



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2005] IASC 126  
**Renewal of:** [2001] IASC 116  
**The Route:** Japan  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200511

#### 1 The application for renewal

1.1 On 7 November 2001 the Commission issued Determination [2001] IASC 116 (the Determination) allocating 2.4 B767-200 units of capacity per week to Qantas on the Japan route.

1.2 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of a determination at least 12 months before the expiry of the Determination. The Determination expires on 6 November 2006.

1.3 Qantas applied to the Commission on 30 August 2005 for a renewal of the Determination. The Commission published a notice on 6 September 2005 inviting submissions or other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

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

#### 2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 5) of 19 May 2004, there is a rebuttable presumption in favour of the carrier seeking the renewal. The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- according to the Register of Available Capacity, for the Northern Summer scheduling period there are 10.4 units per week remaining available for allocation to Australian carriers, of which up to 8.0 may be available for

services to/from Tokyo; for the Northern Winter scheduling period, 8.0 units per week may be available for services to/from Tokyo;

- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.2 In these circumstances, the Commission concludes that the renewal of Determination [2001] IASC 116 would be of benefit to the public.

2.3 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 [2001] IASC 116 allocating capacity on the Japan – route to Qantas ([2005] IASC 126)**

3.1 The Commission makes a determination in favour of Qantas, allocating 2.4 B767-200 units of capacity per week in each direction on the Japan route under the Australia - Japan air services arrangements.

3.2 The determination is for five years from 7 November 2006.

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;
- the capacity may be used by Australian Airlines to provide joint services with Qantas and vice versa for cargo sales only between Australia and Japan;
- Qantas may use the capacity to provide services jointly with Japan Airlines until end June 2006 in accordance with:

- the codeshare agreement, signed by Qantas and Japan Airlines, being approved by the Commission, with such additional conditions (if any) as the Commission may require, prior to code share services commencing, 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: 7 November 2005

John Martin  
Chairman

Vanessa Fanning  
Member

Michael Lawriwsky  
Member