



DECISION

DECISION: [2001] IASC 220
VARIATION OF: IASC/DET/9804 AND IASC/DET/9910
THE ROUTE: JAPAN
THE APPLICANT: QANTAS AIRWAYS LIMITED
(QANTAS) (ACN 009 661 991)

1 The application

1.1 On 24 September 2001, Qantas applied to the Commission to vary determinations IASC/DET/9804, IASC/DET/9910 and [2001] IASC 112. Under the first two of these determinations, Qantas has a total allocation of 7.0 B767-200 units of capacity per week which may be operated between Australia and Kansai. Zero point two units of B767-200 capacity per week are allocated under Determination [2001] IASC 112 on the Japan route.

1.2 The Commission invited this application following the appointment of voluntary administrators to Ansett International and the suspension of services by Ansett International on 14 September 2001.

1.3 Qantas advises that it is seeking the variation to allow the allocated capacity to be used flexibly, including at Tokyo from the date of the opening of new runway B at Narita airport. Qantas states that approval of the variation request would assist it in applying for slots at Narita B.

1.4 In the meantime, Qantas proposes to use the 7.2 B767-200 units of weekly capacity to operate services to Osaka as previously proposed. Qantas advised in a letter of 2 October 2001 that it would also exercise at Osaka the 1.2 B767-200 units of weekly capacity allocated to it on the Japan route in Determination [2001] IASC 107. In practice, this means that Qantas would operate a daily B767-300 service to Kansai from late October 2001.

1.5 The Commission published a notice on 26 September 2001 inviting submissions from interested parties about the application. No submissions were received.

1.6 All non-confidential material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The proposal is consistent with rights available to Australia's designated airlines under the Australia – Japan air services arrangements.

3 Commission's assessment

3.1 The Commission notes that it has previously considered a similar application from Qantas to vary the determinations involved in this case. On that earlier occasion, the Commission did not make the variations requested (Decision [2001] IASC 210). In that case, there were submissions opposing the proposal and the Commission considered the application against the additional public benefit criteria contained in paragraph 5 of the Minister's policy statement. The circumstances of this case are different, as there are no submissions opposing the application.

3.2 When considering an application to vary determinations the Commission must decide whether the determinations, as varied, would be of benefit to the public. Under paragraph 6.3 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.

3.3 The Commission will vary Determinations IASC/DET/9804 and IASC/DET/9910 as requested. The Commission notes that Determination [2001] IASC 112 already enables Qantas to operate the allocated capacity on the Australia – Japan route, so no variation to that Determination is required to enable Qantas to implement its proposal.

4 Decision [2001] IASC 220

4.1 In accordance with section 24 of the Act, as requested by Qantas, the Commission:

varies Determination IASC/DET/9804, as amended by Decisions IASC/DEC/9816, 9914 and [2000] IASC 203 by:

replacing paragraph 3.2 of IASC/DET/9804 with:

“3.2 The Commission makes a determination in favour of Qantas, allocating six B767-200 units of capacity per week in each direction between Australia and Japan under the Australia – Japan Air Services Agreement.”, and

removing the following words from paragraph 3.3 of IASC/DET/9804:

- “utilise six B767-200 units of capacity per week at Kansai only;
- operate no more than six frequencies per week at Kansai with the capacity allocated under this determination”.

varies Determination IASC/DET/9910, as amended by [2000] IASC 203, by:

removing the following words from paragraph 3.2 of IASC/DET/9910:

- “allocating the equivalent of one B767-200 units per week and one frequency between Australia and Kansai”, and

adding the following words

- “allocating the equivalent of one B767-200 unit per week between Australia and Japan”.

Dated: 3 October 2001

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member