



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2005] IASC 106
The Route: Japan
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register: IASC/APP/200507

1 The application

1.1 On 20 June 2005, Qantas applied for an allocation of 2.4 B767-200 units of capacity on the Japan route. Australian Airlines, a subsidiary of Qantas, plans to operate two additional B767-300 services between Cairns and Nagoya from 3 August 2005.

1.2 Qantas states that it currently has sufficient existing capacity allocations to operate the proposed services due to a delay in deploying A330-300 aircraft in lieu of B767-300s on the Melbourne – Tokyo route and because the use of capacity to operate Australian Airlines' Cairns-Sapporo flights is exercised in the Northern Winter season only. However, Qantas also states that the current allocations will be fully utilised during the coming Northern Winter scheduling period and therefore additional capacity allocations will be required from that time. While the airline will therefore initially operate the proposed services from within existing entitlements, the additional allocation of 2.4 B767-200 equivalent units of capacity is requested from 30 October 2005, the commencement of the Northern Winter period. The capacity is proposed to be fully utilised by 28 February 2006.

1.3 On 23 June 2005, the Commission published a notice inviting applications from interested parties for allocations of capacity on the route. No applications were received. 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. The Register of Available Capacity indicates that in the Northern Summer scheduling period there are 12.8 units per week of capacity of which up to 10.4 may be available for services to/from Tokyo. In the Northern Winter period there are 10.4 units, all of which may be available for services to/from Tokyo only for points other than Tokyo. Under the Australia – Japan air services arrangements a B767-300 is equivalent to 1.2 B767-200 units.

3 Delegate's consideration

3.1 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.

3.2 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.

3.3 The delegate concludes that an allocation to Qantas of 2.4 B767-200 units of Tokyo capacity per week in each direction would be of benefit to the public.

3.4 Qantas has requested that the allocation be for a five year period from 30 October 2005. The Commission will maintain its normal practice of making determinations (other than renewals) for a five year period from the date of the determination.

4 Determination allocating capacity on the Japan route to Qantas ([2005] IASC 106)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 2.4 B767-200 units of capacity per week in each direction between any points in Australia and Japan under the Australia – Japan air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 28 February 2006, or from such other date approved by the Commission.
- 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 - 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: 5 July 2005

Michael Bird
Executive Director
Delegate of the IASC Commissioners