



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2006] IASC 115
Renewal of: [2002] IASC 106
The Route: Thailand
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200616

1 The application for renewal

1.1 On 19 March 2002, the Commission issued Determination [2002] IASC 106 (the Determination) allocating seven third-country airline code share frequencies per week in each direction between Australia and Thailand, to enable Qantas to provide services jointly with Finnair.

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 18 March 2007.

1.3 Qantas applied to the Commission on 26 September 2006 for a renewal of the Determination. The Commission published a notice on 3 October 2006 inviting other applications for an allocation of the capacity subject to renewal. No other applications were received.

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

2 Delegate's consideration

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 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.

2.3 The delegate notes that:

- Qantas has been fully utilising the relevant capacity;
- according to the Register of Available Capacity, Australian carriers can code-share as the non-operating airline on up to 14 services per week in each direction;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.4 In these circumstances, the delegate concludes that the renewal of Determination [2002] IASC 106 would be of benefit to the public.

2.5 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 [2002] IASC 106 allocating capacity on the Thailand route to Qantas ([2006] IASC 115)

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating seven third-country airline code share frequencies per week in each direction between Australia and Thailand under the Australia – Thailand air services arrangements.

3.2 The determination is for five years from 19 March 2007.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide services jointly with Finnair in accordance with:
 - the code share agreement between Qantas and Finnair dated 30 May 2000, as amended; or
 - any subsequent code share agreement between Qantas and Finnair for operations on the Australia - Thailand route with the prior approval of the Commission; and

- under any code share agreement:
 - Qantas must price its services on the route independently; and
 - Qantas must not share or pool revenues on the route.
- to the extent that the capacity is used to provide joint services on the route, Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking;
- 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 – Thailand 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 - Thailand air services arrangements.

Dated: 26 October 2006

Michael Bird
Executive Director
Delegate of the IASC Commissioners