



Australian Government

International Air Services Commission

DECISION

Decision: [2006] IASC 205
Variation of: [2001] IASC 125
The Route: United States
The Applicant: Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200603

1 The application

1.1 On 18 April 2006, Qantas applied for a variation to Determination [2001] IASC 125 (the Determination) to permit Compañía Mexicana de Aviación SA de CV (Mexicana) to code share on Qantas services between Australia and the United States of America. Qantas is seeking approval to commence the code share services from 1 June 2006.

1.2 Qantas has sought approval for Mexicana to be able to code share, on a free sale basis, on any Qantas services operated under the Australia – USA air services arrangements. Qantas proposes that Mexicana will code share on 29 services per week in each direction.

1.3 Qantas currently has approval to code share with British Airways, American Airlines, Federal Express, Air Pacific, United Parcel Service and Air Tahiti Nui on its services between Australia and the United States.

1.4 The Commission published a notice on 24 April 2006 inviting submissions about the application. No submissions were received. All public material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of the relevant air services arrangements

2.1 The Australia – US air services arrangements allow a designated airline of Australia to enter into cooperative arrangements with any airline to operate services between Australia and the United States.

3 Commission's assessment

3.1 When considering applications to vary determinations, the Commission must decide whether the determinations, as varied, would be of benefit to the public. Under paragraph 4 of the Minister's Policy Statement (No. 5), of 19 May 2004, the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public. For an established international carrier such as Qantas, this means that there is public benefit arising from the use of the entitlements.

3.2 Section 15(2)(e) of the Act requires the Commission to include a condition in determinations stating the extent to which the carrier may use allocated capacity in joint services with another carrier. Qantas is proposing to enter into a joint services arrangement with Mexicana. At this stage the Commission has been provided with a draft copy of the agreement which is a free sale type agreement. The Commission will authorise the use of capacity in joint services with Mexicana provided that the final agreement is materially consistent with the draft agreement and is submitted to the Commission prior to the commencement of services.

3.3 The Commission will vary the determination as requested by Qantas.

4 Decision [2006] IASC 205

4.1 In accordance with Section 24 of the Act, the Commission varies Determination [2001] IASC 125 by

adding the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Mexicana in accordance with:
 - the draft code share agreement dated 28 April 2006 and the finalised code share agreement, signed by Qantas and Mexicana, being approved by the Commission, with such additional conditions (if any) as the Commission may require, prior to the code share services commencing;
 - or any subsequent code share agreement between Qantas and Mexicana for operations on the Australia – USA route with the prior approval of the Commission;
- under any code share agreement with Mexicana:
 - Qantas must price and sell its services on the route independently of Mexicana;
 - Qantas must not share or pool revenues on the route with Mexicana;

Dated: 08 May 2006

John Martin
Chairman

Michael Lawriwsky
Member

Vanessa Fanning
Member