

RENEWAL DETERMINATION

DETERMINATION NO: [2000] IASC 106
RENEWAL OF: DETERMINATION IASC/DET/9315
THE ROUTE: HONG KONG
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)

1 The application for renewal

1.1 On 24 September 1993, the Commission issued Determination IASC/DET/9315 (the determination) allocating 1,800 seats of capacity per week to Qantas Airways Limited (Qantas) on the Hong Kong route.

1.2 The determination expires on 30 June 2000.

1.3 Qantas has applied to the Commission seeking a renewal of the determination. The Commission subsequently published a notice inviting submissions from any interested person about the renewal of the determination, and other applications for an allocation of all or part of the capacity subject to renewal. Ansett International filed a submission opposing the renewal, but withdrew its objections subsequently.

2 Commission's consideration

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 has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 The Commission therefore concludes that the renewal of Determination IASC/DET/9315 would be of benefit to the public.

2.4 The wording of the fresh 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/9315 allocating capacity on the Hong Kong route to Qantas ([2000] IASC 106)

3.1 The Commission finds a renewal of the Determination IASC/DET/9315 allocating capacity to Qantas on the Hong Kong route would be of benefit to the public.

3.2 The Commission makes a fresh determination in favour of Qantas, allocating 1,800 seats of capacity per week to Hong Kong under the Australia- Hong Kong Air Service Agreement.

3.3 The determination is for 5 years from 1 July 2000 and is subject to the following conditions:

- that Qantas is required to fully utilise the allocated capacity from 1 July 2000;
- only Qantas is permitted to utilise the capacity;
- operate no more than seven frequencies per week utilising the 1,800 seats of capacity.
- 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-Hong Kong Air Service 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-Hong Kong Air Service Agreement.

Dated: 21 February 2000

Michael Lawriwsky
Member

Stephen Lonergan
Member