

26 MARCH 2020

## MEDIA RELEASE

### ACCC INTERIM AUTHORISATION GIVEN FOR AIRLINES TO COOPERATE ON SOME REGIONAL ROUTES

Regional Express (Rex) has been granted an interim authorisation from the Australian Competition and Consumer Commission (ACCC) today (see attached) to coordinate with Qantas (QantasLink) and Virgin Australia (VA) on 10 regional routes where Rex competes with QantasLink and/or VA.

The 10 routes are:

**Sydney** to Wagga Wagga, Albury, Armidale and Dubbo

**Melbourne** to Mildura

**Adelaide** to Port Lincoln, Whyalla and Kangaroo Island

**Townsville** to Mount Isa and Cairns

Rex will enter into discussions with QantasLink on how best to service regional communities only if there are meaningful assistance packages given by the Federal, State and Local governments to keep essential regional air services going.

Rex Deputy Chairman, the Hon John Sharp AM, thanked the ACCC, "Rex is extremely grateful to the ACCC for granting this interim authorisation in just four days. This very prompt decision, and the one taken earlier with regards to the banks, will make a critical difference for all Australians, especially those in regional and rural communities, to survive this unprecedented crisis."

"The Civil Aviation Safety Authority is another regulatory body that has stepped up to the mark and responded very quickly, granting special concessions to give all commercial air operators breathing space. Rex, on behalf of the entire aviation community, would like to thank these two fine institutions for their invaluable role in helping all of Australia to pull through."

"However, these measures alone will not allow the airlines to survive the next three months. The Federal, State and Local governments all need to act urgently and decisively to determine specific assistance packages so that the airlines can at least provide the bare minimum of essential air services to keep the communities running. For example, Rex carries critical blood supplies daily to regional and remote communities on its network, as well as transporting COVID-19 testing samples from regional centres to capital cities for analysis. This may no longer be possible in the foreseeable future."

"Eight other regional airlines have given a 24-hour ultimatum to the Federal Government saying they only have days before they collapse. Their appeal is given in full in the appendix. It would be most ironic if the Deputy Prime Minister and Leader of the Nationals should be presiding over the collapse of all these regional carriers under his watch because he could not defend the interests of the regional and rural communities in the Morrison Government."

Rex has not received any concrete proposals from the various levels of governments and will be making an announcement tomorrow (Friday) with regards to the shutting down of its network.

**Regional Express (Rex)** is Australia's largest independent regional airline operating a fleet of 60 Saab 340 aircraft on some 1,500 weekly flights to 60 destinations throughout all states in Australia. In addition to the regional airline **Rex**, the **Rex Group** comprises wholly owned subsidiaries **Pel-Air Aviation** (air freight, aeromedical and charter operator) and the two pilot academies **Australian Airline Pilot Academy** in Wagga Wagga and Ballarat.

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**Regional Express –  
Application for authorisation AA1000478  
Interim authorisation decision  
26 March 2020**

**Decision**

1. The Australian Competition and Consumer Commission (the **ACCC**) has granted conditional interim authorisation in respect of the application for authorisation AA1000478, lodged by Regional Express (**Rex**) on 23 March 2020.
2. Rex has applied for authorisation to coordinate flight schedules with Qantas Airways Limited (**QantasLink**) and Virgin Australia Holdings Limited (**Virgin Australia**) (as necessary) to reduce capacity on ten regional routes (the **Relevant Routes**, outlined below) as a result of the COVID-19 pandemic.
3. The ACCC has granted interim authorisation to enable Rex, QantasLink and Virgin to coordinate flight schedules and enter into agreements to share revenue on the Relevant Routes (the **Proposed Conduct**).
4. Interim authorisation is granted subject to the condition that if any of the participating airlines agree to coordinate flight schedules and/or share revenue on a Relevant Route while interim authorisation is in effect (**Coordinated Flights**), the participating airlines must not set a fare for a Coordinated Flight that is higher than the equivalent fare specified in their respective fare schedules in place as at 1 February 2020.
5. Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

**The application for authorisation**

6. The Relevant Routes, and the current operators on these routes, are:

New South Wales

- Sydney – Wagga (Rex and QantasLink)
- Sydney – Dubbo (Rex and QantasLink)
- Sydney – Albury (Rex, QantasLink and Virgin, noting Virgin has announced it will suspend services from 27 March to 14 June 2020)<sup>1</sup>
- Sydney – Armidale (Rex and QantasLink, noting Rex has announced it is suspending services from 6 April 2020)

Victoria

- Melbourne – Mildura (Rex, QantasLink and Virgin Australia, noting Virgin has announced it will suspend services from 27 March to 14 June 2020)<sup>2</sup>

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<sup>1</sup> <https://newsroom.virginaustralia.com/release/virgin-australia-group-revised-domestic-schedule-0>

<sup>2</sup> <https://newsroom.virginaustralia.com/release/virgin-australia-group-revised-domestic-schedule-0>

## South Australia

- Adelaide – Port Lincoln (Rex and QantasLink)
- Adelaide – Whyalla (Rex and QantasLink)
- Adelaide – Kangaroo Island (Rex and QantasLink, Rex has announced an exit in July 2020)

## Queensland

- Cairns –Townsville (Rex and QantasLink)
- Townsville – Mount Isa (Rex and QantasLink)<sup>3</sup>

7. Rex submits schedule coordination may involve, for example:
  - Each carrier on a Relevant Route flying one service per day, with the total revenue generated on that route shared between carriers.
  - A carrier suspending operation on a Relevant Route, leaving the remaining carrier with sustainable load factors.
8. Rex submits that the domestic aviation sector in Australia is experiencing an unprecedented downturn as a result of the COVID-19 pandemic. Rex submits that since mid-March, in line with heightened measures taken by the Australian Government to combat the spread of COVID-19, it has experienced a significant and sharp decline in passenger numbers on the Relevant Routes. It expects passenger numbers will continue to decline. Rex submits that coordinating flight schedules will enable carriers to reduce capacity in a way that seeks to achieve sustainable load factors on regional routes, without compromising schedule offerings to passengers.
9. Rex proposes that any cooperation between carriers is based on the fare schedule that was in place on 1 February 2020. Rex submits that authorisation should be granted subject to a condition that gives effect to this proposal.
10. Rex is seeking authorisation until 30 June 2021.

## **The authorisation process**

11. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (the **Act**). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether proposed conduct results in a net public benefit.

## **Interim authorisation**

12. The ACCC may, where it considers it appropriate, grant an interim authorisation which allows parties to engage in proposed conduct while the ACCC is considering the substantive application.
13. Rex requested urgent interim authorisation in light of the unprecedented impact of the COVID-19 on domestic aviation in Australia and the need for lead time in planning rosters.

## **Consultation**

14. The ACCC has not conducted a public consultation process in respect of the request for interim authorisation in light of the scale of the impact of the COVID-19 pandemic on the aviation industry and the urgency of the request for interim authorisation.

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<sup>3</sup> Rex originally sought authorisation to coordinate flight schedules on nine routes. On 24 March 2020 Rex amended the application to include the Townsville – Mount Isa route.

15. The ACCC will conduct a public consultation process on the substantive application for authorisation in the coming days, and details regarding how to make a submission will be available on the [ACCC's authorisations public register](#).
16. The ACCC did seek the views of Virgin Australia and Qantas about the Proposed Conduct:
  - Virgin Australia indicated that it supports the Proposed Conduct.
  - Qantas provided a statement stating that was not a party to the application and was not given an opportunity to review the draft application. In the current circumstances, Qantas considers that any coordination between industry participants should be proposed by the Government. Qantas states its priority is to continue to urgently engage in discussions with the Government on the provision of network operations during this time.

### **Reasons for decision**

17. In granting interim authorisation, the ACCC recognises the urgency of the request for interim authorisation in light of the significant challenges that airlines are facing due to the COVID-19 pandemic.
18. The ACCC notes that:
  - the Proposed Conduct, and interim authorisation, is a temporary measure. Authorisation is only sought until 30 June 2021
  - the Proposed Conduct will be implemented as necessary. Airlines are able to continue to make scheduling decision independently
  - the Proposed Conduct applies in relation to a small number of routes where the airlines offer services,
  - the ACCC may review its decision to grant interim authorisation at any time, including in response to feedback as the Proposed Conduct is engaged in.
19. The ACCC considers that the Proposed Conduct is likely to result in a public benefit in the current unprecedented circumstances. The ACCC notes that there has been a very significant drop in demand for airline passenger services as a result of the COVID-19 pandemic and there is also significant uncertainty about demand for these services in the short term. The ACCC also notes the most recent Federal Government advice that Australian's should reconsider the need for unnecessary domestic travel.<sup>4</sup>
20. This significantly short term reduction in demand could potentially threaten the viability of operating on the Relevant Routes for some airlines notwithstanding that, in the longer term, demand for these services may be sufficient to otherwise sustain their operations. In these circumstances the ACCC considers that the Proposed Conduct is likely to result in a public benefit by assisting in providing certainty to support necessary travel to and from regional communities during the COVID-19 pandemic.
21. The Proposed Conduct, to the extent that it assists in maintaining the viability of airlines on the Relevant Routes during the COVID-19 pandemic, is also likely to result in a public benefit by supporting their ability to increase services on the Relevant Routes post the pandemic as demand increases.
22. The ACCC does note that the Proposed Conduct involves coordination of schedules by all operators on the Relevant Routes. This potentially provides opportunities for the participating airlines to limit capacity flown on the Relevant Routes in order to raise airfares. To address this concern the ACCC has granted interim authorisation subject to a condition that ensures the fares that the participating airlines can charge while

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<sup>4</sup> See: <https://www.pm.gov.au/media/update-coronavirus-measures-0>

coordinating their schedules are no higher than those that applied in their respective schedules on 1 February 2020.

23. The ACCC also considers that there is some potential that the participating airlines coordinating schedules while managing the effects of the COVID-19 pandemic could facilitate longer term understandings between them about scheduling services on the Relevant Routes. The ACCC will examine this issue further in its ongoing consideration of the application for authorisation.

#### **Reconsideration of interim authorisation**

24. The ACCC may review a decision on interim authorisation at any time, including in response to feedback raised following interim authorisation. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.

## Appendix B - MEDIA RELEASE FROM EIGHT REGIONAL CARRIERS

### **THE LOOMING DEMISE OF REGIONAL AVIATION IN AUSTRALIA**

The undersigned are compelled to make a united plea for the Federal Government to provide urgent financial assistance to regional airline operators in the face of the present COVID-19 crisis.

The Federal Government's imposition of air travel restrictions and lock-downs by several states as part of its COVID-19 containment strategy has resulted in airlines being left with little option but to suspend all or nearly all of their scheduled regular passenger transport (RPT) flights. Further travel bans may result in complete cancellation of these remaining flights along with any air-charter operations.

The containment strategy has had a devastating impact on the revenue of all airlines but in particular for smaller regional airlines with lower capital reserves. Unlike the major carriers our companies are generally privately or family-owned. The current funding crisis facing our companies results not from mis-management but as a direct result of government policy to restrict travel. The priority to save lives is important but so too is the protection of businesses and the economy generally. It is galling that our viable companies, typically having been built up over a period of many years, face imminent closure under circumstances they had no control over.

We are aware many airlines have sought financial assistance from Federal or state governments. Respectfully, the response from the Federal Government to date has been largely misdirected. The \$715m aviation industry support package announced last week was welcomed but is based around the waiver of certain aviation charges and its promised financial support will very likely remain largely unallocated, given the savings only accrue when flights are made and that since the package was announced flights are now at a virtual standstill. For regional airlines, in particular, this money needs to be immediately redirected in order to provide more immediate and targeted financial relief. This will achieve the Government's stated aim of assisting to future-proof regional aviation. Without this immediate assistance Australia will likely see the demise of regional airline services. It is worth remembering that it is the smaller to mid-size companies that offer much needed air services to regional communities throughout Australia servicing routes unattractive to the major airlines. The risks are high and the margins small.

Any funding or saving measures for regional aviation in the \$1b "Economic Response to the Coronavirus/assistance for severely affected regions and sectors" package announced is extremely limited and even then, not available for some months. Moreover whilst the package potentially offers some support for aviation companies still able to operate aircraft, there is little support for operators where their aircraft – their primary income earning asset, is grounded. The measures also seem to take "a one size fits all approach" in seeking to offer the same quantum of benefits irrespective of the size of the business and its capital requirements. The industry certainly has little faith that the Government will address these funding shortcomings when they carry out their consideration of "new mechanisms" for allocation of the funds.

The Government, while repeatedly proclaiming the importance of protecting regional aviation as a vital resource for growing the economy appears, instead, to have wiped its hand of the industry at what is its most critical time. If existing operators are not protected until such time as the COVID-19 crisis resolves, restoration of regional air travel services is highly doubtful given the significant regulatory and system development barriers making entry by new

operators exceedingly difficult. We cannot stress too highly the distinction between small businesses, such as say the hospitality industry, temporarily closing their activities and then re-opening and the suspension of an airline operation and the myriad CASA regulatory demands to be met before its re-opening. It is this difference that needs to be recognized by Government.

What is urgently needed is meaningful and substantial support, fairly distributed, in which the Government temporarily underwrites the smaller to mid-size airline operators until such time as normal demand returns. We note QANTAS has been able to obtain relief by borrowing against the security of its aircraft. Unfortunately, a similar approach to banks by smaller airlines is largely not practical as in the current climate, banks are now reluctant to allow increased borrowings against the security of rapidly diminishing (albeit temporary) aircraft valuations.

The financial survival of our companies can be counted in days rather than weeks. The continuing existence of jobs for the many thousands of employees engaged directly or indirectly by our companies are now in jeopardy.

Given the urgency of the situation we call upon government to offer our companies a lifeline. We request reconsideration of the design of its current aviation assistance packages to allow them to provide more tangible aid to a vital air transport sector struggling to cope. Representatives of our companies are available to discuss this matter with you today and to offer some suggestions as to the specific kinds of assistance sought. Announcement of the planned introduction of such measures needs to be made by tomorrow.

Air Link, Aviair, Alliance Airlines, Chartair, Fly Corporate, FlyPelican, Hardy Aviation and Sharp Airlines