



## **MEDIA RELEASE**

21 September 2015

### **CCS CLEARS STRATEGIC ALLIANCE BETWEEN CEBU AIR, INC. AND TIGER AIRWAYS SINGAPORE PTE. LTD. AFTER REVISIONS MADE TO THE LEVEL OF COOPERATION ON CERTAIN ROUTES**

1. The Competition Commission of Singapore (“CCS”) has cleared a Strategic Alliance Agreement entered into between Cebu Air, Inc. (“Cebu Pacific”) and Tiger Airways Singapore Pte. Ltd. (“Tigerair Singapore”) (collectively, “the Parties”) following revisions made to the level of cooperation between the Parties in relation to certain routes between Singapore and the Philippines. CCS’s assessment took into consideration submissions made by the Parties as well as views and feedback received from other airlines active in the Asia region, the Civil Aviation Authority of Singapore, the Ministry of Transport and the Changi Airport Group during CCS’s public consultation exercise.

#### Competition Assessment of the Original Strategic Alliance Agreement

2. The Parties notified CCS of their Strategic Alliance Agreement on 12 September 2014, which provides for the Parties to, among others:
  - (a) jointly operate common routes<sup>1</sup> between Singapore and the Philippines, and other markets that may emerge, on a metal-neutral<sup>2</sup> basis;
  - (b) jointly sell and market common and non-common routes<sup>3</sup>; and
  - (c) cooperate in relation to sales and marketing, distribution, airport operations and ground handling, scheduling, pricing, service policies, innovation, procurement and other matters.

Originally, the overlapping common routes operated by the Parties were Singapore – Manila, Singapore – Clark and Singapore – Cebu.

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<sup>1</sup> “Common Routes” refer to all routes operated by both the Parties between Singapore and the Philippines.

<sup>2</sup> ‘Metal-neutral’ refers to a form of cooperation in the airline industry in which the commercial interests of all members of an airline alliance are aligned in selling tickets on a route without preference as to which member in the alliance is actually operating the aircraft (or “metal”) on the route.

<sup>3</sup> “Non-Common Routes” are routes where only one Party is operating between Singapore and the Philippines.

3. As the Strategic Alliance involves coordination on pricing, capacity and revenue sharing between the Parties, CCS considered that the Strategic Alliance would by its nature, prevent, restrict or distort competition on the overlapping common routes thereby infringing section 34 of the Competition Act (Chapter 50B) (the “section 34 Prohibition”).

#### Assessment of Net Economic Benefits

4. CCS then proceeded to assess if the Strategic Alliance might benefit from the Net Economic Benefit exclusion and therefore not be subject to the section 34 Prohibition.<sup>4</sup>
5. CCS concluded that the Strategic Alliance is indispensable to generate the following benefits:
  - i improved scheduling;
  - ii improved connectivity for passengers; and
  - iii strengthening Singapore’s position as an air hub, given that it would bring passengers travelling from Philippines through Singapore, and vice versa.
6. Following the implementation of the Strategic Alliance, competition would not be eliminated on the Singapore – Manila route as strong competitors (such as Philippines Airlines and Jetstar Asia) will continue to operate on the route.
7. However, CCS found that the Strategic Alliance would eliminate competition on:
  - i the Singapore – Clark route as the Parties are the only competitors currently operating on this route. Even though the barriers to entry are low, CCS has assessed based on industry feedback that it is unlikely for other airlines to commence operation on this generally unprofitable route in the near future; and
  - ii the Singapore – Cebu route, as the Parties account for more than 80% market share (by passengers). While the route appears to be commercially viable and barriers to entry are low, CCS has assessed

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<sup>4</sup> Agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore fall within Section 34 of the Act. Under section 35 of the Act (read with paragraph 9 of the Third Schedule to the Act), an agreement with net economic benefits can be excluded from the Section 34 prohibition of the Act if such an agreement contributes to improving production or distribution or promoting technical or economic progress but which does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives, and does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods and services in question.

based on industry feedback that there is no indication of any likely new entrant in the next 12 months. Further, CCS found that should the Strategic Alliance be implemented, it would be even more unlikely for other airlines to commence operation on the Singapore – Cebu route in the near future.

8. In view of the competition concerns on the Singapore – Clark and the Singapore - Cebu routes, CCS concluded that the Strategic Alliance would not satisfy the requirements in order to benefit from the Net Economic Benefit exclusion. CCS communicated its concerns to the Parties.

#### Revised Strategic Alliance Agreement

9. After deliberation, the Parties revised the Strategic Alliance Agreement to reduce the level of cooperation on the Singapore – Clark and the Singapore – Cebu routes to cooperating on an interline basis.<sup>5</sup>
10. Under the revised Strategic Alliance Agreement, the Parties will not coordinate on any commercial activities, such as pricing, surcharges and capacity, and will not undertake any form of revenue sharing on the Singapore – Clark and the Singapore – Cebu routes. The Parties’ coordination will instead be restricted to coordinating minimum and maximum connecting times in their booking systems for the purpose of creating joint interline itineraries. Scheduling of flights on these two routes will also be carried out independently by each Party.
11. With the reduced level of cooperation on the Singapore – Clark and the Singapore – Cebu routes, CCS considers that the risk of coordinated fare increases and the possible impediment of new entry by other airlines on these routes will be sufficiently mitigated. The reduced cooperation will still benefit passengers in terms of better connectivity without fares being coordinated by the parties. On this basis, CCS considers that the proposed level of cooperation on the Singapore – Clark and the Singapore – Cebu routes will not infringe the Act.
12. With the competition concerns addressed, CCS has cleared the revised Strategic Alliance Agreement.
13. More information on the clearance decision can be found under “**Public Register – Anti-Competitive Agreements**” on the CCS’s website ([www.ccs.gov.sg/public-register-and-consultation/public-register/anti-competitive-agreements](http://www.ccs.gov.sg/public-register-and-consultation/public-register/anti-competitive-agreements)). More information on how CCS assesses airline alliances can be found in CCS’s “[Market Study on the Airline Industry](#)” published in February 2014.

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<sup>5</sup> Cooperation on these routes were reduced to an interline basis. Interline agreements are agreements between individual airlines to handle passengers who need to travel on multiple airlines as part of their itineraries.

## **About Section 34 of the Act & Notification for Guidance/Decision**

Section 34 of the Act prohibits agreements between undertakings; decisions of associations of undertakings; and concerted practices, which have as their object or effect the appreciable prevention, restriction or distortion of competition within Singapore, unless they are excluded or exempted.

If undertakings have serious concerns as to whether they are infringing the Act's prohibitions, they may seek independent legal advice. They may also notify CCS of their agreements or conduct for:

- a. Guidance as to whether, in CCS's view, the agreement or conduct is likely to infringe the Act, or
- b. A decision by CCS as to whether the agreement or conduct does in fact infringe the Act.

## **About the Competition Commission of Singapore**

CCS is a statutory board established under the Act on 1 January 2005 to administer and enforce the Act. It comes under the purview of the Ministry of Trade and Industry. The Act empowers CCS to investigate alleged anti-competitive activities, determine if such activities infringe the Act and impose suitable remedies, directions and financial penalties.

For more information, please visit [www.ccs.gov.sg](http://www.ccs.gov.sg)

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