



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2006] IASC 124
Renewal of: [2002] IASC 116
The Route: Japan
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200616

1 The application for renewal

1.1 On 22 April 2002 the Commission issued Determination [2002] 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 21 April 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 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. The Commission notes that:

- Qantas has fully utilised the relevant capacity for most of the period since its allocation. The capacity is currently unused as a result of recent

adjustments to Qantas' Japan operations, following the ending of services by Australian Airlines. However, there are firm plans for the capacity to be fully utilised again early in 2007 with the commencement of services to Japan by Jetstar;

- according to the Register of Available Capacity, for the Northern Summer scheduling period there are 8.0 units per week remaining available for allocation to Australian carriers, of which up to 5.6 may be available for services to/from Tokyo; for the Northern Winter scheduling period, there are 5.6 units per week of capacity available, all of which 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.

2.3 In these circumstances, the delegate concludes that the renewal of Determination [2002] IASC 116 would be of benefit to the public.

2.4 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 116 allocating capacity on the Japan route to Qantas ([2006] IASC 124)

3.1 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 on the Japan route under the Australia - Japan air services arrangements.

3.2 The determination is for five years from 22 April 2007.

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 any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of the 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 – 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: 26 October 2006

Michael Bird
Executive Director
Delegate of the IASC Commissioners