



## **Australian Government**

### **International Air Services Commission**

#### **PROTOCOL BETWEEN THE IASC SECRETARIAT AND COMMISSIONERS FOR THE HANDLING OF APPLICATIONS UNDER DELEGATED ARRANGEMENTS EFFECTIVE 28 NOVEMBER 2003**

1. This protocol establishes agreed arrangements to ensure that applications are determined by the Commission or the delegate in accordance with the intentions of the Parliament set out in the *International Air Services Act 1992*, as amended, and associated regulations.
2. The secretariat will notify Commissioners by email within 24 hours of receipt of an application. The notification will contain a brief summary of the application and attach a copy of it.
3. The construction of the Act, regulations and instrument of delegation means that the appropriate decision-maker (Commission or delegate) can be determined at the outset in only two circumstances. In other cases, the process of advertising and/or calling for submissions sets up decision points for deciding whether the Commission or delegate will handle a matter. The attached flow chart sets out in summary form the decision points, and decisions that will be taken at each point depending upon circumstances, leading to determining whether the delegate or Commission will consider a matter.
4. The two circumstances in which the secretariat will be able to identify immediately whether the delegate or the Commission will handle the matter are:
  - Applications from a new carrier - the Commission will deal with these.
  - Applications from a carrier to reduce capacity allocated by an existing determination (application not required to be advertised) - will be handled by the delegate.
5. For applications for capacity or variations that appear at the outset to raise competition concerns, the secretariat will recommend that the Commission handle the case. The Commission may either agree or decide to await the outcome of the advertising process to see if other applicants or submitters raise concerns about the proposal.
6. In all other cases, the secretariat will advertise the application before recommending who is to handle the matter. In the case of applications for capacity or renewal of existing determinations, only other applications for capacity will be sought. The secretariat will advise the Commission within 24 hours of receipt of any intention to make an application. The Commission will

decide such cases. If no intention to make an application is received by the end of the required period, the secretariat will advise the Commission within 24 hours. The delegate will decide such cases.

7. For variation applications, other than to reduce capacity, the secretariat will advertise the application and invite other applications (if a capacity increase is involved) and submissions. If an intention to apply or submit is received, the secretariat will advise the Commission within 24 hours. If another application is proposed, the Commission will decide the matter. Once submissions are received, the secretariat will advise whether or not the paragraph 5 criteria were applied in making the current determination. If they were, and at least one submission opposes the application, the Commission will decide the matter. If the paragraph 5 criteria were not applied, or all submissions support the application, the delegate will decide the matter.
8. The delegate will advise the Commission within 24 hours of making a determination or decision that it has done so, including attaching a copy of the determination or decision.
9. In all circumstances, the Commission reserves the right to determine any case, including ones that are within the power of the delegate to decide. In such cases the Commissioners should advise the secretariat in writing (by letter or email) of their intentions.
10. The Commission and secretariat agree that the existing system of numbering determinations and decisions will be maintained under the delegated arrangements. Any changes to the numbering arrangement in future will maintain consistency between Commission and delegate determinations and decisions.



John Martin  
Chairman

(on behalf of the Commission)



Michael Bird  
Executive Director

(on behalf of the secretariat)

16 December 2003