



INTERNATIONAL AIR SERVICES COMMISSION

RENEWAL DETERMINATION

DETERMINATION NO: [2001] IASC 119
RENEWAL OF: DETERMINATION IASC/DET/9702
THE ROUTE: HONG KONG
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)
PUBLIC REGISTER FILE: IASC/APP/200124

1 The application for renewal

1.1 On 7 February 1997, the Commission issued Determination IASC/DET/9702 allocating 4,400 seats and 14 frequencies per week for passenger services and one frequency per week for cargo services in each direction to Qantas Airways Limited (Qantas) on the Hong Kong route. The determination was subsequently varied by Decisions IASC/DEC/9806 and IASC/DEC/9926, with the effect that the amount of capacity allocated is now 4,433 seats and 14 frequencies per week for passenger services and one frequency per week for cargo services.

1.2 The determination expires on 30 June 2002.

1.3 Qantas 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. No submissions or other applications were received.

2 Commission's consideration

2.1 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/9702 would be of benefit to the public.

2.4 The wording of the fresh 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 *International Air Services Commission Act 1992*, 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/9702 allocating capacity on the Hong Kong route to Qantas ([2001] IASC 119)

3.1 The Commission finds a renewal of Determination IASC/DET/9702 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 4,433 seats and 14 frequencies per week for passenger services and one frequency per week for cargo services per week in each direction on the Hong Kong route.

3.3 The determination is for five years from 1 July 2002 and is subject to the following conditions:

- Qantas is required to fully utilise the allocated capacity;
- 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 - Hong Kong 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 - Hong Kong air services arrangements.

Dated: 13 December 2001

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member