



Australian Government

International Air Services Commission

DECISION

Decision: [2006] IASC 211
Variation of: [2001] IASC 119
The Route: Hong Kong
The Applicant: Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200605

1 The application

1.1 On 20 April 2006 Qantas applied for a variation to Determination [2001] IASC 119 (the Determination) to permit Finnair to code share on three weekly Qantas services from Hong Kong to Melbourne and vice versa and on three weekly services from Hong Kong to Sydney. Qantas does not propose to code share on Finnair's three weekly non-stop services from Hong Kong to Helsinki and vice versa. Qantas is seeking approval to commence the code share with effect 15 May 2006.

1.2 Qantas already has Commission authorisation to code share with Finnair between Sydney and Bangkok and between Brisbane and Singapore and on Finnair's services between Helsinki and Bangkok and between Bangkok and Singapore. Qantas proposed that the new code share be conducted under the existing code share agreement with Finnair which is on a free sale basis and for passenger traffic only. Qantas proposes to submit to the Commission a signed copy of the Amendment Annex which covers the routes and schedules over which the code share agreement applies.

1.3 The Commission published a notice on 28 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 – Hong Kong air services arrangements allow the designated airlines of Australia to enter into code share arrangements with another airline, including airlines of third parties, as marketing and/or operating airline, provided that the airlines hold the authority to operate or market the service.

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. The Commission has previously authorised the use of capacity in joint services between Qantas and Finnair on the Bangkok and Singapore routes and will do so in this case. The authorisation will be subject to the Amendment Annex to the existing code share agreement between the two carriers being submitted to the Commission, prior to the services commencing.

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

4 Decision [2006] IASC 211

4.1 In accordance with Section 24 of the Act, the Commission varies Determination [2001] IASC 119 by

adding the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Finnair in accordance with:
 - the code share agreement dated 30 May 2000 and the finalised Amendment Annex, signed by Qantas and Finnair, 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 Finnair for operations on the Australia – Hong Kong route with the prior approval of the Commission;
- under any code share agreement with Finnair:
 - Qantas must price and sell its services on the route independently of Finnair;
 - Qantas must not share or pool revenues on the route with Finnair;
- 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;

Dated: 08 May 2006

John Martin
Chairman

Vanessa Fanning
Member

Michael Lawriwsky
Member