



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION: [2001] IASC 102
THE ROUTE: SINGAPORE
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)
PUBLIC REGISTER FILE: IASC/APP/200103

1 The application

1.1 On 19 January 2001, Qantas Airways Limited (Qantas) applied for an allocation of capacity on the Singapore route. Qantas is seeking an allocation of 1,205 seats per week in each direction to enable it to accommodate changes to services planned for the Northern Summer 2001 scheduling period (commencing 25 March 2001).

1.2 Qantas plans to substitute larger for smaller aircraft on the Australia/Mumbai via Singapore route, increase seats between Brisbane and Singapore and expand its code sharing on British Airways (BA) operated services between Melbourne and London via Singapore. Qantas has also sought authority for BA to code share on Qantas' extra capacity, in accordance with the Qantas/BA Code Share Agreement of 5 October 1997, and to engage in joint pricing and marketing pursuant to the Restated Joint Services Agreement.

1.3 The Commission published a notice on 24 January 2001 inviting other applications for all or any part of the capacity and submissions from interested parties about the Qantas application. No applications or opposing submissions were received. A submission supporting Qantas' application was received from the Australian Tourist Commission (ATC). The ATC stated the extra capacity should have a positive impact on inbound traffic from India and Singapore.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Singapore air services arrangements, the designated airlines of Australia will be entitled to operate 28,100 seats per week in each direction from 1 March 2001. There are currently allocations to Ansett International of 6,197 seats and to Qantas of 19,856 seats. This leaves 2,047 seats available for allocation.

3 Commission's assessment

3.1 Under paragraph 6.2 of the Minister's Policy Statement, in the absence of submissions about or opposing an application, the Commission is required only to apply the criteria in paragraph 4 of the Policy Statement. Under paragraph 4 the use of Australian entitlements by a carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public. For an established international carrier such as Qantas, this means that there is public benefit arising from the use of the entitlements. Therefore, the Commission concludes that an allocation to Qantas of 1,205 seats per week in each direction on the Singapore route would be of benefit to the public.

3.2 Section 15(2)(d) of the Act specifies that the Commission must include a condition in determinations stating the extent to which the carrier may use that capacity in joint services with another carrier. Qantas has stated that the capacity would be used in part in a code share arrangement whereby BA would market capacity on Qantas operated services on the route. The Commission has previously approved the operation of capacity by Qantas in joint services with BA pursuant to the Qantas/BA Code Share Agreement of 5 October 1997 and will do so in this case, subject to its usual conditions relating to this agreement.

4 Other issues

4.1 The Commission normally includes conditions in determinations approving code shares that the Australian carrier must price and sell its services on the route independently and that it must not share or pool revenues. However, in this case it will not do so because the Australian Competition and Consumer Commission (ACCC) has issued an authorisation for a Restated Joint Services Agreement (JSA) between Qantas and British Airways which allows joint pricing and revenue pooling.

5 Determination allocating capacity on the Singapore route to Qantas ([2001] IASC 102)

5.1 The Commission makes a determination in favour of Qantas, allocating 1,205 seats per week in each direction on the Singapore route under the Australia - Singapore air services arrangements.

5.2 The determination is for five years from the date of the determination.

5.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 30 April 2001 or from such other date approved by the Commission;
- only Qantas is permitted to utilise the capacity;

- the capacity may be used by Qantas to provide services jointly with British Airways in accordance with:
 - the code share agreement dated 5 October 1997; or
 - any new code share agreement, whether or not it replaces the existing agreement, with the prior approval of the Commission;
- Qantas may only price and market its services, or share or pool revenues/profits on the route, jointly with British Airways as long as such practices are authorised under the *Trade Practices Act 1974* or otherwise authorised by the Australian Competition Tribunal, in the event of review by that Tribunal;
- Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking;
- 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 - Singapore air services arrangements 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 would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia - Singapore air services arrangements.

Dated: 15 February 2001

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member