



Australian Government

International Air Services Commission

DECISION

Decision: [2007] IASC 211
Variation of: [2002] IASC 123 and [2007] IASC 109
The Route: Indonesia
The Applicant: Qantas Airways Limited (Qantas)
(ACN 009 661 901)
Public Register: IASC/APP/200717

1 The application

1.1 On 20 September 2007, Qantas applied for a variation to Determination [2002] IASC 123, and to this determination as renewed as sought in Qantas' letter of 24 August 2007. The variation was sought to permit Air France to code share on services operated by Qantas between Denpasar and Singapore on the Indonesia route. Qantas and Air France are already authorised to code share on the France route via Singapore and via Hong Kong under Determinations issued on the France, Singapore and Hong Kong routes.

1.2 Under the arrangements, passengers flying on Air France services between Paris and Singapore will be able to connect with twice weekly Qantas services to/from Denpasar. The code share arrangement is of a free-sale type.

1.3 The Commission published a notice on 27 September 2007, inviting submissions about the application. No submissions were received. All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Indonesia air services arrangements, a designated airline of Australia may enter into cooperative marketing arrangements with an airline of a third country. A designated airline of Australia may also operate services beyond Indonesia to third countries.

3 Delegate's consideration

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 delegate of the Commission must decide whether the determinations, as varied, would be of benefit to the public. Under section 6.3 of the Minister's policy statement, where a carrier requests a

variation of a determination to allow it flexibility in operating its capacity and no submission is received about the application, only the criteria in paragraph 4 of the policy statement are applicable. 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.

3.3 Under Section 15(2)(e) of the Act, the Commission must include a condition in determinations stating the extent to which the carrier may use that capacity in joint services with another carrier. Qantas will be amending its code share agreement with Air France dated 31 October 2004 to include this free sale type arrangement. The Commission has been provided a draft copy of the agreement. The delegate of the Commission will authorise the use of capacity in joint services with Air France provided that the final agreement is materially consistent with the draft agreement.

3.4 The delegate, on behalf of the Commission, will vary the determination as requested by Qantas and the amended determination will be renewed as sought by Qantas (see separately Determination [2007] IASC 109).

4 Decision [2007] IASC 211

4.1 In accordance with section 24 of the Act, the delegate of the Commission varies Determinations [2002] IASC 123 by:

adding the following conditions:

- “the capacity may be used by Qantas to provide joint services with Air France in accordance with:
 - the Code Share agreement, signed by Qantas and Air France dated 31 October 2004, as amended by Exhibit A.3
 - or any subsequent code share agreement between Qantas and Air France for operations on the Indonesia 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; and
 - Qantas must not share or pool revenues on the route with Air France.”

Dated: 11 October 2007

Michael Bird
Executive Director
Delegate of the IASC Commissioners