



RENEWAL DETERMINATION

DETERMINATION NO: [2003] IASC 112
RENEWAL OF: DETERMINATION IASC/DET/9819
THE ROUTE: FRANCE (ROUTE 2 – FRENCH POLYNESIA)
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901) (QANTAS)
PUBLIC REGISTER FILE: IASC/APP/200315

1 The application for renewal

1.1 On 8 September 1998, the Commission issued Determination IASC/DET/9819 (the Determination) allocating 0.5 units of capacity per week on the France (Route 2 French Polynesia) route.

1.2 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of a determination at least 12 months before expiry of the Determination. The Determination expires on 7 September 2003.

1.3 Qantas applied to the Commission on 13 June 2003 for a renewal of the Determination. The Commission published a notice on 19 June 2003 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

1.4 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;
- there are 2.5 units available for immediate allocation; 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/9819 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 Act, 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/9819 allocating capacity on the France (Route 2 – French Polynesia) route to Qantas ([2003] IASC 112)

3.1 The Commission makes a fresh determination in favour of Qantas Airways Limited, allocating 0.5 units of capacity per week in each direction on the Australia - France (Route 2 – French Polynesia) route under the Australia – France air services arrangements.

3.2 The determination is for 5 years from 8 September 2003.

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 Air Tahiti Nui in accordance with:
 - the code share agreement dated 12 May 2000;
 - or any subsequent code share agreement between Qantas and Air Tahiti Nui for operations on the Australia-France Route 2 route with the prior approval of the Commission; and
- under any code share agreement with Air Tahiti Nui:
 - Qantas must price and sell its services on the route independently of Air Tahiti Nui
 - Qantas must not share or pool revenues on the route with Air Tahiti Nui;
- 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 – 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: 10 July 2003

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member