



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2007] IASC 103
The Route: China
The Applicant: Qantas Airways Limited (Qantas)
(ACN 009 661 901)
Public Register: IASC/APP/200712

1 The application

1.1 On 29 May 2007, Qantas applied for an allocation of 835 seats per week on the China route under the Australia – People’s Republic of China (China) air services arrangements. Qantas proposes to introduce an additional A330-300 service per week between Sydney and Shanghai from 29 August 2007. It also plans to operate two A330 services per week between Melbourne and Shanghai from the Northern Summer 2008 scheduling period.

1.2 Qantas sought approval for the capacity associated with the weekly Sydney service to be fully utilised by no later than the end of August 2007. Qantas also sought approval to fully utilise the balance of the capacity sought by no later than the end of March 2008. Although there are currently no plans for the capacity involved to be used by Jetstar, Qantas requested flexibility in the determination to allow the capacity to be used by it or a wholly-owned subsidiary.

1.3 On 4 June 2007, the Commission published a notice inviting applications from interested parties for some or all of the capacity sought by Qantas. No applications were received.

1.4 All material supplied by the applicant is filed on the Commission’s Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Operation of the capacity involved is consistent with the provisions of the Australia - China air services arrangements. According to the Register of Available Capacity there are 6,365 seats per week available for immediate allocation on the China route for services to and from Sydney, Melbourne, Brisbane and Perth.

3 Delegate's consideration

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (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 Under paragraph 6.2 of the Minister's policy statement, the Commission is required only to apply the criteria in paragraph 4 of the policy statement. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals 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 The delegate notes that in a number of previous determinations and decisions the Commission and its delegate have provided Qantas with the flexibility for allocated capacity to be used by Qantas or a wholly-owned subsidiary. The delegate will do so in this case.

4 Determination allocating capacity on the China route to Qantas ([2007] IASC 103)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 835 seats of capacity per week in each direction between Australia and China, from the capacity available to be operated by the designated airlines of Australia to and from Sydney, Melbourne, Brisbane and Perth.

4.2 The determination is for five years from the date of this determination.

4.3 The determination is subject to the following conditions:

- Qantas, or another Australian carrier which is a wholly owned subsidiary of Qantas, is required to utilise a minimum of 242 seats of the capacity by no later than 31 August 2007, or from such other date approved by the Commission;
- Qantas, or another Australian carrier which is a wholly owned subsidiary of Qantas, is required to fully utilise the capacity by no later than 31 March 2008, or from such other date approved by the Commission;
- 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;

- 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 - China 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 – China air services arrangements.

Dated: 13 June 2007

Michael Bird
Executive Director
Delegate of the IASC Commissioners