



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2006] IASC 129  
**Renewal of:** [2002] IASC 115  
**The Route:** Papua New Guinea  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200616

#### 1 The application for renewal

1.1 On 2 April 2002, the Commission issued Determination [2002] IASC 115 (the Determination) allocating 1,550 seats per week in each direction on the Papua New Guinea route and authorising code sharing between Qantas and Air Niugini on services between Cairns and Port Moresby. Subsequently the Determination was varied by Decision [2002] IASC 219 to reduce the number of seats allocated to 1,000 per week. The decision also authorised a substantially expanded code share arrangement between Qantas and Air Niugini to enable Qantas to code share on all of Air Niugini's services to Australia.

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 30 June 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 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, there are 1,984 seats per week in each direction of passenger capacity available;
- 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 [2002] IASC 115 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.

2.4 In this case, an important development since the making of the Determination was the publication on 20 September 2006 of a review of Papua New Guinea's air transport industry by that country's Independent Consumer and Competition Commission (ICCC). In its report, the ICCC raised concerns about the possible impact of the code share arrangements between Qantas and Air Niugini on competition on the Australia – Papua New Guinea route. The ICCC noted that the current code share authorisation expires on 30 June 2007 and indicated that it planned to review the arrangements prior to that time, having not previously done so. The Commission notes that the ICCC was not established until 1 January 2003, which post-dated the implementation of the expanded Qantas and Air Niugini code share arrangements in 2002.

2.5 The Commission wishes to recognise the ICCC's intention to consider the code share arrangements prior to 30 June 2007 and therefore will not incorporate authorisation of the code share arrangements in this renewal determination. The Commission anticipates that Qantas would apply to the Commission in the first half of 2007 for a variation of this renewal determination to extend the code share arrangements beyond 30 June 2007, in parallel with consideration of the arrangements by the ICCC. In this event, the Commission would seek to co-ordinate its consideration with that of the ICCC.

### **3 Determination for renewal of Determination [2002] IASC 115 allocating capacity on the Papua New Guinea route to Qantas ([2006] IASC 129)**

3.1 The Commission makes a determination in favour of Qantas, allocating 1,000 seats per week in each direction on the Papua New Guinea route under the Australia - Papua New Guinea air services arrangements.

3.2 The determination is for five years from 1 July 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;
- 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:
  - results in the designation of the airline as an Australian carrier under the Australia – Papua New Guinea 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 – Papua New Guinea air services arrangements.

Dated: 2 November 2006

John Martin  
Chairman

Vanessa Fanning  
Member

Michael Lawriwsky  
Member

