



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2005] IASC 128
The Route: Thailand
The Applicant: Qantas Airways Limited (Qantas)
(ACN 009 661 901)
Public Register: IASC/APP/200519

1 The application

1.1 On 4 November 2005, Qantas applied for an allocation of 1.3 B747 equivalent units of capacity on the Thailand route. Qantas' wholly owned subsidiary, Australian Airlines Ltd (ACN 099 625 304), plans to operate twice weekly services between Sydney and Phuket from 3 December 2005 until 31 January 2006, using a B767 configured with 271 seats, to meet demand during the peak holiday season. In its application, Qantas states that Australian Airlines will monitor the services closely and consider moving to a year round operation on the route if this appears commercially viable.

1.2 The Commission published a notice on 11 November 2005, inviting other applications for capacity. No applications were received.

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

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Thailand air services arrangements, the designated airlines of Australia may operate services with any type of aircraft between points in Australia via intermediate points to points in Thailand.

2.2 The Register of Available Capacity shows that there are the equivalent of 18 B747 services in each direction plus seven southbound B747 weekly services available for allocation. A B767 with over 231 seats is the equivalent of 0.65 of a B747 unit of capacity.

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 Australian Airlines (a wholly-owned subsidiary of Qantas), this means that there is public benefit arising from the use of the entitlements.

3.3 The delegate notes that several previous applications by Qantas to operate capacity on a seasonal basis have been approved by the Commission or its delegate (Determinations [2004] IASC 108, [2005] IASC 108 and [2005] IASC 110). Each of those applications was considered on a case-by-case basis, having regard to the particular circumstances in each case.

3.4 The circumstances of the current application for capacity to be used on a seasonal basis suggest that approval would be consistent with those earlier determinations. Most importantly, there is a substantial amount of capacity available for allocation on the Thailand route and Qantas has sought only a small component of this. The delegate will allocate the 1.3 B747 equivalent units of capacity sought by Qantas.

3.5 In addition, Qantas has indicated that Australian Airlines will monitor the services closely with a view to moving to a year-round operation if this proves to be commercially viable. Accordingly, in allocating the capacity for those parts of the year in which Australian Airlines proposes to operate, the delegate will provide scope for the Commission to approve other periods in the event that Australian Airlines wishes to expand its operations during the course of the determination. The determination will be for a period of five years.

4 Determination allocating capacity on the Thailand route to Qantas ([2005] IASC 128)

4.1 In accordance with section 27AA of the Act, the delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 1.3 B747 equivalent units of capacity per week in each direction on the Thailand route for the period between 1 December and the 31st day of the following January, or for such other periods as approved by the Commission, during the period of the determination.

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

4.3 The determination is subject to the following conditions, which apply to Qantas or another Australian carrier which is a wholly owned subsidiary of Qantas:

- Qantas is required to fully utilise the capacity from no later than 3 December 2005, or from such other date approved by the Commission;
- only Qantas is permitted to utilise the capacity;
- Qantas is not 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:
 - 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 – Thailand air services arrangements.

Dated: 22 November 2005

Michael Bird
Executive Director
Delegate of the IASC Commissioners