



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION: [2001] IASC 104
THE ROUTE: FRANCE (ROUTE 3 – NEW CALEDONIA)
THE APPLICANT: QANTAS AIRWAYS LIMITED (ACN 009 661 901) (QANTAS)
PUBLIC REGISTER FILE: IASC/APP/200115

1 The application

1.1 On 23 April 2001, Qantas applied for an allocation of capacity on the New Caledonia route. Qantas is seeking an allocation of 0.5 units of capacity per week in each direction to enable it to upgrade equipment on an existing service and to add a new B737 service.

1.2 The Commission published a notice on 3 May 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.

1.3 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 – France air services arrangements, the designated airlines of Australia are entitled to operate 2.5 units of capacity and one B737 freighter per week on France Route 3. Qantas already has an allocation of 1 unit and there are 1.5 units available for immediate 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 0.5 units of capacity per week in each direction on France Route 3 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 a code share arrangement with Air Caledonie International. The Commission has previously approved the operation of capacity by Qantas in joint services with Air Caledonie International and will do so in this case, subject to its usual conditions relating to this agreement.

4 Determination allocating capacity on the France Route 3 route to Qantas ([2001] IASC 104)

4.1 The Commission makes a determination in favour of Qantas, allocating 0.5 units of capacity per week in each direction on the France route 3 route under the Australia - France air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 31 July 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 Air Caledonie International in accordance with:
 - the code share agreement dated 6 August 1997, signed by Qantas and Air Caledonie International, or
 - any subsequent code share agreement between Qantas and Air Caledonie International for operations on the Australia-France Route 3 route with the prior approval of the Commission; and
- Qantas must price its services on the route independently;
 - Qantas must not share or pool revenues on the route; and
 - 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 - France 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 - France air services arrangements.

Dated: 21 May 2001

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member