consumer.

Hon Andrew Bayly
Minister of Commerce and Consumer Affairs
Parliament
Via email: Andrew.Bayly@parliament.govt.nz

CC: Hon Simeon Brown, Minister of Transport

25 October 2024

Kia ora Minister,

Request for a market study into the domestic aviation sector

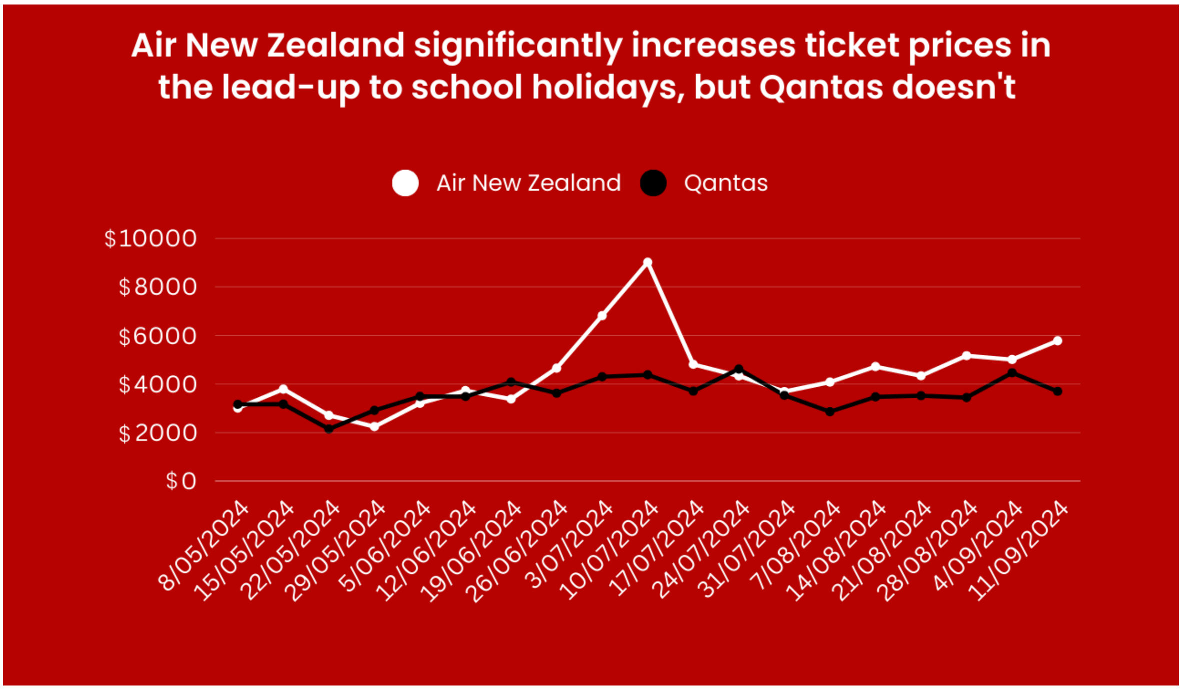
We are writing to urge you to direct the Commerce Commission to commence a market study into the New Zealand aviation sector.

New Zealanders are concerned about a lack of competition.

Nationally representative data from Consumer's Sentiment Tracker shows 51% of New Zealanders think our domestic aviation market is uncompetitive. Only 2% of people agree that the market is very competitive.

We have recently looked at the market and whether pricing is fair or transparent.

This week we published the preliminary results of our investigation into trans-Tasman aviation competition. We found Air New Zealand increased its fares by an average of 43% in the school holidays (compared to school term time) while Qantas increased its fares by 24% percent across the same time period. In the worst instance, Air New Zealand prices increased 167% over just three weeks, while Qantas prices increased only 7%.



We have serious concerns that current market settings permit Air New Zealand to increase prices so significantly over the school holidays compared to its competitor but continue to maintain market share. We see this as a competition red flag. We are also concerned that similar factors allow monopoly rent seeking in Air New Zealand's domestic and regional operations.

Although New Zealand operates a theoretically open-skies aviation sector, in a practical sense we see limited prospects of new entry and expansion into the domestic market. An analysis of the market would provide an opportunity to make recommendations that your government could implement to increase competition in this critical sector.

Dynamic pricing

Air New Zealand uses a dynamic pricing model. This is an algorithmic pricing practice based on, according to the carrier, supply and demand. In reality, due to supply constraints within Air New Zealand's fleet and a lack of alternative carriers, dynamic pricing regularly increases the price of airfares unreasonably, to the detriment of consumers. The same ticket from Auckland to Dunedin, for example, can increase in price by up to four times, depending on seats available and the proximity to departure.

The tactic has come under fire in other industries, such as for event and concert tickets, especially "in-demand" tickets sold by Ticketmaster. There have been recent international developments regarding the fairness of this pricing practice.

Australian Prime Minister Anthony Albanese announced last week that dynamic ticket pricing would be banned under new law reforms.

As part of our investigations, we contacted Air New Zealand on multiple occasions seeking clarification of how its pricing works. We requested information on the operation of its pricing models, how the cost of a ticket is made up and evidence of supply or demand pressures. Air New Zealand has not been willing to provide information, beyond general statements.

We are concerned that dynamic pricing allows Air New Zealand to profit excessively in periods of high demand and even more so when supply is constrained (for example when planes are out of action due to maintenance requirements, as is regularly the case).

As Minister of Commerce & Consumer Affairs, we hope you share our concern that Air New Zealand's practices are taking advantage of New Zealanders who can only travel in certain time periods, such as the school holidays.

Earlier this year, the Australian Competition and Consumer Commission released a report on domestic airline competition in Australia. The findings stated fares reduced by 29 percent when a second airline is on a route, and prices reduced by a further 31 percent if a third airline is operating. It also said consumers pay less than half the monopoly price on a given route if three airlines are competing against one another.

Our domestic market

Our domestic aviation market is the most concentrated in the world. Air New Zealand maintains an 86% market share, while its closest competitor, Australian carrier Jetstar, controls approximately 12%. Smaller regional carriers control the remaining portion.

As of August 2024, Air New Zealand operates 40 direct domestic routes and 139 indirect[1] routes. It only faces direct competition from Jetstar on 15% of its direct routes and 3% of its total routes. It means our national carrier operates monopolies on a range of regional routes and in many instances, consumers have no choice about how they travel.

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[1] An indirect route is a flight that includes one or more stops before reaching a final destination but is marketed as a single journey. For example, Dunedin to Tauranga is an indirect route, with transits at Wellington or Christchurch, but can be purchased as a discrete journey rather than purchasing each leg of the route separately.

Air New Zealand has significant market power. In recent times, consumers have faced ever increasing costs to fly. While there are a range of factors influencing price, there is limited transparency. Problematic pricing and opaque cost structures contribute to our view that an in-depth study into factors affecting competition is urgently necessary.

Over the course of our investigations and research into this market, we have heard several allegations from key industry players relating to Air New Zealand misusing its market power. These allegations are deeply concerning, but as the parties making these allegations rely on Air New Zealand for significant parts of their ongoing business, we have been unable to publish them. A market study may provide these parties with the opportunity to table their concerns without fear of repercussions.

Request for a market study

Under Part 3A of the Commerce Act 1986, you have the power to direct the Commerce Commission to undertake a market study.

For the reasons set out above and given the importance of the domestic aviation market to New Zealanders and our economy, we urge you to direct the Commerce Commission to undertake a market study into this sector.

In our view, given the Crown's conflict as a major shareholder in Air New Zealand and the historical links between Air New Zealand and the current government, a full independent examination of the market is the only conflict free way to establish an evidence base and to understand what interventions may be necessary to improve competition and outcomes for consumers.

We intend to publish this letter to inform New Zealanders that this issue now sits with the government for consideration.

We welcome the opportunity to meet with you to discuss these issues further.

Please feel free to get in touch if you have any questions.

Jon Duffy
Chief Executive, Consumer NZ