

RENEWAL DETERMINATION

DETERMINATION NO: IASC/DET/9810
PUBLIC REGISTER FILES: IASC/APP/97026
IASC/COM/92005
RENEWAL OF: DETERMINATION IASC/DET/9317
THE ROUTE: SOUTH AFRICA
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)

1 The application for renewal

1.1 On 21 October 1993, the Commission issued Determination IASC/DET/9317 (the Determination) which allocated one B747 service per week on the South Africa route to Qantas Airways Limited (Qantas). The Determination expires on 20 October 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:

- Qantas is fully utilising the relevant capacity;
- 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/9317 would be of benefit to the public.

2.4 The wording of the new determination below reflects the view 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.

2.5 In this regard, the Commission notes that changes to air service arrangements between Australia and South Africa have resulted in capacity on the new route being expressed as “frequencies per week in each direction with any aircraft type”, rather than as B747 units as at the time of issue of the original determination.

3 Determination for renewal of Determination IASC/DET/9317 allocating capacity on the South Africa route to Qantas (IASC/DET/9810)

3.1 The Commission finds a renewal of Determination IASC/DET/9317 allocating capacity on the Australia – South Africa route to Qantas would be of benefit to the public.

3.2 The Commission makes a determination in favour of Qantas, allocating 1 frequency per week in each direction with any aircraft type between Australia and South Africa under the Australia – South Africa air services arrangements.

3.3 The Determination is for five years from 21 October 1998 and is subject to the following conditions:

- Qantas is required to fully utilise the capacity from 21 October 1998;
- only Qantas is permitted to utilise the capacity;
- Qantas is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- 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 – South Africa 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 – South Africa Air Services Agreement.

Dated: 18 May 1998

James K Bain
Chairman

Russell V Miller
Member

Michael L Lawriwsky
Member