INDEPENDENT CONSUMER & COMPETITION COMMISSION

Papua New Guinea's Consumer & Competition Watchdog

DRAFT DETERMINATION AND REASONS

Application for Authorization

by

Air Niugini Limited

For a Proposed Code-share Agreement with

Philippine Airlines Inc.

On the Port Moresby/Manila route

Application Registration Date: 04th October 2018
Public Register Number: A2018/32
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ABOUT THE ICCC

The Independent Consumer and Competition Commission ("ICCC") is a statutory body established under the *Independent Consumer and Competition Commission Act 2002* ("ICCC Act"). It is the Papua New Guinea's consumer watchdog and competition authority. It ensures to promote competition and fair trading, regulate prices of certain declared goods and services, and to protect consumers' interests, and other related purposes.

The ICCC is empowered under the ICCC Act to have one full time Commissioner and two part time Commissioners; together they form the ICCC's Board. The decision on this Draft Determination has been made by only two Commissioners because there has been vacancy in the position of the Associate Commissioner – Resident.

Queries

All queries relating to this Draft Determination should be directed to Mr. Steven Sugl, Executive Manager for the Competitive Market and Fair Trade Division, on telephone 325 2144 or by fax on 325 3980 or via email on ssugl@iccc.gov.pg.

Please note that, as required under the ICCC Act, all submissions and/or comments received by the ICCC from all stakeholders on this application are made available for public inspection unless the ICCC, based on a request from the relevant stakeholder(s), considered that all or part(s) of the submission should remain confidential. However, the ICCC intends to make the review of this application as transparent as possible; and hence the submissions/comments are normally made available for public inspection unless there are exceptional commercial-in-confidence reasons as to why submissions should be held in confidence.

Public comments and submissions on this Draft Determination closes on **02nd August, 2019**. All comments and submissions on this Draft Determination should be addressed to **Mr. Paulus Ain, Commissioner and Chief Executive Officer** of the ICCC using the address provided below.

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EXECUTIVE SUMMARY

1. ***The Independent Consumer and Competition Commission ("ICCC") PROPOSES TO DECLINE AUTHORIZATION to Air Niugini Limited ("Air Niugini" or "Applicant") and Philippine Airlines Inc. ("Philippine Airlines") for them to enter into and give effect to the proposed passenger code-share agreement on the Port Moresby/Manila route.***

2. On 21st September, 2018, the ICCC received Air Niugini's application for authorization to enter into and give effect to a proposed code-share agreement with Philippine Airlines. The application was made pursuant to section 70 of the *Independent Consumer and Competition Commission Act 2002* ("ICCC Act").

3. The code-share agreement would be on a free sale arrangement and both code-share parties will provide reciprocal services as operating carriers and marketing carriers respectively on the Port Moresby/Manila ("POM/MNL") route. Air Niugini sought authorization for a period of three (3) years.

4. The ICCC considers the principal market to be the market for the provision of air passenger services between Port Moresby and Manila. Other markets that may have some competitive pressure on the principal market are the direct routes between Manila and other Pacific countries (for transiting passengers). Hence, the ICCC considered the relevant market to be the *"market for the provision of regular air passenger services between PNG and Philippines in particular Port Moresby and Manila ports.*

5. Currently, Air Niugini and Philippine Airlines are servicing the route independently. There is vigorous competition on the POM/MNL route. The ICCC considers that if the proposed code-share is allowed, it will weaken the current level of competition, resulting in detriments to consumers and overall service level.

6. The ICCC has considered the following views in its assessment:

   - Introduction of this proposed code-share will only stifle the current level of competition, including benefits realized by the travelling public. Air Niugini did not sufficiently substantiate the claim that the code-share would allow both carriers to compete, in light of the fact that the two airlines are presently competing vigorously on this route.

   - This market is already competitive, given the current average market share of 44% for Philippine Airlines and the increase of capacity on the route (as a result of the two carriers increasing their flights per week).

   - The current market data on the route indicates that there is potential for growth in traffic volume. As the route develops and becomes less costly for travellers, it is likely that traffic volume will continue to increase due to effective competition between the two airlines companies operating independently.

   - The total of nine (9) flights weekly is sufficient to maintain or improve the current level of services enjoyed by businesses and other travellers in both countries, using passenger air services on POM/MNL route. The ICCC does not have any information that suggests that without the code-share, services will reduce in frequency.

- The structure of the proposed code-share agreement does not impose any significant costs on the airlines associated with unsold capacity, as distinct from a "hard block" basis were each airline commits to a certain level of capacity on the other airlines flights. Thus it provides little incentive for strong price competition. While the proposed code-share may result in increased travel choice for the traveling public, particularly for loyalty programme members, such arrangement is not likely to be good for consumers on a route that has only two players.

- A significant reduction in airfares is unlikely to happen under the 'free sale' arrangement and there is significant risk of fares rising.

- The projected increased revenue for Air Niugini should also include information on how Air Niugini has been faring on this route. Air Niugini also needed to demonstrate how its increased revenue would translate to public benefit.

- Competitive airfares, with code-share, will be possible if there is sufficient margin between how much the airlines would agree to pay each other (the "settlement amount or price") and the ticket price (for each classes). However, since the marketing carrier would be incurring only minimal costs due to marketing, there is no, or very little, incentive for vigorous competition on airfares. The "hard block" arrangement does encourage strong competition on fares.

1. INTRODUCTION

1. This draft determination relates to an application by Air Niugini Limited (hereafter, "Air Niugini" or the "Applicant") for authorisation to enter into and give effect to a proposed code-share agreement with Philippine Airlines Inc. (hereafter, "Philippine Airlines") on passenger flights operated by both airlines between Port Moresby and Manila.

2. Authorization is a statutory process under the *Independent Consumer and Competition Commission Act 2002* (hereafter the "ICCC Act") which allows businesses to seek legal protection to engage in conduct that might otherwise raise competition concerns under the ICCC Act. The Independent Consumer and Competition Commission (hereafter the "ICCC") may authorize the parties to engage in a potentially anti-competitive conduct (subject of an authorization application) if it is satisfied that the public benefits resulting from engaging in the conduct would outweigh the public detriments, including the effects of substantial lessening of competition.

3. The ICCC consults widely when reviewing an authorization application. The invitations for submissions on the authorization application are sent out to relevant stakeholders including key government agencies and departments, businesses, customers and the general public. After reviewing all comments, it releases its written draft determination for public comments. During the period of public consultation on the draft determination, if a request is made by an interested party, or if the ICCC decides to call one, a conference is held pertaining to the draft determination (prior to a determination being made). A conference is primarily held to discuss any further issues or to seek clarification from the applicant and or industry stakeholders on certain aspects of the draft determination before the determination is finalised and released.

4. The ICCC gives due consideration to net benefits to the community from the conduct subject of the authorization application (and not just the benefits to the parties to the application) and whether such benefits outweigh any anti-competitive detriments. Hence, it is the applicant's duty to demonstrate that it meets the requirements of the ICCC Act to permit the potentially anti-competitive conduct to be authorized.

5. It is important to mention here for the noting of the Applicant, industry stakeholders and the general public, that reasonable time is required for the full assessment of an authorization application. The following is a non-exhaustive list for which adequate time is required for assessing an authorization application:

   (a) consideration of the application with submissions;

   (b) consideration and decision on confidentiality request for information provided in the submissions;

   (c) making necessary enquiries with relevant stakeholders;

   (d) preparation of a draft determination;

   (e) inviting and considering submissions made thereon;

(f) release of a draft determination (and holding of a pre-decision conference, if one is requested and called);

(g) consideration of matters raised therein; and

(h) formulating and issuing a determination by the ICCC.

6. The ICCC is required under section 77(2) of the ICCC Act to consider the application and make a determination on whether or not to authorize Air Niugini to enter into and give effect to the proposed code-share arrangement. Section 77(6) of the ICCC Act provides that the ICCC, in assessing the application for authorisation, should take into account the competition effects of the anti-competitive conduct and any other detriments likely to result from the code-share and weigh them against the claimed public benefits.

7. The non-confidential version of Air Niugini's application and all submissions together with this draft determination are available on the ICCC's website www.iccc.gov.pg, under the Public Register section.

2. THE PARTIES

2.1. Air Niugini Limited ("Air Niugini")

8. Air Niugini is the largest PNG-domiciled airline, solely owned by the State or the Government of Papua New Guinea ("GoPNG") through Kumul Consolidated Holdings Limited ("KCHL"). Air Niugini was duly incorporated under relevant laws of PNG in November 1973. It has since begun operating as the national airline of PNG. Its registered office is at the 4th Floor, Air Niugini House, Jacksons Parade, Jacksons International Airport, Port Moresby

9. Air Niugini's main business is the provision of air transportation services for passenger and freight domestically and internationally. Air Niugini operates to 22 domestic destinations and 12 international ports around the world, serving them from its hub at Jacksons Airport in Port Moresby. In addition to the core business of transporting passengers and air freight, Air Niugini maintains 22 retail sales offices throughout PNG, provides in-flight catering for its own operations and maintains offices in Cairns, Sydney, Honiara and Manila. Air Niugini through its wholly owned subsidiary airline, Link PNG Limited ("Link PNG") also operates domestic services between Port Moresby and 22 ports throughout PNG. Link PNG operates 7 Dash-8 aircraft on domestic routes. Air Niugini's international fleet consist of 17 aircraft; 2 B767, 2 B737, 7 Fokker F-100 and 6 F70 jets.

2.2. Philippine Airlines Inc. ("Philippine Airlines")

10. Philippine Airlines Inc. is the trading name of PAL Holdings, the holding company responsible for its operations. Philippine Airlines is the flag carrier of the Philippines and has its headquarters at the PNB Financial Centre at Pasay City. Philippine Airlines operates out of its principal hub at Ninoy Aquino International Airport and secondary hubs at Clark International Airport Makan, Cebu International Airport and Francisco Bangui International Airport. It serves 31 destinations in the Philippines and currently serves 41 international destinations in South East Asia, East Asia, Middle East, Oceania, North America and

Europe. Philippine Airlines operates a fleet of Airbus and Boeing aircraft including Airbus 320, Airbus 340 and Boeing 777 aircraft.

3. THE APPLICATION

11. On 21 September 2018, the ICCC received this application from Air Niugini seeking authorization to enter into and give effect to a proposed code-share agreement with Philippine Airlines. Air Niugini sought authorization pursuant to section 70 (1) and (2) of the ICCC Act.

12. The structure of the code-share agreement is such that the seats will be sold on a "free sale" basis with both carriers selling seats on each other's flights on the Port Moresby/Manila ("POM/MNL") route. That is, both carriers will have access to each other's seat inventory for B737 and A320 aircraft and based on availability of seats, can sell to their respective customers.

13. Furthermore, the code-share agreement here relates only to passenger services. Airfreight is not included in the proposed code-share agreement. All freight, excess baggage and ancillary revenue for each airline shall remain with the respective carrier. Air Niugini sought authorization for a period of three (3) years.

14. If authorized, the parties initially intended to commence the code-share services on 1st January, 2019, and ending 31st December, 2021. It is understood the code-share agreement is yet to be effected.

3.1. Facts and contentions in support of the application

3.1.1. Rationale for the passenger code-share arrangement

15. In its submission, Air Niugini stated that it currently operates a B737-800 aircraft on POM/MNL route five (5) times a week (Monday, Wednesday, Friday, Saturday and Sunday). Philippine Airlines currently operates four (4) services a week (Monday, Tuesday, Thursday and Sunday) using its A320 aircraft.

16. To give some context, ICCC had previously declined to grant authorization in 2010 because the proposed code-share application was likely to result in anti-competitive outcomes that were not outweighed by public benefits. Air Niugini argued at the time that Philippine Airlines was not operating its own aircraft and was therefore planning to place its PR code onto Air Niugini operated flights. The market has since changed and both operators are offering a total of up to nine (9) flights (4 Philippine Airlines services on A320 aircraft and up to five Air Niugini services on B737 aircraft) per week for passengers travelling between Port Moresby and Manila.

17. Air Niugini also stated that PNG now has a modern international airport at Port Moresby and it hopes to promote Port Moresby, and in particular Jacksons International Airport, as a significant hub for international business and regular travellers from Manila (and other Asian ports) through to the Pacific Island countries (because of its Pacific network). Air Niugini submits that these routes are permissible pursuant to Air Niugini's commercial

aviation rights and in particular the sixth freedom which is *"the right to carry passengers or cargo from a second country to a third country by stopping in one's own country"*.

18. The Applicant also submitted that the introduction of the code-share flights would continue to promote trade by facilitating ease of travel, particularly for business travellers, visiting friends and relatives (VFR) travellers and to support a small but growing tourism market. It will provide customers with a choice of scheduled times (morning and afternoon) services and more connectivity choices for international transit passengers.

19. Air Niugini further stated that airfares will be priced independently and there will be no schedule or price coordination between the two (2) carriers, resulting in more choice of fares across both airlines as both airlines will have full availability of inventory for seats on all classes. With these reciprocal arrangements, loyalty programme members of both airlines will have lounge access in Manila and at Jacksons International Airport, including frequent flyer points awarded to Air Niugini and Philippine Airlines customers, respectively, for flights on the code-share route irrespective of which airline operates the service.

4. PUBLIC CONSULTATION AND SUBMISSIONS

20. As required under section 76(2) (c) and (d) of the ICCC Act, the ICCC invited submissions and comments from a range of stakeholders which may have had an interest in this application, including competitors, airport operator, regulators, government agencies, industry groups, service suppliers and the general public.

21. In response, the ICCC received submissions from the National Research Institute, Civil Aviation Safety Authority of Papua New Guinea, Investment Promotion Authority, SGS PNG Limited, Kumul Consolidated Holdings Limited and the Department of Trade, Commerce and Industry. Relevant parts of their comments are summarised below. Apart from confidential information and documents submitted, all responses are placed on the ICCC's public register for public access. They can also be found on the ICCC's website.

4.1. The National Research Institute (NRI)

22. NRI is of the view that there are a number of elements in the application which are considered confidential by the Applicant (subject to confidential assessment by the ICCC) and are therefore limiting its scope of analysis. Such information includes:

- Contributing factors for unimproved frequency of passengers on the POM/MNL route (by Air Niugini);
- Projected economic scenario which would trigger increased passenger flow;
- There is no indication that Air Niugini has existing partner(s) in long-haul destinations in Asian markets, where the proposed partnership will potentially feed into to enhance international service of the airline; and
- Apart from being a dominant player in the domestic market, how the proposed code-share will impact other international market segments.

23. NRI submitted that the arguments in support of the application showing the commercial rationale and the need for the code-share were not well articulated.

24. NRI submitted that it supports markets that promote fair and effective competition where better outcomes including increased capacity, choice and quality of air service are expected. This results in positive impact on tourism and export sectors, leading to economic growth in the long run. NRI generally supports initiatives such as code-sharing aimed at improving business performance and viability, as long as passenger and freight services are provided efficiently at affordable rates.

25. NRI further submitted that the best approach to promote fair and effective competition in freight and passenger markets for maximum benefit of the traveling public and businesses is through independent operations by Air Niugini and Philippine Airlines. Routes served by more than one (1) carrier in a competitive environment have been shown to deliver higher levels of capacity at lower prices.

26. However, there are possibilities of favourable outcomes from such code-share arrangements between airlines. For example, code-share arrangements can lead to higher capacity as it enables airlines to attract connecting passengers via inward or outward international flights. But there is a risk that the frequency of service may not continue or the code-share may fail to deliver on the anticipated consumer and public benefits.

27. NRI recommended that the authorization should be granted on a short-term basis that is commercially practicable. Progress against anticipated benefits can be measured within that period by both airline companies.

4.2. Civil Aviation Safety Authority (CASA)

28. CASA made the following comments:

    1) Some anti-competitive (or potential anti-competitive) aspects of the proposed code-share are -

        a) Reduced or relaxation of competition between Air Niugini and Philippine Airlines as code-share partners;

        b) Opportunities for collusion on seat capacity allocations, fare pricing, frequent flyer programmes, travel agent commissions and other marketing options;

        c) Consolidation of Air Niugini and Philippine Airlines marketing and operational strategies to gain a dominant position on that route;

        d) Instituting entry barriers (such as gate availability, ground support) to make it difficult for any new airline operators to enter the route; and

        e) Operations from each airline's own primary hub airport (POM for Air Niugini and MNL for Philippine Airlines) already provide a dominant market position, which under a code-share arrangement might be further exploited and synergised for greater market share and control.

2) The pro-competitive (or potential pro-competitive) aspects are -

   a) Increased seat inventory will mean more choices resulting in a wide range of airfares both at the high and low end and improved services and offerings;

   b) Improved quality of customer service including the use of partner airline's lounges, airport facilities and services and baggage interlining on flights for all passengers; and

   c) New and expanded online and interline international and domestic destinations for code-share passengers, increased flight schedule flexibility and selection for the travelling public.

3) The social and economic benefits for PNG as a whole:

   a) Expanded network for domestic connections at both POM and MNL destinations provides increased business, social and economic opportunities;

   b) Improved interline and online connectivity for passengers, cargo and trade both on the outward and inward sectors provides an economic stimulant with increased connectivity to and from Asian markets; and

   c) Improved flight connections at both destinations will encourage increased passenger traffic and economic growth.

29. CASA submitted that Air Niugini and Philippine Airlines currently operate the route independently; and the social and economic benefits mentioned in point 3 above are only minimally realized.

30. CASA further suggested the following restrictions to ensure the 'free sale' for this code-share arrangement is adhered to:

   a) Air Niugini and Philippine Airlines must independently determine their own airfares and inventory and must not coordinate each other's activities to effect anti-competitive strategies such as commonality in fares or capacity inventories;

   b) Air Niugini and Philippine Airlines code-share flights must not be listed more than twice (one for each airline) in each airline's computer reservation system (CRS) – this is to prevent 'crowding out' the code-share partner's flights; and

   c) The code-share partner operating out of the other's hub airport (Air Niugini in MNL and Philippine Airlines in POM) must be provided with similar service levels and support services as if its own aircraft was operating the service.

31. CASA, in conclusion, submitted that a review and assessment of the overall effects of the Air Niugini and Philippine Airlines code-share arrangement on market share, airfares and traffic (including cargo) should be conducted after a 12-month period based on data provided by each code-share partner. This will help ensure consumer benefits, fair competition and service improvements continue to be delivered to the travelling public, and if required changes made accordingly for improvement.

4.3. SGS PNG Limited (SGS)

32. SGS PNG Limited (SGS) submitted that in principle, allowing such a code-share would be detrimental to the interests of citizens of both PNG and Philippines including other travellers between the two countries. SGS claimed that this proposed code-share would eliminate the current level of competition that exists on POM/MNL route, resulting in significant increases in air fares.

33. SGS claimed that Air Niugini has in the past taken advantage of any reduction in competition. It supported its claim by pointing out that the airfares on POM/CNS route has now gone up compared to POM/BNE route despite the fact that the POM/BNE route is a much longer route. SGS stated that this is because of the competition by Virgin and Qantas on the POM/BNE route.

34. SGS further pointed out that prior to the introduction of the service by Philippine Airlines, the cost of the airfare charged on the POM/MNL route ranged from K2,400.00 to K3,400.00. Since the introduction of the Philippine Airlines on this route, on average, there has been a huge reduction in airfares and it now ranges from K1,400.00 to K1,800.00.

35. SGS also made comparisons with other international routes such as POM/Tokyo, POM/Singapore and POM-Hong Kong which are serviced by Air Niugini only. The POM/MNL route is seen to be a popular route since the introduction of Philippine Airlines and this is evidenced by increasing the number of flights from three to four per week. SGS also claimed that Air Niugini has increased its flights from three to five per week.

36. SGS is of the view that both companies make viable returns on the POM/MNL route. Any code-share will be detrimental to the interest of the increasing number of PNG citizens who are currently able to take advantage of cheaper education, medical support and holidays in Philippines.

37. SGS does not support the code-share for the reason that it is better for parties to compete independently in the best interest of the traveling public.

38. SGS is of the view that the code-share arrangement should not be approved as it would remove one competitor and make the route highly anti-competitive.

4.4. Kumul Consolidated Holdings Limited (KCHL)

39. KCHL in their submissions declared a conflict of interest in relation to this application, given that KCHL holds 100% of the Government's shares in Air Niugini.

40. KCHL submitted that, in general, the motive of airline companies entering into code-share agreements is to broaden the offer that airlines can make to customers in terms of the number of destinations and in some cases, the flight timings, without the costs and difficulties involved in additional investment. Code-share agreements enable airlines to expand the number of destinations they serve under their own brands, offering more choice to customers by allowing the airlines to market seats on flights operated by partner airline.

41. Marketing airlines use designator's codes to sell seats on the operating carrier's planes. There is a broad variety of arrangements for code-sharing, with some involving comprehensive cooperation between parties such as joint decisions on price, capacity, schedules, marketing and other competitively sensitive matters.

42. KCH submitted that airlines tend to look at initiatives that promote traffic growth which result in sustainability and profitability. One such initiative is the code-share arrangement. On the other hand, if the operating costs of the airline is high, cancelation of services maybe the option that would be applied, to the detriment of passengers using those services.

43. Code-shares also enhance customers' reach by widening the offer to customers and giving confidence about products offered with other carriers. This generates additional traffic and revenue at a relatively low cost.

44. KCH supports the initiative of code-sharing as it enhances quality of service to Air Niugini's customers. KCH believes that if the service levels are improved to the mutual benefit of the customer and the airline, the initiative should be adopted. KCH is of the view that the establishment of a code-share arrangement between Air Niugini and Philippine Airlines will achieve positive outcomes for passengers on the services between POM/MNL and potentially other network destinations. Some positive outcomes include:

- Improved booking options for transit passengers through PNG and onward to other Pacific destinations using both airline services;
- Improved schedule timing for passengers;
- Improved rate options available from both carriers;
- Increase in frequency of services on the routes operated by both carriers;
- Increased exposure to un-serviced markets; and
- Increased efficiency in the operation of POM/MNL and other routes

45. KCH submitted that to promote tourism, it is vital that PNG examines methods and costs associated with reaching PNG as a destination. KCH is of the view that initiatives such as code-sharing, that improve levels of services, positively impact airfare costs and result in increases in visitors to PNG, should be endorsed.

46. In conclusion, KCH supports the code-share arrangement between Air Niugini and Philippine Airlines to develop the sector.

4.5. Investment Promotion Authority (IPA)

47. IPA submitted that the POM/MNL route is more affordable compared to other Asian routes; and that the proposed code-share arrangement will give combined flight schedules more flexibility for passengers' choice of travel. This is because there is a growing demand for medical, education, holiday and business travels on this route. The route provides cheaper options for transiting passengers and increases passenger capacity as well.

48. Currently, there is competition on POM/MNL route and the proposed code-sharing arrangement would reduce this competition. The proposed code-share arrangement can act as barrier to entry to other new potential entrants. Strategies such as slot controls and gate constraints could be used to create barriers as the two airline companies might take advantage of their position.

49. However, IPA also believes that the proposed code-share arrangement is viable for purposes of strengthening PNG's bilateral relationship with Philippines, hence consolidating growth of the sector.

4.6. Department of Trade, Commerce & Industry (DCI)

50. DCI submitted that the proposed code-share arrangement provided a better marketing approach for both airlines in terms of social and economic benefits. DCI believed that the arrangement may strengthen business ties between Air Niugini and Philippine Airlines and also maintain effective services to customers of both airlines.

51. DCI supported the proposed code-share if the arrangement will maximize profits for Air Niugini, but strongly recommends against it should it be a loss- making route.

4.7. ICCC's comments on submissions received

52. Whilst the ICCC understands that code-share arrangement is a better and cost effective approach to support multiple carriers on 'thin' routes, it is of the view that independent operations promote strong competition between the carriers. In this regard, the ICCC concurs with the stakeholders' comments that independent operations maximises the benefits to the traveling public and businesses.

53. From the information Air Niugini provided and noting the comments from SGS regarding the increase in the number of flights by both carriers, the ICCC is of the view that the route has been experiencing growth.

54. The ICCC notes IPAs' general comments that this code-share would strengthen PNG's bilateral relationship with Philippines, hence consolidating growth of the (aviation) sector. The ICCC doubts that this code-share, if authorized, would make significant contribution to strengthen the bilateral ties. This claim and other general claims such as enhancement of trade relations should be properly substantiated. The relevant question to ask is, 'Without the code-share, would the bilateral or trade relations between the two countries deteriorate? If so, would the deterioration be significant?' The ICCC considers the answer is 'No'.

55. The IPA also commented that strategies such as slot controls and gate constraints could be used to create barriers as the two airline companies might take advantage of their position. It is not clear from IPA's comments about who is controlling and would be imposing such constraints, if any. The ICCC understands that airport facilities and allocation of slots or parking bays in PNG are under the control of the National Airport Corporation ("NAC"); and similarly for the airports in the Philippines. Whilst the ICCC does not discount the level of influence the two airlines may have on the airport service providers in their respective countries, there is lack of sufficient information about such behaviour from both companies. Notwithstanding this, the conduct of the airport service providers, in possibly being broadly

motivated to advantage their respective national carriers, whether or not those providers are actually influenced by the carriers, may contribute to such barriers to entry.

5. COMPETITION ASSESSMENT

5.1. The relevant market

56. The ICCC Act defines "market" under section 45 (2) as *"....a market in the whole of Papua New Guinea for goods or services as well as other goods and services that, as a matter of fact and commercial common sense, are substitutable for them, including imports"*.

57. The ICCC defines the relevant market(s) first, in order to set a clear boundary for purposes of assessing any potential impacts of the conduct under consideration (in this case, the code-share arrangement) on the market or markets defined. To identify the relevant product dimension of the market(s), it is essential to identify the relevant goods or services traded by the parties to the code-share agreement, where the trade of the goods or services takes place, whether there are other players (or potential players) offering similar products that would put competitive pressure on the price of the products offered by the parties to the agreement in question, whether such products or similar products can be sourced from other places besides the places where trade for the goods or services in question take place. The ICCC understands that Air Niugini and Philippine Airlines operate regular air services or commonly referred to as regular public transport ("RPT") services between POM/MNL. They provide both passenger and freight services. However, according to the application, the proposed code-share is only for passenger services. Hence, the ICCC will focus its attention on passenger services to define its relevant market.

5.1.1. Applicant's definition of the market

58. Air Niugini defines the relevant market to be the market for provision of passenger air services between PNG and Philippines (POM/MNL Market). Air Niugini considers that the code-share agreement will not affect the freight market as each carrier will retain full revenue from freight access baggage and ancillary services.

5.1.2. The ICCC's approach to defining the market

59. The relevant service the code-share parties are providing is the provision of air passenger and freight services. These services are provided between PNG and the Philippines. For the purpose of this application and the proposed code-share, the relevant service under consideration is the provision of passenger services.

60. The ICCC understands that the category of passengers that travel on the POM/MNL route could possibly be:

a) Government and business travellers;

b) Those visiting friends and relatives (VFR); and

c) Tourists, students and holiday travellers.

61. Hence, the different group of travellers have different demand elasticity to the price-product-quality package combination of services that are being offered on the Asian routes, including the POM/MNL route. Persons travelling beyond Manila to other Asian destinations (like Indonesia, Singapore, Hong Kong and Japan) on government or business related purposes are considered to be less price sensitive, meaning they would be willing to take direct flights, where available, to an Asian destination (i.e. apart from using the POM/MNL route for part of the journey) despite the price. The obvious reason being that the persons on government or business-related trips are not personally paying for the travel and related costs. Also they are more conscious of time when attending to business or meetings. On the other hand, those travelling for other purposes such as visiting family, relatives, friends and holiday travellers would be more sensitive to price. Hence, for those travellers travelling beyond Manila to other Asian destinations, POM/MNL route would be an ideal option if fares on this route are much cheaper than other Asian routes (where Air Niugini flies to).

62. Due to geographical constraints, sea and land transport options are not feasible for passengers travelling between POM/MNL. Therefore, the ICCC considers that there are no viable substitutes available for air passenger services.

63. Looking at the geographic locations of the Asian destinations to which Air Niugini flies, and considering the travel requirements such as visa and other related travel costs that would involve, the ICCC considers that travellers are highly unlikely to transit through those other Asian routes to enter Philippines, if there was a small but significant non-transitory increase in airfares on POM/MNL route. Therefore, the other Asian routes would not offer any competitive pressure on POM/MNL route. Even if there was such an increase in airfares, only the people who travel for purposes such as visiting family, relatives, friends and holidays would be more reactive. However, for the reason just stated above, the ICCC considers that the availability of indirect routes would not impose an effective competitive discipline.

64. For the purposes of this application, the ICCC considers the relevant market to be *the market for the provision of passenger air services between Papua New Guinea and Philippines, with a focus on the POM/MNL route (the market).*

5.2. Assessment of effects on competition in the market

5.2.1. Growth in passenger volume[1]

65. The ICCC understands that Air Niugini and Philippine Airlines are currently providing the passenger air services independently on the POM/MNL route. Air Niugini has been the only carrier operating on this route for some time until Philippine Airlines entered the market in October 2015. After Philippine Airlines entered the market, the total passenger volume growth for the route was recorded at 43% in 2016, compared to previous year where it recorded a decline by 3%. The charts below show the growth in passenger volume. The ICCC considers that the independent entry of Philippine Airlines has propelled this strong growth. The growth continued for the next two years[2].

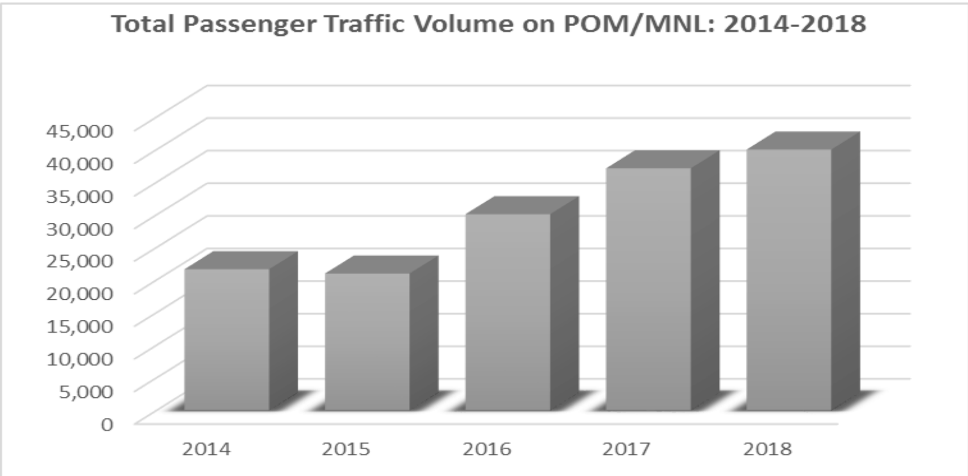
[1] The 2018 figure for Air Niugini is an estimate (or the average of 2014-2017 figures) because Air Niugini did not provide its data for that year.
[2] Please note that 2018 figure was an estimate because the ICCC does not have Air Niugini's figure.

66. On an individual scale, Philippine airlines has recorded, on average, a market share of 44% for passenger volume over the period of three years. However, looking at the performance of each carrier for each year since 2016 (after Philippine Airlines entry in 2015), Air Niugini's volume has been declining, except for 2017, where it increased from a sharply lower base in 2016 compared with 2015, resulting from the entry of Philippine Airlines in 2015. Whilst Air Niugini recorded mixed results for this period, Philippine Airlines has seen continuous growth; and its volume appears to be more than 50% of Air Niugini's volume. Whilst the ICCC understands that most passengers could be of Philippines origin, and hence likely to be loyal to their national airline, it does not restrict Air Niugini to strongly compete against Philippine Airlines to attract new, and retain existing, customers. With the passenger volume presented before the ICCC and the trend of passenger growth over the period when Philippine Airlines was in the market, the level of competition has been vigorous and the growth level was high compared to years when the route was monopolised by Air Niugini.

Figure 1. Passenger volume growth by carrier

[C-I-C]

Figure 2. Total passenger volume growth on POM/MNL route



Source: ICCC's calculation using data provided by both carriers

67. Another sign of vigorous competition between both airlines is the increase in the number of weekly flights by the two carriers.

5.2.2. The structure of the proposed code-share

68. As noted, the structure of the proposed code-share agreement is such that both airlines will code-share on each other's aircraft on a free sale basis. The two airlines will have free access to each other's seat inventory and sell to their respective customers at their own price, depending on the availability of seats.

69. Under a free sale arrangement, the ICCC understands that each carrier does not incur any costs nor any losses associated with unsold capacity. The ICCC therefore considers that a free sale code-share arrangement does not encourage strong competition between the code-share partners. If authorization is granted, it is likely to have the effect of consolidation and

substantially reduce the current level of competition between the carriers. Furthermore, both airlines competing independently on the route results in more public options in terms of prices, services and other related customer rewards such as frequent flyer rewards than it would be if it were on this proposed free sale code-share arrangement. The ICCC encourages a code-share arrangement that is on a 'hard block' basis as it introduces competition to a larger extent than an arrangement that is on a 'free sale' basis.

5.2.3. Barriers to entry

70. There have been a number of barriers to entry which have been identified by the ICCC in previous applications for authorization of code-share agreements. Some of the entry barriers identified are also relevant for discussion in this application.

71. One of the main barriers to entry at Jacksons International Airport, Port Moresby is the unavailability of parking slots. The unavailability of slots would hinder entry of new airlines should the demand for passenger and freight services grow for international flights. This would prevent potential competition on the incumbents.

72. The ICCC also considers that although economies of scale, scope and network economies increase the efficiency and productivity of a firm within an industry, these can also act as barriers to entry. This is particularly true when firms who are well-established in a market would send the signal to potential new entrants that it is not viable to enter and compete with them. For instance, the introduction of excess capacity into the market would be a strategy the incumbents may apply to foreclose potential entrants. The ICCC notes that both carriers have increased their weekly flight frequencies. If the market is not capable of supporting and sustaining the excess capacity, then the potential new entrants would consider such market as not profitable; hence unlikely to enter. Behavioural barriers by incumbents in concentrated markets, especially where they co-ordinate their operations in some way, including code-sharing arrangements, are some of the highest barriers to entry. This market has only two incumbents. Maintaining excess capacity and adding capacity and retaliatory pricing are powerful tools to discourage new entry.

73. Sunk costs are also a significant barrier to entry. Despite the existence of a world-wide market for aircraft leasing and resale, the non-recoverable costs of exit of leasing and resale of aircraft are not trivial. Similarly, non-recoverable costs for breaking gate access agreements; redundancy costs for staff and advertising and promotion costs expended preparatory to; and during operations, add up to significant amounts. In such circumstances, a code-share agreement creates a very strong joint incentive to fend off new entry even if it means substantial losses, the possible future recovery of which, whether actually recovered or not, is economically more attractive than exit.

74. Regulatory requirements such as airline designation and capacity pursuant to bilateral agreements between PNG and Philippines can prove, at times, to be a barrier to entry. Before an airline can operate international services to another country, the originating country's government must first negotiate a treaty level agreement with the destination country's government. In the present case, PNG has a bilateral Air Service Agreement (ASA) with Philippines.

75. Under the ASA, some requirements such as traffic rights, capacity, designation, ownership and control, policy, safety and security clauses would be included. The ICCC considers if these requirements are discriminatory, it can act as a disincentive for potential new entrants

to enter the market and compete. The ICCC noted in previous code-share matters that capacity allocation and airline designation has been mostly in favour of Air Niugini (as the national flag carrier of PNG) and this has been seen as discriminatory and may potentially restrict new entrants, if this has not improved. Whilst it may be argued that capacity allocation and designation would be reviewed from time to time to respond to market demands, if such review would be done after the expiry of the existing bilateral air services agreement (ASA), then potential entry, at any time before review, is not possible and must be delayed until the existing ASA expires. These should therefore be dealt with promptly and appropriately by the relevant regulators.

5.3. Future with and without the code-share

76. The ICCC will consider the public benefits and detriments likely to arise in the future, where the conduct occurs against the future where the conduct does not occur.

77. Air Niugini stated that when assessing the competition effects and public benefits associated with the proposed code-share agreement, it is necessary to compare the likely outcome that the proposed code-share agreement will have if it is granted, against the scenario if it is not granted.

5.3.1. Applicant's submission: with the code-share

78. Air Niugini submitted that currently, there is no existing code-share on POM/MNL route. With the code-share, the two airlines will be competing with each other to sell seats on each other's flights. Both carriers will be able to compete on the open market to sell seats to passengers and increase the volume of passengers on this route.

79. The table below shows Air Niugini's forecast annual percentage change of passenger traffic from 2017 to 2022, with the code-share.

Table 1: Passenger traffic volume (%) changes with the code-share

Passenger	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
POM/MNL	15%	2%	3%	3%	3%
MNL/POM	15%	2%	3%	3%	2%
TOTAL	15%	2%	3%	3%	3%

80. Air Niugini also projected that its overall revenue would increase over the term of the code-share agreement.

81. Air Niugini also stated that the proposed code-share will result in a gradual increase in revenue as passenger numbers (and volume of freight) carried during the term of the code-share are increased due to combined marketing of the airlines. Air Niugini further argued that the structure of the proposed code-share agreement will result in competition for passenger services. Air Niugini claimed that both airlines will be more efficient in their respective operations with key performance targets to do better than current loads. Air Niugini will be competing for sales through Philippine Airlines' wider sales and marketing network and Philippine Airlines will also be able to sell through Air Niugini's sales and marketing network.

82. In addition, Air Niugini stated that there are no other competitors (besides Philippine Airlines) operating on this route that would be adversely affected by the proposed code-share agreement and it does not anticipate that there will be any competitor on this route in the foreseeable future, despite the ability of potential customers to charter their own aircrafts. Air Niugini also states that there are relatively low barriers to entry for other airlines to enter the market, however it considers this to be unlikely in the foreseeable future.

5.3.2. Applicant's submission: without the code-share

83. Air Niugini submitted that the revenue for freight services has remained constant for the period 2014-2017. However, there was a decrease in passenger revenue partly due to economic factors in the region.

84. Based on its projection, Air Niugini further claimed that if authorization is not granted, the present traffic volume will remain the same which will not improve the current revenue levels of Air Niugini.

85. The table below shows the forecast annual change in passenger traffic (in percentage) from 2017 to 2022.

Table 2: Passenger traffic volume (%) changes without the code-share

Passenger	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
POM/MNL	15%	-5%	1%	1%	-5%
MNL/POM	15%	-5%	1%	1%	-5%
TOTAL	15%	-5%	1%	1%	-5%

Source: The ICCC's presentation of data provided by Air Niugini.

5.3.3. The ICCC's consideration

86. Given that the free sale arrangement does little to encourage vigorous competition, the ICCC gives little weight to the claims that the proposed code-share would give rise to competitive airfares. Based on data provided by Philippine Airlines regarding its base fares (for various classes) and the proposed settlement amount (the amount it would pay Air Niugini after selling a ticket under its code on Air Niugini's flights), the ICCC notes that the difference ranges between 10% and 47% with the average difference being 18%[3]. Air Niugini provided its settlement price for each class but did not provide its base fares in respect of each class. Based on Philippine Airlines' data, the ICCC understands that the difference of 10% gives sufficient space for competitive pricing. However, since the marketing carrier would be incurring only minimal costs, largely limited to combined marketing and promotion, there is no, or very little, incentive for vigorous competition on airfares.

87. With regards to Air Niugini's statement that both airlines will be able to compete on the open market to sell seats, the ICCC would like to know how such increased competition would be possible because currently the two airlines are vigorously competing

[3] Calculation based on Philippine Airlines' 2018 base fares and proposed settlement amount.

independently. **Thus it is important for the ICCC to know how this proposed code-share would enhance and improve the existing competitive landscape.**

88. The ICCC considers that the projected increased revenue for Air Niugini, with the code-share, lacks relevant information i.e. how Air Niugini has been doing in previous years and hence, justifying its forecast revenues. Furthermore, such benefits are generally considered to be private benefits rather than public benefits, and should be discounted on that ground, unless they are passed on to other members of society. The ICCC considers that Air Niugini should demonstrate how its gradual increase in revenue would translate to any public benefit; and state those benefits likely to result.

89. Air Niugini stated that the barriers to entry are relatively low, but claims that new entry in the near future is not possible. The ICCC notes that Air Niugini failed to substantiate its claim. The ICCC understands that Philippine Airlines entered the market independently and is currently competing in the market. As seen from *Figure 2* above, the market experienced a huge increase when Philippine Airlines entered. This is economically beneficial in terms of developing and growing the route. The consolidation through the code-share would be likely to minimise competitive efforts and suffocate the growth. Furthermore, if the market, in terms of traffic volume, is sufficient, the possibility of entry should not be discounted.

90. Current market data on the route with respect to passenger volume indicates that there is potential for growth. As the route develops and becomes less costly for travellers, it is likely that traffic volume will continue to increase. If this proposed code-share proceeds, for the reasons discussed in various parts of this draft determination such as consolidation and removal of excess capacity, it would slowly decrease the current level of effective competition (which currently exist as a result of independent and competitive operation).

91. The table below shows the percentage change in annual traffic volume from 2014 to 2017.

Table 3: Passenger traffic volume (%) changes

Passenger	2014-2015	2015-2016	2016-2017
POM/MNL	10%	-10%	20%
MNL/POM	-3%	-14%	19%
TOTAL	3%	-12%	20%

Source: The ICCC's presentation of data provided by Air Niugini.

92. It is significant to note that the passenger traffic volume increase of 20% in 2016-17 coincided with the entry of Philippine Airlines on the route and not only resulted in neutralising the 10% decrease in the previous year but moving to a 'net increase' over the year 2014-15 of 10%. Air Niugini claimed that the code-share would allow both carriers to compete on the route. Given the current average market share of 44% for Philippine Airlines (which has been in the market for the last three years) and the increase of capacity on the route (as a result of the two carriers increasing their flights per week), the ICCC's view is that the market is already competitive and likely to remain competitive while the carriers continue to compete independently. Introduction of this proposed code-share will likely stifle the current level of competition and affect the benefits realised by the travelling public. **Air Niugini did not sufficiently substantiate the claim that the code-share would allow both carriers to compete unless it means that while some competition would continue to prevail. If so, such competition would be at a significantly reduced level from existing levels and remain substantially muted while the code-share agreement is in operation. Also, whilst Air Niugini projected that passenger volume will strongly increase with the proposed code-share, it does not detail**

(a) how the code-share will contribute to such growth;

(b) how the projected growth is calculated i.e. the assumptions underlying the projection; and

(c) the basis of its claim that without the code-share, traffic volumes would fluctuate from -5% in 2018-19; to +1% in 2019-20; to +1% in 2020-21; to -5% in 2021-2022.

It is important the Applicant comments on the above and provide the assumptions used in projections and calculations based thereon to substantiate its claims.

6. PUBLIC BENEFITS

93. Although the code-share arrangement is proposed to be on a free sale arrangement, which appears highly unlikely to encourage strong competition between the carriers, the ICCC may still grant authorization if it is satisfied that, in all the circumstances, it would result in a net benefit to the public i.e. benefits that outweigh any detriments, including those resulting from any lessening or hindering of competition.

6.1. Applicant's submission

94. Air Niugini submitted that the proposed code-share agreement will result in a range of public benefits including:

(a) Provision of cheaper, more frequent air freight and passenger services between PNG and Philippines.

(b) More frequent passenger services allow travelers many options for better connectivity for connecting passengers improving the quality of service which includes reliability and overall quality of the travel experience.

(c) Provision of the opportunity for industry participants in PNG to take advantage of the existing trade agreements, investment and educational ties between PNG and Philippines.

(d) Greater utilization of PNG's existing resources including Jacksons International Terminal enhancing business opportunities and cooperation for PNG investors and Philippine investors. For example, International Container Terminal Services Inc. in partnership with PNG Ports Corp Limited, were awarded a 25 year contract to operate key shipping ports in PNG. There are also closer agricultural relations between both countries such as rice outsourcing project.

(e) Increased opportunities for Air Niugini to improve its return on investment with respect to its B737 aircraft through passenger and freight to and from Manila through Port Moresby to Federated States of Micronesia, Solomon Islands, Vanuatu, Fiji and Australian ports.

(f) The Philippines and PNG Governments have recently expanded their Air Services Agreement to support the growing tourism and trade between the two countries as of June 2018. A code-share partnership at this time will surely bring competition between both airlines that will strive for market share and opportunity for expansion through increased frequencies resulting in greater public benefits.

(g) A strong and more versatile National Flag carrier for PNG.

6.2. The ICCC's consideration of the claimed public benefits

Cheaper airfares and freight charges, more frequent non-stop flights becoming economically feasible than connections via other destinations

95. The ICCC notes the argument that the proposed code-share would offer prospects for cheaper airfares than are currently offered by Air Niugini and Philippine Airlines. However, the ICCC has regard to; and gives due weight to; submissions which have pointed to -

(a) the historical experience on the POM/CNS route where price increases have been disproportionately larger than those on the POM/BNE route, which is subject to competition from Virgin and Qantas; and

(b) the fare reductions which have occurred on the POM/MNL route since the entry of Philippine Airlines.

96. The ICCC notes that the structure of the proposed code-share agreement does not impose any significant costs on the airlines associated with unsold capacity. Thus it provides little incentive for strong 'price wars'. While the proposed code-share may result in increased travel choice for the public, such an arrangement has very limited benefits for the vast majority of consumers on a route that has only two players, especially in the context of current high flight frequency by both carriers. The ICCC also considers that significant reduction in airfares is unlikely under the 'free sale' arrangement unless the margins between actual ticket price and the rate agreed by the parties to pay each other are sufficiently large to manoeuvre and price competitively. While such margins range from 10% to 47%, it is not clear what proportions of seats in particular classes and of overall seat

numbers are subject to each margin. While the 'settlement' amount would compensate parties for their share of joint and common costs e.g. advertising and promotion of common destinations; joint services and similar costs, they need to exceed those costs by a substantial amount to create an effective incentive to compete vigorously, particularly in light of earlier arguments that there would be an overall incentive to 'shift' passengers on to the counterparty's flights if the revenue earned closely approximates that to be earned from actually carrying those passengers. The 'settlement' amounts, therefore, need to be differentiated from a simple 'sales agent' commission arrangement, which are usually of the order of 10%, as code-share need to ensure competition is preserved.

97. In terms of frequency of service argument, the ICCC understands that currently Air Niugini offers five return services to Manila and Philippine Airlines offers four return services that are operated independently. Furthermore, ICCC notes that the number of return services will remain the same under the proposed code-share agreement and Air Niugini did not clearly state how this will result in a more competitive environment than already prevails. While it may be possible that more flights could be made available and consequently, travellers will have increased travelling day options without having to take other indirect Asian routes, the information on the bilateral ASA between PNG and Philippines is currently not available to the ICCC to verify this claim. The ICCC understands that ASA would set out the allowable times an airline is permitted to enter a country over a period of time. Even if the ASA allows more flight time and the carriers increase their flight frequencies, this will result in excess capacity, if the current traffic volume is not sufficient to support such number of flights weekly. On the other hand, if there is excess capacity at present, or such excess results from the code-share arrangements, there would be a strong incentive to reduce frequency to reduce costs, especially if a significant proportion of customers of each airline avail of seats on flights of the other code-share partner; which is likely since loyalty points would be earned on such travel. Such reduction in frequency in such circumstances is likely to result from tacit co-ordination decisions or possibly, from discussions at periodic meetings on the details of code-share operation that would be extremely difficult for a regulator to uncover. It is noted that the frequency of services is intended to remain the same but in exigent economic circumstances justification may be claimed for such reduction. Furthermore, where the incentive to compete vigorously on price is removed, even if frequency is maintained to meet the commitment given in this application, that is likely to come at the cost of airfares to ensure a higher level of profitability which would otherwise have resulted from a reduction in frequency.

Providing opportunities for PNG businesses to utilize good trading, investment and diplomatic relationship with Philippines

98. The ICCC acknowledges that the proposed code-share services would add value to the existing trade agreements and other bilateral and development co-operations. The ICCC also understands that the proposed code-share agreement would create opportunity for economic participation by the code-share partners and will facilitate ease of movement of people between the two countries for trade and investment purposes. However, the ICCC considers that the two countries currently enjoy good bilateral and diplomatic relationships and therefore, the granting or declining of the authorization application will have little effect on the current relationships. The ICCC therefore gives less weight to this claim.

Greater utilization of PNG's existing resources including Jacksons International Terminal enhancing business opportunities and co-operation for PNG investors and Philippine investors. For example, International Container Terminal Services Inc. in

partnership with PNG Ports Corporation Limited was awarded a 25 year contract to operate key shipping ports in PNG. There are also agricultural relations between both countries such as rice outsourcing project.

99. The ICCC agrees with Air Niugini that having access to more flights to Philippines will benefit PNG companies who have trade relationships with Philippines and enable future investments by other interested companies. The ICCC is aware that flights from Port Moresby to Philippines ports were more expensive previously than it is currently because of independent entry by Philippine Airlines. The ICCC considers that the total of nine flights weekly is sufficient to maintain the current level of services enjoyed by businesses in both countries using passenger air services. The ICCC does not have any information that suggests that without the code-share, services would drop. If that were to occur, it would only be as a result of competitive criteria because each party would have a strong incentive to maintain frequency to maximise revenue. Maintaining frequency by high airfares may benefit business passengers but for VFR and other price-sensitive passengers, the cost of airfares is a higher priority. Hence, if the code-share is the only means of maintaining frequency, the benefit is limited to a small proportion of passengers, at the expense of the vast majority.

Increased opportunities for Air Niugini to improve its return on investment with respect to its B737 aircraft through passenger and freight to and from Manila, through Port Moresby, to Federated States of Micronesia, Solomon Islands, Vanuatu, Fiji and Australian.

100. The ICCC considers that return on investment is a private benefit to Air Niugini. Besides, there are no data or facts about the airline paying dividends to the State as sole owner. Even if dividends are paid to the State, it still remains uncertain how much POM/MNL route contributes to the dividend payment. Furthermore, where revenue is assured through the code-share, there is less incentive to pursue efficiency, which can be a significant contributor to net returns. The ICCC, therefore, does not give much weight to this claim.

A strong and more versatile National Flag Carrier for Papua New Guinea

101. While the ICCC notes that Air Niugini is the national flag carrier for PNG, the Applicant did not substantiate why being a national flag carrier is a benefit to the public or society and, more relevantly, how the proposed code-share contributes to any such benefit.

6.3. Conclusion

102. In terms of competition, while acknowledging that the proposed code-share will increase choice and frequency of services for the travelling public, the ICCC considers that there is no clear indication that the proposed free sale arrangement would provide incentive for vigorous price competition. Even if the fares would be independently set by the carriers, as claimed by the Applicant, the ICCC considers that the players would not be likely to competitively sell the seats on their own flights because the parties would not incur any or minimal costs. The ICCC is of the view that the only likely benefit as a result of the code-share would be competition in introducing innovative differentiated products such as better loyalty programs for their respective customers. Such programmes benefit mostly business and government travellers rather than ordinary VFR and tourist travellers.

103. The ICCC also notes that currently, Air Niugini and Philippine Airlines are the only two carriers servicing the POM/MNL route. Hence, the ICCC considers this proposed code-share would not provide additional opportunity for them to compete as they are already in competition, but would rather weaken the current level of competition.

104. On the Applicant's public benefit claims, the ICCC considers that they need to be sufficiently substantiated with facts and statistical information, where necessary. Again, the onus is on the Applicant to satisfy the ICCC that the benefits listed are indeed for the public and are not likely to result *without* the code-share services. The evidence shows that the public benefits claimed are being realised at present under competitive conditions without the proposed code-sharing arrangement.

7. DRAFT DETERMINATION

105. Based on the above assessment and the reasons discussed, on information available to the ICCC and taking into account the comments from stakeholders, the ICCC **PROPOSES TO DECLINE AUTHORIZATION** to Air Niugini to enter into and give effect to this proposed code-share agreement with Philippine Airlines.

 **MR. PAULUS AIN** Commissioner & CEO	 **MR. EDWARD WILLETT** Associate Commissioner (Non-Resident)

Dated the **08th day of July, 2019**