



Australian Government

International Air Services Commission

DECISION

Decisions:	[2007] IASC 214 and [2007] IASC 215
Variation of:	[2007] IASC 116 (Singapore), [2006] IASC 107 and [2007] IASC 105 (Germany)
The Routes:	Singapore and Germany
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/200721

1 The application

1.1 On 30 October 2007, Qantas applied for a variation to Determination [2007] IASC 116 (Singapore route), and to Determinations [2006] IASC 107 and [2007] IASC 105 (Germany route) to permit Iberia Airlines (Iberia) to code share on Qantas operated services from Australia to Singapore and from Australia to Germany.

1.2 Qantas is proposing to introduce code share arrangements with Iberia between Australia and Spain via Singapore and Frankfurt from 4 December 2007. Qantas plans to code share on daily Iberia services between Madrid and Frankfurt, while Iberia would code share on daily Qantas services between Frankfurt and Sydney via Singapore.

1.3 The code share arrangements will only apply to passenger traffic and will not involve the purchase of a block of seats by the marketing carriers i.e. it is a 'free sale' code share arrangement.

1.4 The Commission published a notice on 5 November 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 The Australia - Spain air services arrangements permit any designated airline of Australia to enter into code share arrangements, as the marketing airline with any other airline. Code sharing by Qantas on Iberia services between Spain and Germany does not therefore involve the use of Australian capacity.

2.2 The Australia - Germany air services arrangements permit any designated airline of Australia to enter into code share arrangements with an airline of a third country. Similarly, the Australia - Singapore air services arrangements permit Australian carriers to enter into code share arrangements with airlines of third parties. Code sharing by a third-country airline constitutes the exercise of Australian capacity.

3 Commission's consideration

3.1 When considering applications to vary determinations the Commission must determine whether the determinations, as varied, would be of benefit to the public. Under paragraph 4 of the Minister's Policy Statement, the use of Australian entitlements 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 capacity as proposed in the code share arrangements with Iberia.

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.

3.3 The Commission has previously authorised the use of capacity in joint services between Qantas and other airlines on the Germany and Singapore routes and will authorise the use of capacity in joint services with Iberia. The Commission will vary the determinations as requested by Qantas.

4 Decision [2007] IASC 214

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2007] IASC 116, which allocates capacity on the Singapore route, by

adding the following conditions:

- “the capacity may be used by Qantas to provide services jointly with Iberia Airlines (Iberia) in accordance with:
 - the code share agreement between Qantas and Iberia, subject to the agreement being received and approved by the Commission prior to services commencing; or
 - any subsequent code share agreement between Qantas and Iberia with the prior approval of the Commission;
- under any code share agreement with Iberia:
 - Qantas must price and sell its services on the route independently of Iberia; and

- Qantas must not share or pool revenues on the route with Iberia;
- 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;”

5 Decision [2007] IASC 215

5.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determinations [2006] IASC 107 and [2007] IASC 105, which allocate capacity on the Germany route by

adding the following conditions:

- “the capacity may be used by Qantas to provide services jointly with Iberia Airlines (Iberia) in accordance with:
 - the code share agreement between Qantas and Iberia, subject to the agreement being received and approved by the Commission prior to services commencing;
 - or any subsequent code share agreement between Qantas and Iberia with the prior approval of the Commission; and
- under any code share agreement with Iberia:
 - Qantas must price and sell its services on the route independently of Iberia; and
 - Qantas must not share or pool revenues on the route with Iberia;
- 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: 16 November 2007

John Martin
Chairman

Philippa Stone
Member

Vanessa Fanning
Member