

26 November 2023

**COMMITMENTS BY SINGAPORE AIRLINES LIMITED
TO THE COMPETITION AND CONSUMER
COMMISSION OF SINGAPORE
(MERGER COMMITMENTS)**

TABLE OF CONTENTS

Contents	Page
1. INTRODUCTION.....	3
2. DEFINITIONS AND INTERPRETATION	3
3. COMMITMENTS	5
4. REPORTS.....	6
5. COMMENCEMENT, SUSPENSION AND RELEASE OF THE MERGER COMMITMENTS	7

COMMITMENTS TO THE COMPETITION AND CONSUMER COMMISSION OF SINGAPORE

SINGAPORE AIRLINES LIMITED MERGER COMMITMENTS

1. INTRODUCTION

1.1 Singapore Airlines Limited (“**SIA**”) proposes to make voluntary commitments to CCCS pursuant to Sections 60A and 60B of the Competition Act 2004 (“**Act**”) and paragraph 4.57 of the *CCCS Guidelines on Merger Procedures*, in the context of CCCS’s assessment of:

- (a) the acquisition by Talace Private Limited (“**TPL**”) (a subsidiary of Tata Sons Private Limited (“**TSPL**”)), of all shares and voting rights of Air India Limited (“**AI**”) from the Government of India, and indirect acquisition of AI’s shareholding interest of 100% in the equity share capital of Air India Express Limited (“**AIXL**”) and of 50% in the equity share capital of Air India SATS Airport Services Private Limited; and
- (b) the subsequent agreement between AI, TPL, TSPL, TATA SIA Airlines Limited (“**UK**”) and SIA as provided in the Implementation Agreement dated 29 November 2022 (“**Implementation Agreement**”) reflecting the formation of the Enlarged AI Group (“**Proposed Merger**”)

(both (a) and (b) in this paragraph 1.1 will be hereinafter referred to collectively as the “**Merger**”).

1.2 The voluntary commitments for the Merger (the “**Merger Commitments**”) are made in the interests of assuring CCCS that it can holistically assess the Merger, and in particular that neither transaction forming part of the Merger will infringe Section 54 of the Act. AI and UK will make their own, and consistent, commitments in parallel with the submission of these Merger Commitments and AI, UK, and SIA will be collectively referred to hereinafter in this document as the “**Parties**”.

1.3 The Parties will, at their own cost, appoint an independent auditor (“**Independent Auditor**”) to monitor compliance with these Merger Commitments. The Independent Auditor and the Parties shall provide reports to CCCS in accordance with Section 4 of these Merger Commitments.

2. DEFINITIONS AND INTERPRETATION

2.1 In this document, unless the context otherwise requires, the following words, expressions and abbreviations have the following meanings ascribed to them:

- (a) “**Act**” means the Competition Act 2004 of Singapore;
- (b) “**Ad Hoc Reports**” shall have the meaning ascribed to it in paragraph 4.8;
- (c) “**AI**” means Air India Limited and shall include its subsidiaries for the purpose of computing AI’s capacity;

- (d) “**AIXL**” means Air India Express Limited;
- (e) “**CCCS**” means Competition and Consumer Commission of Singapore;
- (f) “**COVID-19**” means the infectious disease known as Coronavirus Disease 2019;
- (g) “**Effective Date**” shall refer to the date when the Proposed Merger closes as per the Implementation Agreement;
- (h) “**Enlarged AI Group**” means the surviving entity following the Proposed Merger;
- (i) “**Implementation Agreement**” shall have the meaning ascribed to it in paragraph 1.1(b);
- (j) “**Independent Auditor**” shall have the meaning ascribed to it in paragraph 1.3;
- (k) “**Interim Report**” shall have the meaning ascribed to it in paragraph 4.4;
- (l) “**Merger**” shall have the meaning ascribed to it in paragraph 1.1(b);
- (m) “**Merger Commitments**” shall have the meaning ascribed to it in paragraph 1.2;
- (n) “**New Circumstances**” shall have the meaning ascribed to it in paragraph 5.5;
- (o) “**Non-Fulfilment Threshold**” shall have the meaning ascribed to it in paragraph 4.4;
- (p) “**Parties**” shall have the meaning ascribed to it in paragraph 1.2;
- (q) “**Pre-COVID-19 Levels**” means the combined capacity operated by SIA for the calendar year of 2019 and calculated as a weekly average. For SIA, a weekly average will be calculated by dividing the total capacity operated by SIA in the calendar year of 2019 by 52 for the purpose of Weekly Average Comparisons (as defined in paragraph 2.1(ee));
- (r) “**Proposed Merger**” means the proposed merger between TPL, AI and UK, and SIA’s acquisition of a 25.1% stake in the Enlarged AI Group as set out in the Implementation Agreement;
- (s) “**Relevant Commitments**” shall have the meaning ascribed to it in paragraph 5.5;
- (t) “**Report**” shall have the meaning ascribed to it in paragraph 4.2;
- (u) “**Report Year**” means twelve (12) calendar months, unless specified otherwise;
- (v) “**SIA**” means Singapore Airlines Limited and its subsidiaries;
- (w) “**SIN-BOM vv**” relates specifically to the non-stop (i.e., direct) bidirectional air passenger transport services between Singapore and Mumbai, India (which as the context requires shall include the upcoming New Mumbai International Airport);

- (x) “**SIN-DEL vv**” relates specifically to the non-stop (i.e., direct) bidirectional air passenger transport services between Singapore and New Delhi, India (which as the context requires shall include the upcoming Noida International Airport);
- (y) “**SIN-MAA vv**” relates specifically to the non-stop (i.e., direct) bidirectional air passenger transport services between Singapore and Chennai, India;
- (z) “**SIN-TRZ vv**” relates specifically to the non-stop (i.e., direct) bidirectional air passenger transport services between Singapore and Tiruchirappalli, India;
- (aa) “**TPL**” means Talace Private Limited;
- (bb) “**TSPL**” means Tata Sons Private Limited;
- (cc) “**UK**” means TATA SIA Airlines Limited;
- (dd) “**vv**” is used to indicate services provided in either direction; and
- (ee) “**Weekly Average Comparisons**” means a comparison between the operated capacity of SIA in any given week, compared with Pre-COVID-19 Levels calculated in accordance with the definition above at paragraph 2.1(q).

3. COMMITMENTS

3.1 Subject to paragraph 5.2, SIA hereby makes the following commitments.

To maintain capacity levels for scheduled international air passenger transport services for the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and SIN-TRZ vv routes

3.2 SIA commits that it will maintain minimum weekly scheduled air passenger transport capacity at Pre-COVID-19 Levels on each of the:

- (a) SIN-BOM vv route;
- (b) SIN-DEL vv route;
- (c) SIN-MAA vv route; and
- (d) SIN-TRZ vv route.

3.3 The commitment at paragraph 3.2 would be measured using Weekly Average Comparisons.

3.4 Without limitation to section 5 below, the commitment specified in paragraph 3.2 would be deemed fulfilled where [CONFIDENTIAL] of Pre-COVID-19 Levels on each of the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and SIN-TRZ vv routes are achieved in [CONFIDENTIAL] (i.e. up to a maximum of [CONFIDENTIAL] of non-fulfilment) for each Report Year in accordance with paragraph 3.3 and subject to paragraph 4.7.

4. REPORTS

- 4.1** The Parties will appoint, at their own cost, an Independent Auditor whose appointment (and the terms and conditions of that appointment) will be subject to the approval of CCCS, within three (3) calendar months of a positive decision being issued by CCCS in respect of the Merger under Section 58 of the Act and CCCS's acceptance of the Parties' commitments pursuant to Section 60A of the Act.
- 4.2** The Independent Auditor will prepare and provide to CCCS, a report which monitors SIA's compliance over the preceding Report Year (or any other period as agreed upon with CCCS) with the commitments outlined in paragraphs 3.2 to 3.4 (the "**Report**"):
 - (a) the first Report Year will begin on the Effective Date. The first Report will cover the period of six (6) calendar months after the start of the first Report Year, and subsequent Reports will cover a yearly period from the six (6) calendar months mark;¹
 - (b) each Report will be provided within two (2) calendar months following the period to which the Report relates.²
- 4.3** Specifically, the Report for SIA will specify:
 - (a) the weekly scheduled international air passenger transport capacity operated by SIA on each of the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and SIN-TRZ vv routes;
 - (b) the weeks of non-fulfilment of the committed capacity levels in paragraphs 3.2 to 3.4;
 - (c) whether the non-fulfilment of the committed capacity levels in paragraphs 3.2 to 3.4 arises as a result of the circumstances listed in paragraph 5.2, or any other circumstances;
 - (d) each Report will separately identify the Report Years it covers and the findings on whether SIA has complied with the committed capacity levels in paragraphs 3.2 to 3.4, in the manner specified in paragraph 3.4 for each such Report Year, provided that the determination whether SIA has complied with its commitments in the manner specified in paragraph 3.4, shall be made only for a complete Report Year comprising twelve (12) months; and
 - (e) where relevant and if required, reasons for any variations from the committed capacity levels in paragraphs 3.2 to 3.4 above.
- 4.4** Prior to the Report, SIA will submit an interim report which monitors its compliance with the committed capacity levels in paragraphs 3.2 to 3.4 ("**Interim Report**") upon meeting [**CONFIDENTIAL**] of non-fulfilment in a Report Year ("**Non-Fulfilment Threshold**").
- 4.5** Specifically, the Interim Report for SIA will specify:

¹ For example, if the Effective Date was on 5 March 2024, the first Report will cover the six (6) month period from 5 March 2024 to 5 September 2024, and the next Report will cover the period from 6 September 2024 to 5 September 2025.

² For example, if the Report Year ends on 10 March 2024, the Report would be due on 10 May 2024.

- (a) the weekly scheduled international air passenger transport capacity operated by SIA on each of the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and SIN-TRZ vv routes up to the time the Non-Fulfilment Threshold is met;
 - (b) the weeks of non-fulfilment of the committed capacity levels in paragraphs 3.2 to 3.4;
 - (c) whether the non-fulfilment of the committed capacity levels in paragraphs 3.2 to 3.4 arises as a result of the circumstances listed in paragraph 5.2, or any other circumstances; and
 - (d) where relevant and if required, reasons for any variations from the committed capacity levels in paragraphs 3.2 to 3.4 above.
- 4.6** SIA will submit the Interim Reports within [CONFIDENTIAL] after the Non-Fulfilment Threshold is met. If the due date of any Interim Report falls less than [CONFIDENTIAL] from the due date of the Report, the Interim Report will not be required.
- 4.7** For the avoidance of doubt, the non-fulfilment of commitments can arise from either of the circumstances listed in paragraph 5.2, or any other circumstances. SIA will still be deemed to satisfy the committed capacity levels in paragraphs 3.2 to 3.4 as long as the number of weeks of non-fulfilment, excluding the weeks of non-fulfilment arising from circumstances listed in paragraph 5.2, do not exceed [CONFIDENTIAL] for each Report Year.³
- 4.8** At CCCS's reasonable request, the Independent Auditor will prepare and provide reports to verify the accuracy of any submissions or data provided by SIA ("Ad Hoc Reports"). CCCS is able to request for Ad Hoc Reports in the following situations:
- (a) CCCS has identified discrepancies in SIA's submissions or data that cannot be easily verified or explained, and these discrepancies are in SIA's favour.
 - (b) There are amendments to the submissions or data that cannot be easily verified or explained, and these amendments are in SIA's favour.
 - (c) CCCS receives credible information that SIA's submissions or data are inaccurate, and these inaccuracies are in SIA's favour.

5. COMMENCEMENT, SUSPENSION AND RELEASE OF THE MERGER COMMITMENTS

Commencement of the Merger Commitments

- 5.1** The Merger Commitments will commence on the Effective Date.

Suspension of the Merger Commitments

- 5.2** The committed capacity levels in paragraphs 3.2 to 3.4 given by SIA would be temporarily suspended for the period where any of the following circumstances, insofar as they result from events, circumstances or causes beyond the reasonable control of the Parties, arise:

³ For example, if there are 30 weeks of non-fulfilment as a result of any of the circumstances listed in paragraph 5.2, SIA is still deemed to have satisfied the committed capacity levels in paragraphs 3.2 to 3.4 as long as the number of weeks of non-fulfilment, excluding the weeks of non-fulfilment arising from circumstances listed in paragraph 5.2, do not exceed [CONFIDENTIAL] out of the 22 remaining weeks.

- (a) Force majeure which directly or indirectly affect the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, or SIN-TRZ vv services for air passenger transport, including but not limited to:
 - (i) natural disasters;
 - (ii) war;
 - (iii) strikes (including airport or transport worker strikes etc);
 - (iv) terrorist attacks;
 - (v) disease outbreak;
 - (vi) airspace closures;
 - (vii) airport closures;
 - (viii) adverse weather conditions;
 - (ix) non-availability of insurance; or
 - (x) any other safety or security related developments which require cancellation of flights, or variations to flight schedules.
- (b) Aircraft maintenance requirements with regard to a specific aircraft as determined by either of the Parties, or technical problems associated with a specific type of aircraft necessitating maintenance or repair as determined by the manufacturer and/or aviation authorities. For the avoidance of doubt, such requirements may arise in respect of aircraft deployed directly by the Parties on the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and/or SIN-TRZ vv routes for air passenger transport, or may arise in respect of other aircraft in the fleet of either of the Parties (where such maintenance requirements indirectly affect the deployment, operation or sustainability of services, and or capacity, on the SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and/or SIN-TRZ vv routes for air passenger transport). Where aircraft maintenance (affecting compliance with the committed capacity levels in paragraphs 3.2 to 3.4) is conducted by either of the Parties, details of such maintenance shall be provided to CCCS in the Report.
- (c) Delays in aircraft deliveries which impact the ability of the respective airlines to implement the committed capacity levels in paragraphs 3.2 to 3.4.
- (d) Worldwide, regional, or local grounding of any aircraft category, class, model or variant, arising from circumstances outside the control of the Parties.
- (e) Need for return of slots / traffic rights to aviation regulators which could have a direct or indirect impact on the commitments, including but not limited to seat capacity.
- (f) Any development that could potentially have an adverse financial impact on either airline, requiring a cancellation or variation of services to ensure the continued financial viability of either airline.

5.3 Subject to paragraph 4.4, in the circumstances set out above in paragraphs 5.2(a) to 5.2(f), the Parties retain the right to effect any required changes immediately as determined by either of the Parties, and to notify CCCS at the point that the Report is due.

- 5.4** In respect of notifications made to CCCS in accordance with paragraph 5.3 above, the Parties will seek the retroactive approval of CCCS for the variation from the committed capacity levels in paragraphs 3.2 to 3.4.
- 5.5** Other than in situations covered in paragraphs 5.2 and 5.3, where there are any circumstances that, in the Parties' view, would materially affect the ability of the Parties to satisfy the committed capacity levels in paragraphs 3.2 to 3.4 and/or the commitments in paragraphs 4.1 to 4.7 (collectively, the "**Relevant Commitments**") in any relevant Report Year (the "**New Circumstances**"):
 - (a) The Parties will notify CCCS within [CONFIDENTIAL], or any other period as agreed upon with CCCS, following the Parties becoming aware that the New Circumstances would result in the Parties not meeting (or being unlikely to meet) the Relevant Commitments.
 - (b) When notifying CCCS in accordance with paragraph 5.5(a), the Parties will inform CCCS of the background and impact of the New Circumstances and provide CCCS with information (within the possession or custody or control of the Parties), that would support the stated impact (or aid in CCCS's assessment of such).
 - (c) The Parties may propose and discuss with CCCS, in good faith, the possible variation, substitution or release of the Relevant Commitments, for the period in which the Parties are unlikely to meet the Relevant Commitments as a result of the New Circumstances.
 - (d) Where the New Circumstances result in the Parties not satisfying the Relevant Commitments, and the Parties have not gone through the process set out in paragraphs 5.5(a) to 5.5(c), the Parties acknowledge that CCCS may make a determination that the Relevant Commitments has been breached, and take such action as CCCS deems necessary in accordance with the Act.
- 5.6** Other than in situations covered in paragraphs 5.2, 5.3 and 5.5, the Parties will notify the CCCS as soon as reasonably practicable after becoming aware that they have not met (or are unlikely to meet) the Relevant Commitments.

Full release or substitution or variation of the Merger Commitments

- 5.7** The Parties may make an application to CCCS, supported by reasons, for any or all of the Relevant Commitments to be varied, substituted or released.
- 5.8** Without prejudice to paragraph 5.7, where either of the Parties consider that there has been, or is likely to be, a material change in market conditions or operating circumstances or competitive conditions in respect of SIN-BOM vv, SIN-DEL vv, SIN-MAA vv, and/or SIN-TRZ vv routes traffic levels arising from any circumstance or development directly or indirectly connected to the routes not contemplated in paragraphs 5.1 to 5.5, the Parties may make an application to CCCS (supported by reasons) for any of the Relevant Commitments to be varied, substituted or released. Material changes would include, but are not limited to, long-term changes to the Parties' operational fleets, such as the retirement of certain aircraft types.

In witness whereof these Merger Commitments have been entered into on [•].

SIGNED by [•]

for and on behalf of

SINGAPORE AIRLINES LIMITED