



INTERNATIONAL AIR SERVICES COMMISSION

DECISION

DECISION: [2003] IASC 201
VARIATION OF: [2001] IASC 118 AND [2002] IASC 126
THE ROUTE: GERMANY
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 991) (QANTAS)
PUBLIC REGISTER: IASC/APP/200302

1 The application

1.1 On 12 February 2003, Qantas applied to the Commission to vary determinations [2001] IASC 118 and [2002] IASC 126 (the Determinations) to permit Swiss International to code share on Qantas services between Germany and Australia from 30 March 2003.

1.2 The Commission published a notice on 18 February 2002 inviting submissions from interested parties about the application. A submission supporting the variation was received from the Government of Western Australia. The Government of Western Australia submitted that the proposed code share arrangements would strengthen the financial viability of Qantas' Frankfurt services and that this route along with the European market as a whole was extremely important to Western Australian tourism.

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

2 Provisions of relevant air services arrangements

2.1 The Australia – Germany air services arrangements permit any designated airline of Australia, to enter into cooperative marketing arrangements such as block space, code sharing or leasing arrangements with an airline of a third country, as either the operating or non-operating airline.

3 Commission's assessment

3.1 When considering applications to vary determinations the Commission must determine whether the determinations, as varied, would be of benefit to the public. Under paragraph 4 of the Minister's Policy Statement the use of Australian entitlements 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 capacity.

3.2 Pursuant to s.15(2)(e) of the Act, a carrier cannot use allocated capacity by providing services jointly with any another carrier without the prior approval of the Commission.

3.3 The Commission will vary the determinations as requested.

4 Decision [2003] IASC 201

4.1 In accordance with section 24 of the Act, the Commission varies Determination [2001] IASC 118 and [2002] IASC 126, as requested by Qantas, by:

adding the following conditions:

- “the capacity may be used by Qantas to provide joint services with Swiss International in accordance with:
 - the finalised code share agreement, signed by Qantas and Swiss International, being approved by the Commission, with such additional conditions (if any) as the Commission may require, prior to code share services commencing; or
 - or any subsequent code share agreement between Qantas and Swiss International for operations on the Australia-Germany route with the prior approval of the Commission; and
- under any code share agreement with Swiss International:
 - Qantas must price and sell its services on the route independently of Swiss International;
 - Qantas must not share or pool revenues on the route with Swiss International;”

Dated: 7 March 2003

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member