

# RENEWAL DETERMINATION

**DETERMINATION NO:** IASC/DET/9804  
**PUBLIC REGISTER FILES:** IASC/APP/97026  
IASC/COM/92001  
**RENEWAL OF:** DETERMINATION IASC/DET/9309  
**THE ROUTE:** JAPAN  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(ACN 009 661 901)

## 1 The application for renewal

1.1 On 9 August 1993, the Commission issued Determination IASC/DET/9309 (the determination). The determination, as varied by Decisions IASC/DEC/9801 and IASC/DEC/9804, allocates seven B767-200 units of capacity per week to Japan to Qantas Airways Limited ACN 060 622 460 (Qantas). The determination expires on 8 August 1998.

1.2 Qantas wrote to the Commission seeking renewal of the determination. The Commission published a notice inviting other applications for an allocation of all or part of the capacity subject to renewal and submissions from any interested person about the renewal of the determination. No other applications or submissions were received.

## 2 Commission's consideration of the renewal of the determination

2.1 Under section 11 of the *International Air Services Commission Act 1992* (the Act), the Minister may make Policy Statements setting out matters relevant to the Commission's performance of its functions. Under the Policy Statement (No. 3), issued by the Minister on 23 April 1997, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- code sharing arrangements with Japan Airlines between Australia and Kansai (as approved by Decision IASC/DEC/9801) will result in the under utilisation of a small amount of the allocated capacity until 31 October 1998;
- there are no other applicants seeking any part of this capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 The Commission concludes that the renewal of Determination IASC/DET/9309 would be of benefit to the public.

2.4 The wording of the new determination below reflects the belief of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

### **3 Determination for renewal of Determination IASC/DET/9309 allocating capacity on the Japan route to Qantas (IASC/DET/9804)**

3.1 The Commission finds a renewal of the Determination IASC/DET/9309 allocating seven B767-200 units of capacity per week on the Australia - Japan route to Qantas would be of benefit to the public.

3.2 The Commission makes a determination in favour of Qantas, allocating six B767-200 units of capacity per week in each direction between Australia and Kansai and one B767-200 units of capacity per week in each direction between Australia and ports other than Kansai under the Australia - Japan Air Services Agreement.

3.3 The determination is for five years from 9 August 1998 and is subject to the following conditions:

- Qantas is required to:
  - fully utilise the capacity from 9 August 1998;
  - utilise six B767-200 units of capacity per week at Kansai only;
  - operate no more than six frequencies per week at Kansai with the capacity allocated under this determination;
- only Qantas is permitted to utilise the capacity;
- three B767-200 units of the capacity per week at Kansai may be used by Qantas to provide services jointly with Japan Airlines over the period 9 August 1998 to 31 October 1998 in accordance with the code share agreement finalised between Qantas and Japan Airlines and lodged with the Commission on 17 March 1998, subject to the following conditions:
  - Qantas must price and sell its services on the route independently;
  - Qantas must not share or pool revenues; and
  - Qantas must take all reasonable steps to ensure that passengers are informed at the time of seat reservation, of the carrier actually operating the flight;

- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia-Japan Air Services Agreement being withdrawn; or
  - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Qantas or be in a position to exercise effective control of Qantas, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Qantas are permitted except to the extent that any change results in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia-Japan Air Services Agreement.

Dated: 3 April 1998

James K Bain  
Chairman

Russell V Miller  
Member

Michael L Lawriwsky  
Member