for fresh product, which can be landed in Qatar from Australia within 36 hours of processing. For example, Australia is the main supplier of fresh meat to Qatar, with 290 tonnes of fresh meat transported weekly from Australia to Qatar using the belly-hold of passenger services operating these routes.

In 2019, airfreight accounted for 99.9 percent of chilled Australian lamb to Qatar. Further, Australian red meat air-freight exports tripled between 2009 and 2019, reaching US\$823 million. Sheep-meat, particularly the chilled lamb carcass trade to the Middle East, accounted for almost half of that export revenue. As Australian producers look to grow value added markets and move away from live exports, the importance of increased air capacity to the Middle East cannot not be underestimated.

Meat and Livestock Australia recently captured this impact of a lack of airfreight to Qatar. Due to the fact live exports of sheep from Australia to Qatar have not been permitted since December 2020, which would otherwise open opportunities for value added, processed Australian meat, local importers have had to notably increase supply from lower cost countries including Africa, South America and Southern Asia.²

Contribution during COVID

Qatar Airways' significant effort of continuous flying during the pandemic should also not be forgotten. Qatar was responsible for repatriating tens of thousands of Australians on commercially operated flights, and not Australian government subsidised charter flights. For a long period during the pandemic, Qatar Airways were indeed Australia's largest international airline.

This service offering is currently being reflected in Qatar's high load factors, as mentioned.

² https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/sheep-projections/july-2022_mla-australian-sheep-industry-projections-update_130722.pdf

SYD

s47G(1)(a)

It should also be noted that through the process of formulating codeshare arrangements with Emirates into the UAE, a treaty was negotiated that saw 154 weekly flights permitted for Australian carriers and 168 flights for foreign carriers. It does not stand to reason therefore that Qatar Airways' modest allocation of 28 flights should remain static.

I trust this information is useful in the Department's continued assessment of Bilateral ASAs. Should you need further information, please contact s47F [REDACTED] Head of Public Affairs s47F [REDACTED] [@syd.gov.au](mailto:s47F@syd.gov.au).

Yours sincerely,

s47F [REDACTED]

Geoff Culbert
Chief Executive Officer

Released under the FOI Act 1982 by the Department of Infrastructure,
Transport, Regional Development, Communications and the Arts

OFFICIAL



Australian Government

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

File Reference: 22#223197DOC

Mr Geoff Culbert
Chief Executive Officer
Sydney Airport Corporation Limited
Locked Bag 5000
SYDNEY INTERNATIONAL AIRPORT NSW 2020

Via email: s47F [REDACTED]@syd.com.au

Dear Mr Culbert

Thank you for your letter of 7 November 2022 in support of Qatar Airways' request for additional capacity under the Qatar – Australia bilateral air services agreement.

The Australian Government is committed to supporting Australia's post-COVID economic recovery, through encouraging the return of international tourism and trade.

The number of services between Australia and Qatar was increased earlier this year. This increase provided for an additional seven services a week and allows for seven services a week between Qatar and each of Australia's major gateway airports (Sydney, Melbourne, Brisbane and Perth). There remains no restrictions on the number of services Qatar Airways can operate into Australia's other international airports including Adelaide, Cairns and Canberra.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts has received a request for additional capacity from Qatar aviation officials. We are considering the request along with feedback from a range of Government and industry stakeholders, including Sydney Airport. We appreciated Sydney Airport's time in September to discuss the airports recovery and your priority aviation markets.

Thank you again for taking the time to write.

Yours sincerely

s22(1)(a)(ii)

Richard Wood
First Assistant Secretary
International Aviation, Technology and Services Division

21 November 2022

OFFICIAL

FLETCHER INTERNATIONAL EXPORTS PTY LTD



ABN 64 003 213 652 ACN 003 213 652

Lot 11 Yarrandale Road (Locked Bag 10) Dubbo NSW 2830
T (61)2 6801 3100 F (61)2 6884 2965
E mailbox@fletchint.com.au

4th November 2022

Mr. Richard Wood

First Assistant Secretary – International Aviation, Technology and Services
Department of Infrastructure, Transport, Regional Development,
Communications and the Arts

GPO Box 594

CANBERRA ACT 2601

Via email: richard.wood@infrastructure.gov.au

Dear Mr Wood,

I am writing to you to identify a significant opportunity to open, badly needed, access to global markets for regional Australia.

Qatar Airways are requesting greater access to Australia's airports and we believe that there is overwhelming reasons why they should have that access granted.

Qatar Airlines were one of the only airlines in the world who continued to fly scheduled services to Australia through the pandemic. These services not only provided the only way home for thousands of Australians, they also provided vital airfreight space to enable our farmers and regional manufacturers to continue to supply customers around the world, earning much needed export dollars for Australia and maintaining jobs in our regions.

Qatar Airways have maintained a desire to increase their access to key Australian airports for many years now and we believe the time is right to make that a reality.

Qatar Airways has taken delivery of large volumes of the latest aircraft, combined with one of the world's newest intercontinental airport with the most sophisticated cold chain management system for freight. This infrastructure combined with a global network of destinations makes Qatar a valuable partner to Australia's exporters, farmers and the public.

Australia's farmers and regional communities have spent the last 3 years rebuilding their lamb flock's and beef herd's and are now ready to supply customers around the world. The ability to serve customers is being badly affected by lack of airfreight space and sky-high airfreight prices that remain many times above pre-pandemic levels.

Australian business are trying to re-build export markets by re-connecting with global customers and are badly affected by lack of seats and exorbitant prices. Qatar Airways would provide badly needed additional seats, freight capacity and competition to the market.

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Furthermore, people from around the world including tourists and much needed workers are trying to return to Australia but lack of seats is stopping this much needed traffic for Australia's tourist operators and businesses in the regions who desperately need workers to harvest crops and expand livestock processing and export.

Qatar Airways has been there for Australia when we were in the most need and stuck with us through the entire pandemic. On every level, there is a case to grant Qatar Airways much greater access to Australia's major airports for the betterment of regional Australia and the nation in general.

I am available to discuss this important matter as required.

Yours Sincerely

s47F



Roger J. Fletcher
Managing Director
Fletcher International Exports Pty Ltd

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Transport, Regional Development, Communications and the Arts

OFFICIAL


Australian Government
**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

File Reference: 22#221394DOC

Mr Roger J Fletcher
Managing Director
Fletcher International Exports Pty Ltd
Locked Bag 10
DUBBO NSW 2830

Via email: s47F [REDACTED]@fletchint.com.au

Dear Mr Fletcher

Thank you for your letter of 4 November 2022 in support of providing Qatar Airways greater access to Australia's international airports.

Qatar Airways' commitment to our international aviation passenger and freight market, including during the COVID-19 pandemic, and their ongoing interest to expand the number of services operated to Australia is fully appreciated by the Department.

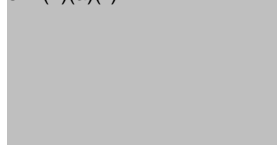
The number of services between Australia and Qatar was increased earlier this year. This increase provided for an additional seven services a week and allows for seven services a week between Qatar and each of Australia's major gateway airports (Sydney, Melbourne, Brisbane and Perth). Under the current arrangements there are also restrictions on the number of services Qatar Airways can operate into Australia's other international airports including Adelaide, Cairns and Canberra.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts has received a request for additional capacity from Qatar aviation officials. We are considering the request along with feedback on the request from a range of Government and industry stakeholders and will incorporate your views as part of industry feedback.

Thank you again for taking the time to write.

Yours sincerely

s22(1)(a)(ii)



Richard Wood
First Assistant Secretary
International Aviation, Technology and Services Division

21 November 2022

OFFICIAL

Forward Negotiating Program – Stakeholder Feedback (19)

Australian Airports Association

Australian Border Force*

Adelaide Airport

Attorney General's Department

Alilevon Pacific Aviation Consulting

Austrade

Avalon Airport

Brisbane Airport

Civil Aviation Safety Authority

Department of Foreign Affairs and Trade

Melbourne Airport

NSW Department of Premier and Cabinet

Perth Airport

Department of Prime Minister and Cabinet

Qantas*

Queensland Government Department of Tourism, Innovation and Sport

Sydney Airport

Virgin Australia*

Western Sydney Airport

**Submissions provided in confidence*

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Transport, Regional Development, Communications and the Arts

s22(1)(a)(ii)

From: International Aviation
Sent: Friday, 30 September 2022 10:01 AM
To: s47F @qantas.com.au; s47F @qantas.com.au;
s47F @qantas.com.au
Cc: s22(1)(a)(ii) International Aviation; s22(1)(a)(ii)
s22(1)(a)(ii)
Subject: Australia-Qatar Air Services Arrangements - Request for Comments [SEC=OFFICIAL]

OFFICIAL

Good Morning,

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) has been approached by the Qatar Civil Aviation Authority (QCAA) regarding continued enhancement of the current Australia - Qatar air services arrangements.

The QCAA have proposed to double the current frequency arrangements defined in the Australia – Qatar Memorandum of Understanding, signed 21 January 2022.

Current

For designated airlines of the State of Qatar:

- Unrestricted frequencies to and from any point in Australia other than Sydney, Melbourne, Brisbane and Perth with any type of aircraft.
- A total of **twenty-eight (28)** frequencies in each direction per week with any aircraft type from any of Sydney, Melbourne, Brisbane and Perth except that no more than **seven (7)** services per week can be operated to and from any one of these points.
- In addition to the capacity entitlements above, a total of **seven (7)** frequencies per week with any aircraft type between the State of Qatar and Sydney, Melbourne, Brisbane and Perth provided such services operate via or beyond a point in Australia other than Sydney, Melbourne, Brisbane and Perth. Such services will not count against the cap of **seven (7)** services in place for each gateway point.

Proposed

For designated airlines of the State of Qatar:

- Unrestricted frequencies to and from any point in Australia other than Sydney, Melbourne, Brisbane and Perth with any type of aircraft.
- A total of **fifty-six (56)** frequencies in each direction per week with any aircraft type from any of Sydney, Melbourne, Brisbane and Perth except that no more than **fourteen (14)** services per week can be operated to and from any one of these points.
- In addition to the capacity entitlements above, a total of **fourteen (14)** frequencies per week with any aircraft type between the State of Qatar and Sydney, Melbourne, Brisbane and Perth provided such services operate via or beyond a point in Australia other than Sydney, Melbourne, Brisbane and Perth. Such services will not count against the cap of **fourteen (14)** services in place for each gateway point.

The Department seeks your feedback on QCAA's proposal.

Your comments may be sent by email to internationalaviation@infrastructure.gov.au. It would be appreciated if you could provide your input by **COB Friday 14 October 2022**. *Please note that your input may be included in future briefings for delegation members, including those attending from industry, unless you advise us that your input is 'in-confidence'.*

Kind Regards

s22(1)(a)(ii)

Assistant Director • International Policy and Regulation
International Aviation Branch • International Aviation, Technology and Services

s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

P +61 2 6274 s22(1)(a)(ii) • M +61 s22(1)(a)(ii)

GPO Box 594 Canberra, ACT 2601
(ii)

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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AUSTRALIA
ICAO COUNCIL 2022-25

AUSTRALIA: Candidate for Part 1 ICAO Council 2022-25

www.infrastructure.gov.au/ICAO

*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

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Transport, Regional Development, Communications and the Arts

Released under the FOI Act 1982 by the Department of Infrastructure,
Transport, Regional Development, Communications and the Arts

s22(1)(a)(ii)

From: International Aviation
Sent: Friday, 30 September 2022 10:02 AM
To: s47F @virginaustralia.com; s47F @virginaustralia.com
Cc: s22(1)(a)(ii)
Subject: International Aviation
 Australia-Qatar Air Services Arrangements - Request for Comments [SEC=OFFICIAL]

OFFICIAL

Good Morning,

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) has been approached by the Qatar Civil Aviation Authority (QCAA) regarding continued enhancement of the current Australia - Qatar air services arrangements.

The QCAA have proposed to double the current frequency arrangements defined in the Australia – Qatar Memorandum of Understanding, signed 21 January 2022.

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The Department seeks your feedback on QCAA's proposal.

Your comments may be sent by email to internationalaviation@infrastructure.gov.au. It would be appreciated if you could provide your input by **COB Friday 14 October 2022**. Please note that your input may be included in future briefings for delegation members, including those attending from industry, unless you advise us that your input is 'in-confidence'.

Kind Regards

s22(1)(a)(ii)

Assistant Director • International Policy and Regulation
International Aviation Branch • International Aviation, Technology and Services

s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

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GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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AUSTRALIA: Candidate for Part 1 ICAO Council 2022-25

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*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL



Virgin Australia International
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virginaustralia.com

26 October 2022

Attention: s22(1)(a)(ii)

International Policy and Regulation

International Aviation Branch

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

GPO Box 594

CANBERRA, ACT 2601

By email: internationalaviation@infrastructure.gov.au

Dear s22(1)(a)(ii)

Australia - Qatar air services arrangements

We refer to the Department's correspondence dated 30 September 2022.

Thank you for this opportunity to comment prior to upcoming negotiations between the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) and Qatar regarding continued enhancement of the current Australia - Qatar air services arrangements. Our comments are provided on an in-confidence basis.

Virgin Australia understands that the Qatar Civil Aviation Authority (QCAA) have proposed to double the current frequency arrangements defined in the Australia – Qatar Memorandum of Understanding, signed 21 January 2022.

Currently designated airlines of the State of Qatar are permitted a total of twenty-eight (28) frequencies in each direction per week, with any aircraft type from any of Sydney, Melbourne, Brisbane and Perth, except that no more than seven (7) services per week can be operated to and from any one of these points. In addition to the capacity entitlements above, a total of seven (7) frequencies per week with any aircraft type are permitted between the State of Qatar and Sydney, Melbourne, Brisbane and Perth, provided such services operate via or beyond a point in Australia other than Sydney, Melbourne, Brisbane and Perth.

Released under the FOI Act 1982 by the Department of Infrastructure,
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The proposal would:

- lift the number of frequencies to and from any of Sydney, Melbourne, Brisbane and Perth to a total of fifty-six (56) frequencies, capping the frequencies per week from any of these points to fourteen (14) services per week; and
- lift the frequency of service operating from via or beyond a point in Australia other than Sydney, Melbourne, Brisbane and Perth to a total of fourteen (14) frequencies per week.

There are tangible benefits created for travellers, tourism operators, airports, domestic supply chain operators and cargo operators by substantially increasing Qatars capacity. The benefits are triggered by increasing the flow of visitors to the country, making international travel more accessible to Australians, increasing the activity levels through airports and their suppliers, and enhancing aviation competition between Australia and the Middle East, Europe and Africa which will ultimately reduce the incredibly high pricing driven by capacity constraints on these markets.

Expanding the capacity available under the Australia-Qatar bilateral agreement would benefit consumers by enabling a more extensive offering and greater selection of competitively priced airfares from Australia to the Middle East, Europe and Africa. This is particularly important in the current global economic climate and where international fares are over 100% higher than the period immediately prior to the COVID-19 pandemic. Additionally it is very difficult to get seats into or out of Australia to Europe or the USA, at any price. This dynamic is a consequence of the supply of seats in the market grossly under-serving the existing demand.

Allowing Qatar to increase its capacity also has a tangible benefit to Virgin Australia. Virgin Australia's long-haul international operations were poorly structured and deeply loss making in the lead up to COVID-19. As a consequence, this operation was shut down during Voluntary Administration and impacted employees were, wherever possible, redeployed into our strong domestic operation. Virgin Australia now relies on the extensive networks of its global partners to provide long-haul international services to customers. This is critical in order to be competitive with its major competitor Qantas Airways. These strategic partnerships bring substantial benefits and new destinations to Australian travellers and ensures that Qantas Airways, and its partners, are not the only choice for Australian undertaking long-haul international travel. This is a critical element of Virgin Australia's customer value proposition.



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Qatar Airways is one of Virgin Australia's most important partners. A larger and more relevant Qatar Airways is fundamental to our competitiveness against a very strong Qantas Group. A strong Qatar Airways provides our frequent travellers with increased network solutions and seat availability in a market starved for new capacity. It also provides our loyalty program Velocity with important benefits to its members which are critical to its competitiveness against Qantas Loyalty.

In this context we note that Qatar Airways is currently at a significant competitive disadvantage to the partnership between Qantas Airways and Emirates, which collectively operate 73% more capacity to Europe and the Middle East than Qatar Airways. If the bilateral were to be expanded, Qantas Airways and Emirates would still operate 17% more than Qatar Airways¹.

The capacity between Australia and the Middle East (as of October 2022) is currently 66% of pre-COVID (October 2019) capacity. If the Australia-Qatar bilateral is expanded, this could lift to approximately 77% of pre-COVID capacity between Australia and the Middle East².

Emirates is currently operating less capacity than the period prior to the COVID-19 pandemic. If Emirates were to return to its pre-COVID capacity levels, Emirates and Qantas would operate 157% more than Qatar Airways under its current bilateral entitlements^{3 4}.

Given the benefits that this additional capacity would bring to the Australian economy and the positive impact this proposal would have on competition, Virgin Australia supports the QCAA's proposal to:

- lift the number of frequencies to and from any of Sydney, Melbourne, Brisbane and Perth to a total of fifty-six (56) frequencies, capping the frequencies per week from any of these points to fourteen (14) services per week; and
- lift the frequency of service operating from via or beyond a point in Australia other than Sydney, Melbourne, Brisbane and Perth to a total of fourteen (14) frequencies per week.

¹ Assumption is that Qatar Airways add three daily B777-300 services, and the fourth daily service is used to replace one of Qatar Airways' services that operate via a secondary port.

² Assumption is that Qatar Airways add three daily B777-300 services, and the fourth daily service is used to replace one of Qatar Airways' services that operate via a secondary port.

³ Includes all Emirates capacity and all Qantas single flight number one stop services to Europe (capacity is measured in seats).

⁴ Qatar includes current published capacity which is the current bilateral maximum (capacity is measured in seats).



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Should you have any queries or wish to discuss our comments in further detail, please contact me on s47F [@virginaustralia.com](mailto:s47F@virginaustralia.com).

Yours sincerely

s47F

Todd Reynolds

General Manager Government Relations and Industry Affairs

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