



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2004] IASC 115  
**Renewal of:** [2002] IASC 122  
**The Route:** Hong Kong  
**The Applicants:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200420

#### 1 The application for renewal

1.1 On 10 October 2002 the Commission issued Interim Determination [2002] IASC 122 (the Determination) allocating 1,300 seats per week and four frequencies on the Hong Kong route. At that time, there was limited capacity available for allocation and the Commission had received a submission from Virgin Blue Airlines expressing interest in starting services on the route.

1.2 The Determination was subsequently varied by [2004] IASC 206 to express capacity in terms of frequencies alone.

1.3 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of an interim determination as soon as practicable after the determination is made. The Determination expires on 9 October 2005.

1.4 Qantas applied to the Commission on 6 September 2004 for a renewal of the Determination. The Commission published a notice on 9 September 2004 inviting applications for an allocation of the capacity subject to renewal. No applications were received.

1.5 All material supplied by the applicant is filed on the Register of Public Documents.

#### 2 Delegate's consideration

2.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Commission Amendment Regulations 2003 (No.1)*, the delegate of the Commission considers the Qantas application.

2.2 Under the Minister's Policy Statement (No. 5), of 19 May 2004, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations after the start up phase are those set out in paragraphs 4 and 5 of the Policy Statement.

2.3 The delegate notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route, and
- according to the Register of Available Capacity there are 22 frequencies available for immediate allocation to Australian carriers on the Hong Kong route with a further 15 frequencies available from IATA Northern Summer 2006 scheduling period.

2.4 In these circumstances, the delegate concludes, based on paragraph 4 criteria that the renewal of Determination [2002] IASC 122 would be of benefit to the public. As there are no competing applications and there is a significant amount of capacity available for immediate allocation there is no need to examine paragraph 5 criteria in this case.

2.5 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 [2002] IASC 122 allocating capacity on the Hong Kong route to Qantas ([2004] IASC 115)**

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating four frequencies per week with any aircraft type in each direction between any points in Australia and Hong Kong under the Australia-Hong Kong air services arrangements.

3.2 The determination is for 5 years from 10 October 2005.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas or another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity;

- neither Qantas nor another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- 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 - Hong Kong 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 - Hong Kong air services arrangements.

Dated: 11 October 2004

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners