



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2004] IASC 120  
**The Route:** Japan  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register:** IASC/APP/200428

#### 1 The application

1.1 On 12 October 2004, Qantas applied for an allocation of three B767-200 units of capacity on the Japan route. From 1 December 2004, Qantas proposes to introduce A330-300 services (configured to 297 seats) on selected Tokyo routes to replace the existing B767-300 services (configured to 229 seats).

1.2 Qantas proposes that by 28 December 2004, the daily Melbourne services will be operated by the A330-300 and by 20 January 2005 the three weekly Perth services will be operated by the A330-300. Qantas has sought approval for the additional capacity to be operated between Tokyo and Melbourne to be used to provide services jointly with Japan Airlines. There is no code sharing proposed on the Perth – Tokyo services.

1.3 On 18 October 2004, the Commission published a notice inviting applications from interested parties for some or all of the capacity sought by Qantas. No applications were received.

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

#### 2 Provisions of relevant air services arrangements

2.1 Operation of the capacity involved is consistent with the provisions of the Australia-Japan air services arrangements.

2.2 The Register of Available Capacity indicates that 13.4 units per week of capacity are available for allocation on a year round basis. Of this, 2.2 units may only be operated for services other than to/from Tokyo and for joint services, including those to/from Tokyo as the operating carrier, with the designated airlines of Japan ("Non-Tokyo Capacity").

2.3 Under the Australia – Japan air services arrangements an A330-300 is equivalent to 1.5 B767-200 units and a B767-300 is equivalent to 1.2 B767-200 units.

### **3 Commission’s consideration**

#### **Overview**

3.1 Under paragraph 6.2 of the Minister’s Policy Statement (No.5), of 19 May 2004, the Commission is required only to apply the criteria in paragraph 4 of the policy statement. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals 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 the entitlements.

3.2 Qantas requires an additional 0.3 units of weekly capacity to allow the substitution of each of the 10 existing weekly B767-300 services with the A330-300, making three units per week in all. The Commission concludes that an allocation to Qantas of three B767-200 units of Tokyo Capacity per week in each direction on the Japan route would be of benefit to the public.

#### **Joint Services**

3.3 Section 15(2)(e) of the Act specifies that the Commission must include a condition in determinations stating the extent to which the carrier may use that capacity in joint services with another carrier.

3.4 In April 2004, the Commission considered and approved the use of capacity to provide services jointly with Japan Airlines on the Tokyo – Melbourne route until end June 2006 (see Decision [2004] IASC 202).

3.5 The Commission will authorise the use of the capacity in joint services on the Tokyo – Melbourne route consistent with conditions set previously.

### **4 Determination allocating capacity on the Japan route to Qantas ([2004] IASC 120)**

4.1 The Commission makes a determination in favour of Qantas Airways Limited, allocating three B767-200 units of capacity per week in each direction between Australia and Japan.

4.2 The determination is for five years from the date of this determination.

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 31 January 2005, or from such other date approved by the Commission.

- only Qantas is permitted to utilise the capacity;
- Qantas may use the capacity to provide services jointly with Japan Airlines until end June 2006 in accordance with:
  - the codeshare agreement between Qantas and Japan Airlines dated 18 July 2002, or as varied except in relation to:
    - the number of seats to be purchased exceeding 371 per week in each direction; or
    - Melbourne – Tokyo being the city pair served; or
    - any financial adjustment;
  - variations to the codeshare agreement which relate to any of the excepted matters referred to above, subject to the prior approval of the Commission; or
  - any subsequent code share agreement between Qantas and Japan Airlines for operations on the Australia - Japan route, whether or not it replaces the existing agreement, with the prior approval of the Commission;
- under the code share agreement with Japan Airlines:
  - Qantas must price and sell its services on the route independently of Japan Airlines;
  - Qantas must not share or pool revenues under any such agreement; and
  - Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking
- Qantas must submit to the Commission reports each quarter on the number of code share seats sold by Japan Airlines on Qantas' operated services between Melbourne and Tokyo, for both the hard and soft block seats; and its yields per revenue passenger kilometre for all passenger classes on these services.
- 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 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 – Japan air services arrangements.

Dated: 8 November 2004

John Martin  
Chairman

Michael Lawriwsky  
Member