



INTERNATIONAL AIR SERVICES COMMISSION

DECISION

DECISION: [2003] IASC 211
VARIATION OF: [2001] IASC 123
THE ROUTE: THAILAND
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 991) (QANTAS)
PUBLIC REGISTER: IASC/APP/200321

1 The application

1.1 On 9 October 2003, Qantas applied to the Commission to vary determination [2001] IASC 123 (the Determination) to permit Swiss International to code share on Qantas services between Thailand and Australia from 26 October 2003.

1.2 The Commission published a notice on 15 October 2003 inviting submissions from interested parties about the application. No submissions were received.

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 - Thailand air services arrangements allow the designated airlines of each country to code share as the non-operating airline with any airline of a third country on up to 28 weekly services in each direction.

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 determination as requested.

4 Decision [2003] IASC 211

4.1 In accordance with section 24 of the Act, the Commission varies Determination [2001] IASC 123, 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 draft code share agreement as provided to the Commission prior to the commencement of services and the finalised code share agreement which must be provided to the Commission as soon as practicable thereafter including such additional conditions (if any) as the Commission may require;
 - or any subsequent code share agreement between Qantas and Swiss International for operations on the Australia-Thailand 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: 24 October 2003

Stephen Lonergan
Member Presiding

Michael Lawriwsky
Member