



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION: [2002] IASC 104
THE ROUTE: JAPAN
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901) (QANTAS)
PUBLIC REGISTER FILES: IASC/APP/200124 AND 2000128

1 The application

1.1 On 28 September 2001, Qantas applied for 12.8 B767-200 units of capacity that might become available a result of the Commission's review of determinations allocating capacity to Ansett International (administrators appointed) (Ansett International) on the Japan route.

1.2 Qantas' application was in response to a notice published by the Commission on 26 September 2001 inviting submissions about a review of determinations allocating capacity to Ansett International on the Japan route. The notice also invited applications for capacity that might become available as a result of the review.

1.3 On 4 February 2002, Qantas revised the amount of capacity sought to a total of 4.4 units, in response to an invitation from the Commission in the context of its consideration of the renewal of Ansett International Determination IASC/DET/9706. Qantas proposes to combine these 4.4 units with four units it already holds and that would otherwise be unused during the forthcoming Northern Summer scheduling period. The overall amount of capacity would enable Qantas to operate a daily B767-300 service between Australia and Narita, commencing around June or July 2002.

1.4 All non-confidential material supplied by the applicant is filed on the Register of Public Documents. All confidential material is filed on the Commission's confidential register.

2 Background

2.1 As a result of decision [2002] IASC 202, in which the Commission decided not to renew IASC/DET/9706 which allocated four B767-200 units to Ansett International, four units of capacity will become available from 14 February 2002.

3 Submissions received

3.1 Submissions were received from a number of parties in the review of determinations allocating capacity to Ansett International on the Japan route and in relation to the renewal consideration of determination IASC/DET/9706. These are discussed in the Commission's decision to suspend Ansett International's Japan determinations ([2001] IASC 221) and in its decision not to renew ([2001] IASC 202).

4 Current services

4.1 Currently, only Qantas and Japan Airlines operate direct services on the Japan route.

4.2 Qantas operates the following weekly services:

- 7xB747 Sydney-Tokyo and vv;
- 7xB747 Cairns-Tokyo and vv (Japan Airlines code shares);
- 3xB767-300 Perth-Tokyo and vv
- 5xB747 Sydney-Nagoya-Cairns-Sydney;
- 2xB747 Cairns-Nagoya and vv; and
- 7xB767-300 Cairns-Osaka and vv.

4.3 Japan Airlines operates the following weekly services:

- 7xB747 Tokyo-Sydney and vv;
- 7xB747 Tokyo-Brisbane and vv (Qantas code shares); and
- 7xB747 Osaka-Brisbane-Sydney-Osaka- (Qantas code shares).

4.4 Until 14 September 2001 Ansett International operated 7xB747 services Sydney-Osaka and vv (on which All Nippon code shared). All Nippon announced in late October that it was closing down its Australian marketing operations. Ansett used 14 B767-200 equivalent units to operate its Osaka services.

5 Planned operations

5.1 In its submission of 4 February 2002, Qantas indicated that it planned to operate the following services:

- | | |
|--|------------|
| • 7xB747 Sydney-Tokyo and vv; | 14.0 units |
| • 3xB767-300 Perth-Tokyo and vv | 3.6 |
| • 7xB767-300 Cairns-Tokyo and vv | 8.4 |
| • 7xB767-300 Sydney/Cairns-Tokyo and vv* | 8.4 |
| • 2xB747 Cairns-Nagoya-Cairns-Sydney; | 4.0 |
| • 5xB747 Cairns-Nagoya-Osaka-Cairns; | 10.0 |

- 2xB747 Sydney/Cairns-Osaka-Cairns; 4.0
- 7xB767-300 Australia-Tokyo**. 8.4

* using Runway B for which Qantas already has been allocated the necessary slots

** All services to Runway B, subject to allocation of slots. Qantas submitted that the operating point in Australia is yet to be selected and if necessary these services could use Runway A as the 14 Cairns-Tokyo services could use Runway B.

6 Provisions of relevant air services arrangements

6.1 Operation of the capacity involved in each application is consistent with the provisions of the Australia-Japan air services arrangements.

7 Applicant's proposal

7.1 Qantas proposes to introduce an additional daily B767-300 service from mid-Northern Summer scheduling period (June or July 2002) between Australia and Tokyo. These services may operate to Runway B, or to Runway A if both of the daily B767-300s from Cairns move to Runway B.

7.2 To operate a second daily B767-300 service to Runway B Qantas needs an allocation of 4.4 units of capacity per week. This is 0.4 units more than available through the non-renewal and reallocation of Ansett International's Determination IASC/DET/9706. Qantas has requested that a further 0.4 units of Ansett International's suspended capacity be allocated to it.

7.3 Qantas requires additional slots at Narita B to facilitate the extra daily service. Qantas advises that its prospects of securing slots from the Japanese authorities will be much improved if the capacity sought is allocated expeditiously.

7.4 Qantas submits that its application was consistent with the paragraph 4 and 5 criteria of the Minister's Policy Statement.

8 Commission's assessment

Paragraph 4 issues

8.1 The Commission found in Decision [2002] IASC 2AA that Qantas is reasonably capable of obtaining the necessary approvals and of implementing its proposals, although some uncertainty remained about the allocation of slots. The Commission also found that Qantas' proposal offered greater benefits to the public under the paragraph 5 criteria of the Minister's Policy Statement than would be derived from the renewal of IASC/DET/9706 in favour of Ansett International. In line with that Decision, The Commission will allocate to Qantas four units of B767-200 equivalent units of capacity per week on the Japan route.

8.2 Qantas has sought the allocation for a period of five years. As noted, there remains some uncertainty about the allocation of slots necessary to operate this capacity. Consistent with its other determinations on the Japan route, the Commission will issue a three year determination. The slot access position for all new capacity at Narita B is expected to be resolved soon. Once this has occurred, the Commission will move quickly to consider extending all relevant Japan determinations from three to five years.

8.3 In the Commission's other determinations allocating capacity that is intended to be used on Narita's Runway B, it has included the condition that the capacity be fully used from 1 November 2002 or from when slots become available at Narita airport, whichever is earlier, or from such other date approved by the Commission. In this case Qantas has submitted that due to the lead-time required to implement the new services it would need to defer introduction until around June or July 2002. The Commission accepts Qantas' request and will require the capacity to be fully utilised from no later than 31 October 2002.

8.4 At this time, the Commission has not revisited its review of Ansett International's other suspended Japan determinations and therefore will not agree at this time to Qantas' request for an allocation of 0.4 units of capacity from those determinations. However, the Commission would not wish to see this small capacity shortfall inhibit Qantas' ability to operate its proposed daily service. There are several scenarios under which the capacity could become available to Qantas, well ahead of operations commencing. This could occur should Ansett International's suspended determinations be revoked when the Commission resumes its review. If not, Qantas could seek approval from the Department of Transport and Regional Services to operate the additional 0.4 units on a supplementary basis. Qantas could reduce the amount of extra capacity required if it was to apply for and be allocated the 0.2 units of capacity still on the shelf. Should all these avenues fail, which the Commission sees as unlikely, Qantas may need to make operational decisions to stay within its overall capacity entitlements.

9 Role of the ACCC

9.1 The Policy Statement and its associated Explanatory Memorandum make it clear that the ACCC retains primary responsibility for competition policy matters. Nothing in the Commission's decisions should be taken as indicating either approval or disapproval by the ACCC. The Commission's decisions are made without prejudicing, in any way, possible future consideration by the ACCC.

10 Determination allocating capacity on the Japan route to Qantas ([2002] IASC 104)

10.1 The Commission makes an interim determination in favour of Qantas, allocating four B767-200 equivalent units of capacity per week in each direction on the Japan route under the Australia - Japan air services arrangements.

10.2 The determination is for three years from 14 February 2002.

10.3 The determination is subject to the following conditions:

- Qantas is required to fully use the capacity from no later than 31 October 2002, or from such other date approved by the Commission;
- only Qantas is permitted to utilise the capacity;
- 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 - Japan 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 Ansett International or be in a position to exercise effective control of Ansett International, 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 - Japan air services arrangements.

Dated: 12 February 2002

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member