



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2007] IASC 116
Renewal of: [2003] IASC 120
The Route: Singapore
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200715

1 The application for renewal

1.1 On 31 October 2003, the Commission issued Determination [2003] IASC 120 (the Determination) allocating unlimited capacity and frequency on the Singapore route for services other than all-cargo services. The Determination authorised code sharing by Qantas with British Airways, Finnair, Gulf Air and Swiss International.

1.2 The Determination was varied by Decisions [2004] IASC 213, [2005] IASC 208, [2006] IASC 219 and [2006] IASC 221. The decisions permitted code sharing with Air France, Air Malta, Jet Airways and any wholly-owned subsidiary of the Qantas group respectively.

1.3 Qantas advised that it does not require permission to code share with Finnair, Gulf Air and Swiss International as Qantas no longer code shares with these airlines on the Singapore route.

1.4 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 October 2008.

1.5 Qantas applied to the Commission on 24 August 2007 for a renewal of the Determination. The Commission published a notice on 6 September 2007 inviting other applications for an allocation of the capacity subject to renewal. No other applications were received.

1.6 All material supplied by the applicant is filed on the Register of Public Documents.

2 Delegate's consideration

2.1 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.

2.2 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 delegate notes that:

- Qantas has been utilising the relevant capacity;
- there is unlimited capacity available between Singapore and cities in Australia.
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 In these circumstances, the delegate concludes that the renewal of Determination [2003] IASC 120 would be of benefit to the public.

2.4 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.

3 Determination for renewal of Determination [2003] IASC 120 allocating capacity on the Singapore route to Qantas ([2007] IASC 116)

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating unlimited capacity and frequency on the Singapore route for services other than all-cargo services under the Australia - Singapore air services arrangements.

3.2 The determination is for ten years from 31 October 2008.

3.3 The determination is subject to the following conditions:

- Qantas is required to utilise the capacity;
- 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;
- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- the capacity may be used by Qantas to provide services jointly with British Airways in accordance with:
 - the code share agreement dated 5 October 1997; or
 - any new code share agreement, whether or not it replaces the existing agreement, with the prior approval of the Commission;
- under the arrangements with British Airways, Qantas may only price and market its services, or share or pool revenues/profits on the route, jointly with British Airways as long as such practices are authorised under the *Trade Practices Act 1974* or otherwise authorised by the Australian Competition Tribunal, in the event of review by that Tribunal;
- the capacity may be used by Qantas to provide services jointly with Air France in accordance with:
 - the code share agreement dated 28 October 2004; or
 - any subsequent code share agreement between Qantas and Air France for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Air France:
 - Qantas must price and sell its services on the route independently of Air France
 - Qantas must not share or pool revenues on the route with Air France;
- the capacity may be used by Qantas to provide services jointly with Air Malta in accordance with:
 - the code share agreement dated 1 March 2005 and the Amendment Agreement to that code share agreement; or
 - any subsequent code share agreement between Qantas and Air Malta for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Air Malta:

- Qantas must price and sell its services on the route independently of Air Malta
- Qantas must not share or pool revenues on the route with Air Malta;
- the capacity may be used by Qantas to provide services jointly with Jet Airways in accordance with:
 - the code share agreement dated 6 September 2006; or
 - any subsequent code share agreement between Qantas and Jet Airways for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Jet Airways:
 - Qantas must price and sell its services on the route independently of Jet Airways
 - Qantas must not share or pool revenues on the route with Jet Airways;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of the booking;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
 - results in the designation of Qantas, or another Australian carrier which is a wholly-owned subsidiary of Qantas, as an Australian carrier under the Australia – Singapore 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 – Singapore air services arrangements.

Dated: 11 October 2007

Michael Bird
Executive Director
Delegate of the IASC Commissioners