



Submission No 5

Australia's trade and investment relations under the Australia-New Zealand Closer Economic Relations Trade Agreement

Organisation: Department of Transport and Regional Services

**Contact Name: Wayne Kelly
Bilateral Aviation**

**Address: GPO Box 594
Canberra ACT 2601**



Australian Government

Department of Transport and Regional Services

File Reference: P2005/0650

The Hon Bruce Baird MP
Chairman
Joint Standing Committee on Foreign Affairs, Defence and Trade
Trade Sub-Committee
Parliament House
Canberra ACT 2600

Dear Mr Baird

I refer to your letter of 7 March 2006 to the Secretary of this Department, Mr Mike Taylor, bringing to his attention the Inquiry being conducted by the Joint Standing Committee on Foreign Affairs, Defence and Trade into Australia and New Zealand Closer Economic Relations (CER).

As foreshadowed by Mr Taylor in his reply to you of 21 March 2006, this Department is pleased to provide the attached submission to the Inquiry. Please let me know if we can be of any further assistance as the Inquiry progresses.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Mrdak', written over a horizontal line.

Mike Mrdak
Deputy Secretary

19 April 2006

**INQUIRY INTO AUSTRALIA AND NEW ZEALAND CLOSER ECONOMIC
RELATIONS (CER) BY THE JOINT STANDING COMMITTEE ON
FOREIGN AFFAIRS, DEFENCE AND TRADE**

TRADE SUB-COMMITTEE

**SUBMISSION BY THE DEPARTMENT OF TRANSPORT AND REGIONAL
SERVICES**

Canberra April 2006

INQUIRY INTO AUSTRALIA AND NEW ZEALAND CLOSER ECONOMIC RELATIONS (CER) BY THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE, TRADE SUB-COMMITTEE

SUBMISSION BY THE DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES

Comments addressing Inquiry's first term of reference: the nature of Australia's existing trade and investment relationships

Air Services treaty framework

The Australia - New Zealand air services agreement is one of the most liberal air services agreements in the world. It is Australia's only so-called "open skies" agreement. There are no restrictions on capacity, frequency or routes that airlines of the two countries may operate to, within and beyond the other country and carriers of either country may set up domestic operations in the other country, subject to the necessary safety approvals. Australian and New Zealand carriers authorised as Single Aviation Market airlines are able to operate domestic air services within Australia and/or New Zealand.

For freight services, airlines of either country may base aircraft in the other country and operate (so-called seventh freedom services) between the other country and third countries. Detailed information about the history and terms of the aviation agreement with New Zealand are at Attachment A.

The Australia- New Zealand Aviation Market

Overview

New Zealand is Australia's largest international market in terms of both services and passengers. Nearly 4 million passengers (over 37,500 each way each week) travelled between Australia and New Zealand in the year ended December 2005.

This market has recorded an average annual growth rate of 7.5 per cent over the last five years (2000-2005) and an average annual growth rate of 7.8 per cent over the last ten years.

Visitors made up 56.8 per cent of the total in 2005 which is down from a high of 62.4 per cent recorded in 1997.

In the year ended December 2005, New Zealand was the most popular destination for Short Term Resident Departures (STRD) from Australia, accounting for 17.6 per cent of the STRD category. "Holiday" (39.5 per cent) was the most important reason for travel in this category followed by "Visiting Friends and Relatives" (32.3 per cent) and "Business" (17.1 per cent).

New Zealand was the most popular country for total origin/destination¹ traffic, accounting for 18.5 per cent of total traffic to/from Australia in 2005.

Combination passenger and cargo services

Airlines of over thirty 'third' countries have rights to operate combination passenger and cargo services between Australia and New Zealand. Six currently do so, competing with six Australian and New Zealand carriers. The bilateral airlines currently operating in the Australia-New Zealand market are Qantas Airways Ltd, Jetstar Airways Pte Ltd, Pacific Blue Airlines (Australia) Ltd, Air New Zealand Limited, Freedom Air Limited and Pacific Blue Airlines (NZ) Ltd.

Australian and New Zealand carriers consider this market to be extremely competitive given the number and type of services operated by third country carriers. These carriers use large aircraft and price their services very competitively given that for some the aircraft would otherwise be idle in Australia prior to commencing their return journey. As a result of this intense competition, some industry participants claim that competition is at unsustainable level, particularly citing the impact of third country carriers and report heavy losses on the route.

Approximately 376 air services operate each way each week between Australia and New Zealand. Virtually all Australia-New Zealand traffic is carried on direct services between the two countries.

New Zealand's major carrier, Air New Zealand, had the largest share of this market in the year to end December 2005 with 33.8 per cent of the total. Freedom Air International (Air New Zealand's wholly owned subsidiary) had 11.3 per cent of the market, bringing the total share of the Air New Zealand group to 45.2 per cent.

Qantas had the next largest share in the latest year with 31.5 per cent. Jetstar (Qantas' wholly owned subsidiary) had 0.6 per cent after commencing operations to and from New Zealand in December 2005. This brings the Qantas group's share of the market to 32.1 per cent which is down from a high of 40.0 per cent in the year ended December 2003.

Other significant carriers in this market are Emirates with 9.8 per cent of the traffic in 2005 and the Virgin Blue group with 7.7 per cent.

In November 1994 Air New Zealand commenced operations between Sydney and Los Angeles, expanding to daily services from December 1998 before withdrawing from this sector in April 2003. Qantas operates 7 Boeing 747 services between Melbourne and Los Angeles via Auckland.

¹ Origin/Destination indicates the home country (country of residence) for a visitor to Australia or the passenger's country of intended longest stay for an Australian Resident.

Air Freight

Total airfreight exports to New Zealand for the year ended December 2005 were valued at \$2,921.7 million and weighed 55,287 tonnes. Other commodities and transactions (\$656.0m), Office machines and ADP equipment (\$417.1m) and Miscellaneous manufactured articles (\$372.2m) were the top three commodities by value.

Vegetables and fruit (8,858 t), Miscellaneous manufactured articles (8,636 t) and Other commodities and transactions (8,341 t) were the top three commodities by weight.

Compared to the year ended December 2004, air freight exports have increased by 2.2 per cent in terms of value and decreased 4.7 per cent in terms of weight.

Total airfreight imports for the year ended December 2005 were valued at \$1,266.2 million and weighed 43,731 tonnes.

Gold, non-monetary (\$229.7 m), Miscellaneous manufactured articles (\$126.4 m) and Apparel and clothing accessories (\$95.9 m) were the top three commodities by value.

Vegetables and fruit (8026 t), Fish, crustaceans and molluscs (6,416 t) and Miscellaneous manufactured articles (4,764 t) were the top three commodities by weight.

Compared to the year ended December 2004, air freight imports have increased by 5.7 per cent in terms of value and increased 9.3 per cent in terms of weight.

Current scheduled international air services by Australian and New Zealand carriers

Combined passenger/cargo operations

Australian and New Zealand airlines currently operate some 331 combined passenger/cargo services per week in each direction between various points in both countries and various points in the other country.

A table showing the typical weekly services of Australian and New Zealand carriers and points served as at the time of writing is at Attachment B.

Jetstar, Qantas' low cost subsidiary, commenced operations to New Zealand in December 2005, replacing some Qantas services to Christchurch and commencing Coolangatta-Christchurch services.

All-cargo operations

Air New Zealand Cargo operates 2 services per week from Auckland to Melbourne. These services continue to Shanghai, Baku, Frankfurt, Chicago, Honolulu before returning to Auckland.

Qantas operates 4 all-cargo services per week on a Sydney – Auckland – Christchurch – Sydney routing. Qantas added Christchurch to the Sydney – Auckland services in January 2006 to facilitate the export of perishables and seafood to Australia and Asian and North American markets.

Asian Express Airlines operates 5 services per week between Sydney and Auckland.

Scheduled air services by other than Australian and New Zealand carriers

Combined passenger/cargo

Aerolineas Argentinas operates 3 weekly services between Buenos Aires and Sydney via Auckland. Emirates operates 28 of its weekly services to Australia on to Auckland (14 from Sydney and 7 from Brisbane) and Christchurch (7 from Sydney). Garuda Indonesia operates 2 services on a Denpasar-Brisbane-Auckland and return routing. LAN Airlines of Chile operates 6 services per week between Santiago and Sydney via Auckland. Air Tahiti Nui operates 3 services per week between Papeete and Sydney via Auckland. Royal Brunei operates 3 services per week on a Brunei-Brisbane Auckland and return routing.

All cargo

Cargolux operates 2 all cargo services per week from Luxembourg which operate from Melbourne to Auckland as part of services operating to a number of different countries.

Singapore Airlines Cargo operates 1 freighter service per week which operates on a Singapore- Sydney-Auckland-Singapore routing.

Cooperative marketing arrangements

In addition to own aircraft services, carriers of both Australia and New Zealand have cooperative marketing arrangements with third country carriers. These arrangements enable carriers to market seats on services operated by their partner airlines as if they were their own. They provide greater choice for air travellers and a more streamlined travel experience. Such cooperative marketing arrangements include what is commonly referred to in the aviation industry as ‘code sharing’. Current code sharing operations in the Australia-New Zealand aviation market are detailed in Attachment C.

Non-scheduled operations

The air services agreement between Australia and New Zealand allows frequency and capacity of non-scheduled services (such as charter services) to be determined by airlines of both countries based upon commercial considerations. Airlines must, of course, meet the normal safety requirements and any other relevant domestic legislation applying to such flights.

Qantas investment in the New Zealand domestic aviation market

In June 2000, Qantas extended its brand via a franchise arrangement to the New Zealand domestic market. Qantas New Zealand services were operated by Tasman Pacific Airlines with the Qantas product and aircraft with the Qantas livery until April 2001. Since that time, the Qantas Group has operated a separate domestic network in New Zealand, using Qantas flight numbers but under the Jetconnect banner.

Jetconnect operates 8 B737 aircraft and offers over 250 flights per week between Auckland, Wellington, Christchurch, Queenstown and Rotorua. Jetconnect carried 1.25 million passengers on domestic flights in the 12 months to November 2005. Five of Jetconnect's aircraft are deployed in the domestic market, with two undertaking trans Tasman flying and the eighth aircraft used as an operational / maintenance spare.

Qantas employs almost 700 staff in New Zealand split between Auckland (65 per cent), Christchurch (20 per cent) and Wellington (15 per cent).

Virgin Blue interests in New Zealand

The Virgin Blue group of companies, including Virgin Blue Airlines Pty Ltd, Pacific Blue Airlines (NZ) Limited and Pacific Blue Airlines (Aust) Pty Ltd has significant interests in New Zealand. Pacific Blue Airlines (NZ) Ltd introduced services on the trans-Tasman route in January 2004. It now operates a total of 26 return services per week from Auckland, Christchurch and Wellington to Sydney, Melbourne, Brisbane and the Gold Coast. It also leases crewed aircraft to Pacific Blue Airlines (Aust) Pty Ltd to operate its flights servicing Auckland (and/or the Cook Islands and Tonga) from Brisbane and Sydney.

Relationships between Australian and New Zealand international carriers

On 12 April 2006 Qantas and Air New Zealand signed an agreement that, subject to regulatory approval, will see the airlines cooperate on network, schedule, pricing and marketing initiatives for operations between Australia and New Zealand. This 'Tasman Networks Agreement' (TNA) will extend to the airlines' low cost subsidiaries Jetstar and Freedom Air. The airlines expect that the process of obtaining necessary regulatory approvals for the TNA will take about six months. Similar operations have proved profitable for these carriers in the past.

The TNF follows a previous attempt at a more comprehensive strategic alliance between the airlines. In November 2002 Qantas and Air New Zealand sought authorisation from competition regulators in Australia and New Zealand to enter into a strategic alliance. The proposed alliance involved Qantas taking a 22.5 per cent equity stake in Air New Zealand, and joint pricing and scheduling on the airline's networks. The Australian Competition and Consumer Commission (ACCC) and the New Zealand Commerce Commission (NZCC) rejected the applications in late 2003.

While the Australian Competition Tribunal overturned the ACCC decision on 12 October 2004, the New Zealand High Court had dismissed an appeal by Qantas and Air New Zealand against the NZCC decision on 20 September 2004.

Qantas decided not to appeal the decision to the New Zealand Court of Appeal and indicated that it would explore with Air New Zealand opportunities to work together in areas without breaching competition law.

Comments addressing Inquiry's second term of reference: likely future trends

Air Services Treaty framework

The Department considers that the current air services treaty works well and there are no plans for a major review.

Further liberalisation is possible within the existing aviation arrangements which provide that in the event Australia grants seventh freedom passenger traffic rights to a third country those opportunities will be granted by both Australia and New Zealand to the designated airlines of each Party. Seventh freedom rights would enable airlines of either country to base aircraft in the other country and operate scheduled air services between the other country and third countries without returning to the home country as part of those services.

Interstate air transport services have been deregulated in Australia since October 1990. New Zealand carriers can operate interstate services without economic restriction..

State governments hold powers to regulate intrastate aviation under Section 51 of the Australian Constitution. This power is exercised in some cases with the objective of ensuring regular air transport services to regional and remote areas.

Australia's National Competition Policy requires that this objective be delivered without restricting competition, unless this is both in the public interest and the objective cannot be otherwise achieved.

The Australia – New Zealand Aviation Market

Despite high levels of average annual growth in recent years, the current high level of competition on the Trans –Tasman route has resulted in a challenging commercial environment for carriers operating in the market. Two carriers have left the market. In March 2004 Malaysia Airlines ceased operating 3 services per week between Brisbane to Auckland and in November 2005 Thai Airways ceased operating 7 services per week to Auckland (3 from Brisbane and 4 from Sydney).

Some further rationalisation in the market is likely to occur in the short to medium term and airlines will look for different ways to reduce costs and ensure profitability, such as through the proposed Qantas-Air New Zealand TNF.

New entrants may also enter the market.

The Tourism Forecasting Council in its October 2005 forecasts has forecasted average annual growth of 2.0 per cent for visitor arrivals from New Zealand for the period 2005 to 2014.

Investment by Australian airlines in the New Zealand domestic market

DOTARS has no comments on the likely future direction of Australian company investment in the New Zealand domestic aviation market as this is a commercial matter for those companies.

Comments addressing Inquiry's third term of reference: the role of Government in identifying and assisting Australian companies to maximise opportunities under CER

DOTARS does not have a role in identifying Australian companies that may be able to maximise opportunities available under CER. In relation to air services development, it allows Australian companies to make their own commercial judgements on such matters.

DOTARS assists airline companies that may be interested in either commencing or expanding operations between Australia and New Zealand and beyond New Zealand in a number of ways. DOTARS provides advice about opportunities and entitlements available under Australia's aviation agreement with New Zealand and other bilateral aviation partners and makes available details of the relevant agreement and arrangements.

Once an Australian company has decided to enter the market, DOTARS provides advice about legal requirements that must be met before international air services can commence.

DOTARS receives and processes applications for International Airline Licences and timetable applications and designates Australian international airlines to operate international air services between Australia and New Zealand, or authorises Single Aviation Market airlines as appropriate under the air services agreement. New airlines are not permitted to commence international air services until they have met international airline licensing requirements and obtained associated approvals, such as the safety requirements of the Civil Aviation safety Authority and aviation security requirements.

They also require an allocation of air service capacity from the (Australian) International Air Services Commission (IASC), an independent statutory authority whose main role is to allocate air service capacity among Australian international airlines. The IASC would normally make an allocation of unrestricted capacity to Australian carriers applying to operate between Australia and New Zealand.

Comments addressing Inquiry's fourth term of reference: complementary policy approaches by the two governments

Mutual recognition of Aviation – Related Certification

In the area of aviation safety, Australia seeks to build on the Single Aviation Market Arrangements of 1996 and the August 2002 air services agreement through the development of Mutual Recognition legislation with New Zealand.

This legislation, being the *Civil Aviation Legislation (Mutual Recognition with New Zealand) Bill 2005* (the Bill), will amend the *Civil Aviation Act 1988* to implement Australia's part of the joint commitment between Australia and New Zealand for the mutual recognition of aviation-related certification. The Bill provides for the mutual recognition of Air Operator Certificates (AOCs), as issued by the Civil Aviation Safety Authority (CASA) in Australia and the Civil Aviation Authority of New Zealand (CAANZ).

Aircraft operators wishing to operate in both Australia and New Zealand are currently required to hold, and comply with, two AOCs issued by the respective aviation safety regulators (CASA and CAANZ). Under the proposed mutual recognition legislation, operators will need to hold only one AOC which will be known as an AOC with ANZA (Australian and New Zealand Aviation) privileges.

Mutual recognition was introduced into Parliament in June 2003 and was referred to the Rural and Regional Affairs and Transport (RRAT) Legislation Committee for review. A new Bill was introduced to the Senate on 23 June 2005 and following review by the RRAT Legislation Committee was recommended by majority report for passage through Parliament. New Zealand's corresponding legislation was passed in March 2004.

This Bill and its associated regulations build on the Single Aviation Market arrangements agreed to by Australia and New Zealand. Without compromising aviation safety, this is a major step towards removing barriers to airlines taking up the commercial opportunities that are available under the trans-Tasman air service arrangements.

It is intended that the Bill will be used as a foundation for extending mutual recognition to other areas once the AOC mutual recognition arrangements have been fully implemented.

Australia/New Zealand Leadership Dialogue/Common Border

The Australia-New Zealand Leadership Forum at its April 2005 meeting agreed the objective of a Single Economic Market (SEM), establishing a common border by 2010. The Forum, composed of Ministers, business leaders and academics, is jointly chaired by James Strong, Chairman of Woolworths Ltd among other companies, and Kerry McDonald, Chairman of the Bank of New Zealand. Margaret Jackson, Chairman of Qantas, is a previous co-chair of the Forum and remains a Forum member.

Recommendations from the April 2005 meeting included maintaining an aspirational vision of a common external border between Australia and New Zealand; progressing common passport lanes through technology development and transition to e-passports; and reducing time for clearance of goods containers at ports.

While policy differences in immigration, customs and biosecurity are not likely to be overcome in the short term, work is progressing on Trans Tasman cooperation. Trans Tasman streamlining work streams have been established on automated processing; pre-arrival risk assessment; identification of potential synergies between inbound and outbound processing; Common Use Self Service (CUSS) kiosks; and declarations made at the border.

Australia – New Zealand Air Services Agreement

In 1992, Australia and New Zealand commenced negotiations to create a Single Aviation Market (SAM) between Australia and New Zealand. The core of the proposal was that Australian and New Zealand airlines meeting certain ownership and control criteria should be able to operate anywhere within and between the two countries. The SAM arrangements came into effect in September 1996.

These arrangements were incorporated into the *Agreement between the Government of Australia and New Zealand Relating to Air Services* (the Agreement) signed on 8 August 2002 and which entered into force on 25 August 2003.

Under the Agreement each country may designate as many airlines as it wishes to conduct international air transport in accordance with the Agreement.

Airlines of both Parties may determine the frequency and capacity they offer based upon commercial considerations.

Such airlines may be either authorised SAM airlines or designated airlines. There are different requirements for both types of airlines but an airline can be both a SAM airline or a designated airline provided it meets both sets of requirements.

A SAM airline must be at least 50 per cent owned by Australian and/or New Zealand nationals and meet other criteria aimed at ensuring effective control by Australian or New Zealand nationals.

A designated airline must be designated by an aeronautical authority of either Party; and owned and controlled by nationals of the Party designating the airline.

SAM airlines have the right to operate international air services between Australia and New Zealand; and operate domestic air services within Australia and/or New Zealand.

Designated airlines have the right to operate international air services between Australia and New Zealand; and operate international air services between Australia and/or New Zealand and third countries.

An airline that is both a SAM airline and a designated airline may:

- operate international air services between Australia and New Zealand;
- operate international air services between Australia and/or New Zealand and third countries exercising the rights of both categories; and
- operate domestic services within Australia and/or New Zealand.

Permitted Routes

Routes for the airline or airlines designated by the Government of New Zealand

1. From points behind New Zealand via New Zealand, and any intermediate point(s), to any point(s) in Australia, and beyond.
2. For all-cargo services, between Australia and any point or points.

Routes for the airline of airlines designated by the Government of Australia

1. From any points behind Australia via Australia, and any intermediate point(s), to any point(s) in New Zealand, and beyond.
2. For all-cargo services, between New Zealand and any point or points.

Routes for SAM Airlines

1. Between points in Australia and/or New Zealand.

**Scheduled Air Services Between Australia-New Zealand by
Australian and New Zealand Carriers, April 2006.**

Airline	Route	Services	Seats
Air New Zealand	Auckland-Sydney	34	6588
	Auckland-Melbourne	7	1022
	Auckland-Brisbane	20	4649
	Auckland-Cairns	3	773
	Auckland-Perth	6	876
	Auckland-Adelaide	3	438
	Auckland-Norfolk Island	2	272
	Christchurch-Sydney	14	2044
	Christchurch-Melbourne	8	1168
	Christchurch-Brisbane	8	1158
	Wellington-Sydney	12	1752
	Wellington-Melbourne	7	1022
	Wellington-Brisbane	7	1022
	Queenstown-Sydney	2	292
	Total		133
Qantas	Adelaide-Auckland	3	504
	Brisbane-Auckland	10	1963
	Brisbane-Wellington	3	360
	Melbourne-Auckland	7	1603
	Melbourne-Wellington	7	840
	Sydney-Auckland	35	8015
	Sydney-Christchurch	7	1603
	Sydney-Wellington	14	1680
	Sydney-Queenstown	1	168
	Melbourne-Auckland-Los Angeles	7	2884
Total		94	19620
Freedom Air	Auckland-Gold Coast	7	1050
	Christchurch-Gold Coast	4	600
	Dunedin-Brisbane	3	450
	Dunedin-Gold Coast	2	300
	Dunedin-Sydney	3	450
	Hamilton-Brisbane	3	450
	Hamilton-Gold Coast	1	150
	Hamilton-Sydney	4	600
	Palmerston North-Brisbane	4	600
	Palmerston North-Sydney	2	300
	Wellington-Gold Coast	2	300
Total		35	5250
Jetstar	Brisbane-Christchurch	7	1239
	Gold Coast-Christchurch	2	354
	Melbourne-Christchurch	9	1593
	Sydney-Christchurch	10	1770
Total		28	4956
Pacific Blue (NZ)	Auckland-Brisbane	5	900
	Auckland-Gold Coast	2	360
	Christchurch-Brisbane	7	1260

	Christchurch-Melbourne	4	720
	Christchurch-Sydney	5	900
	Wellington-Brisbane	3	540
	Total	26	4680
Pacific Blue (Aust)	Brisbane-Auckland-Cook Islands	2	360
	Brisbane-Auckland	4	900
	Brisbane-Auckland-Tonga	1	180
	Sydney-Auckland-Tonga	2	360
	Total	9	1800
Qantas (freight only)	Sydney-Auckland-Christchurch-Sydney	4	N/A
	Total	4	0
Air New Zealand Cargo	Auckland-Melbourne	2	N/A
	Total	2	0
	Route Total	331	59382

Code sharing operations in the Australia-New Zealand aviation market

Australian/New Zealand carriers code sharing on third country airlines

- Air New Zealand on United Airlines between Sydney and Los Angeles and Sydney and San Francisco
- Air New Zealand on Austrian Airlines between Sydney and Vienna via Singapore
- Qantas on LAN Airlines Santiago- Auckland- Sydney and return services.
- Qantas on Air Pacific services between Auckland and Nadi.
- Qantas on Polynesian Airlines between Auckland and Apia.
- Qantas on Air Tahiti Nui between Auckland and Papeete.

Third country airlines code sharing on Australian and New Zealand carriers

- American Airlines on Qantas between Auckland and Los Angeles, Brisbane and Auckland, Sydney and Auckland and Sydney and Christchurch.
- Austrian Airlines on Air New Zealand between Auckland and Sydney, Auckland and Melbourne, Wellington and Sydney, Wellington and Melbourne, Christchurch and Sydney and Christchurch and Melbourne
- Air Canada on Air New Zealand between Auckland and Sydney, Christchurch and Sydney, Wellington and Sydney, Auckland and Brisbane, Auckland and Cairns, Auckland and Melbourne and Auckland and Perth.
- British Airways on Qantas between Melbourne and Auckland, Melbourne and Christchurch, Melbourne and Wellington, Sydney and Auckland, Sydney and Christchurch, Sydney and Wellington, Sydney and Auckland.
- Singapore Airlines on Air New Zealand between Auckland and Sydney
- United Airlines on Air New Zealand on many Air New Zealand services across the Tasman.