



## Australian Government

### International Air Services Commission

#### DECISION

<b>Decision:</b>	<b>[2006] IASC 223</b>
<b>Variation of:</b>	<b>[2005] IASC 108</b>
<b>The Route:</b>	<b>Korea</b>
<b>The Applicant</b>	<b>Qantas Airways Limited</b> <b>(ACN 009 661 901) (Qantas)</b>
<b>Public Register File:</b>	<b>IASC/APP/200618</b>

#### 1 The application

1.1 On 16 October 2006, Qantas applied for a variation to Determination [2005] IASC 108 (the Determination) to permit Asiana Airlines to code share on seasonal Qantas services between Sydney and Korea and vice versa. The seasonal flights in 2007 will operate over a four week period in January. Qantas already has Commission authorisation to code share on Asiana Airlines' services between Australia and Korea under a separate determination.

1.2 The proposed arrangement involves Asiana Airlines purchasing a combined hard and soft block of seats up to 180 seats per week across the three weekly Qantas services. The airlines will price independently and not pool revenues. A signed copy of the amended Annex to the existing Qantas – Asiana Airlines code share agreement will be submitted to the Commission once signed by both parties.

1.3 The Commission published a notice on 20 October 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 – Korea air services arrangements provide that a designated airline of either Contracting Party may enter into co-operative marketing arrangements with an airline of the other Contracting Party, including blocked space arrangements.

#### 3 Delegate's assessment

3.1 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.

3.2 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.

3.3 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 Asiana Airlines and the delegate will do so in this case. The authorisation will be subject to the amended Annex to the existing code share agreement between the two carriers being submitted to the Commission prior to the services commencing.

3.4 The delegate will vary the determination as requested by Qantas.

#### **4 Decision [2006] IASC 223**

4.1 In accordance with Section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2005] IASC 108 by:

*adding* the following conditions to Determination [2005] IASC 108:

- the capacity may be used by Qantas to provide services jointly with Asiana Airlines in accordance with:
  - the code share agreement dated 15 November 1996 and the finalised amended Annex, signed by Qantas and Asiana Airlines, 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 Asiana Airlines for operations on the Australia – Korea route with the prior approval of the Commission;
- under any code share agreement with Asiana Airlines:
  - Qantas must price and sell its services on the route independently of Asiana Airlines;
  - Qantas must not share or pool revenues on the route with Asiana Airlines;

- 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: 31 October 2006

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners