



Australian Government

International Air Services Commission

DECISION

Decision: [2004] IASC 211
Variation of: [2002] IASC 109
The Route: France
The Applicant Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200426

1 The application

1.1 On 27 September 2004, Qantas applied for an allocation of 100 one-way seats per day on France Route 1 between Australia and France to be used for code sharing on Air France services via Singapore. Qantas requested that the allocation be granted via a variation to Determination [2002] IASC 109 which allocates 150 one-way seats per day on France Route 1.

1.2 Qantas currently code shares with British Airways over London on France Route 1. Qantas is proposing to add code share services with Air France over Singapore to the existing arrangements. At the same time, Qantas has requested that the Commission revoke determination [2003] IASC 106 which allocates three units of capacity between Australia and France on France Route 1. Qantas proposes to cease its three B747 services per week between Australia and France from the end of October 2004. The proposed code share arrangements will provide daily connecting services over Singapore using Air France's daily Singapore – Paris service.

1.3 The Commission published a notice on 1 October 2004 inviting submissions about the application. No submissions were received. All public material supplied by the applicant is filed on the Register of Public Documents.

2 Delegate's assessment

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 When considering applications to vary determinations, the Commission (or its delegate) must decide whether the determinations, as varied, would be of benefit to the public. Under section 6.3 of the Minister's policy statement, where a carrier requests a

variation of a determination to allow it flexibility in operating its capacity and no submission is received about the application, only the criteria in paragraph 4 of the policy statement are applicable. Under paragraph 4, the use of entitlements by Australian carriers under a bilateral arrangement 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.

2.3 According to the Register of Available Capacity there are 250 one-way seats per day for code share operations available for immediate allocation between Australia and France. Qantas has requested an allocation of 100 one-way seats per day or the equivalent of 350 seats each way each week which is less than the 400 seats maximum the Commission imposes on variation applications. The delegate notes that Qantas has also sought the revocation of Determination [2003] IASC 106, which allocates the equivalent of more than 1,200 seats each way each week. The delegate concludes that an allocation to Qantas of 100 one-way seats per day on France Route 1 would be of benefit to the public.

2.4 Section 15(2)(e) of the Act, 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. Qantas is proposing to enter into a joint services arrangement with Air France. At this stage the delegate has been provided with a draft copy of the agreement. The draft agreement is a free sale type agreement. Provided the final agreement is materially consistent with the draft agreement and the final code share agreement is submitted to the Commission as soon as practicable. The delegate will authorise the use of the capacity in joint services with Air France.

2.5 The delegate, on behalf of the Commission, will vary the determination as requested by Qantas.

3 Decision [2004] IASC 211

3.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2002] IASC 109 by:

removing the following from paragraph 3.1 of Determination [2002] IASC 109

- “allocating 150 one-way seats per day averaged over 12 months in each direction on France Route 1 between Australia and France.”

replacing it with

- “allocating 250 one-way seats per day averaged over 12 months on France Route 1 between Australia and France.”

adding the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Air France in accordance with:

- the draft code share agreement dated 25 October 2004 and the finalised code share agreement, which must be submitted to the Commission as soon as practicable, including such additional conditions (if any) as the Commission may require;
- or any subsequent code share agreement between Qantas and Air France for operations on the Australia-France route with the prior approval of the Commission;
- under any code share agreement with Air France:
 - Qantas must price and sell its services on the route independently of Air France;
 - Qantas must not share or pool revenues on the route with Air France.

Dated: 26 October 2004

Michael Bird
Executive Director
Delegate of the IASC Commissioners