



INTERNATIONAL AIR SERVICES COMMISSION

RENEWAL DETERMINATION

DETERMINATION NO: [2001] IASC 123
RENEWAL OF: DETERMINATION IASC/DET/9709
THE ROUTE: THAILAND
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901) (QANTAS)
PUBLIC REGISTER FILE: IASC/APP/200124

1 The application for renewal

1.1 On 3 March 1997, the Commission issued Determination IASC/DET/9709 (the determination) renewing the allocation of 21.8 B747 equivalent units per week in each direction between Australia and Thailand. The allocation was subsequently reduced to 13 B747 units by decision IASC/DEC/9904. The determination was also varied by decisions IASC/DEC/9805 and [2000] IASC 202 to permit joint operations with British Airways and Finnair respectively. The determination expires on 30 June 2002.

1.2 Qantas has applied to the Commission for a renewal of the determination. The Commission published a notice on 31 August 2001 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

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

2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 3), of 23 April 1997, as amended on 9 March 1999, 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 In these circumstances, the Commission concludes that the renewal of Determination IASC/DET/9709 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 and current air services arrangements. 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/9709 allocating capacity on the Thailand route to Qantas ([2001] IASC 123)

3.1 The Commission makes a fresh determination in favour of Qantas Airways Limited, allocating the equivalent of 13 B747 weekly services in each direction between Australia and Thailand.

3.2 The determination is for 5 years from 1 July 2002.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- 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;
- under the arrangements with British Airways, 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;
- the capacity may be used by Qantas to provide services jointly with Finnair in accordance with:
 - the code share agreement dated 30 May 2000;
 - or any subsequent code share agreement between Qantas and Finnair for operations on the Australia-Thailand route with the prior approval of the Commission; and
- under any code share agreement with Finnair:
 - Qantas must price and sell its services on the route independently of Finnair;

- Qantas must not share or pool revenues on the route with Finnair;
and
- to the extent that the capacity is used to provide joint services on the route, 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 - Thailand 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 - Thailand air services arrangements.

Dated: 13 December 2001

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member