



## Australian Government

### International Air Services Commission

#### DECISION

**Decision:** [2008] IASC 202  
**Variation of:** [2006] IASC 116  
**The Route:** Switzerland  
**The Applicant:** Qantas Airways Limited (Qantas)  
(ACN 009 661 901)  
**Public Register:** IASC/APP/200802

### 1 The application

1.1 On 17 January 2008, Qantas applied for a variation to Determination [2006] IASC 116 (the Determination) to permit British Airways to code share on Qantas services on the Switzerland route. From 1 April 2008, Qantas plans to expand its existing code share arrangements with British Airways to include daily services between London and Zurich. Qantas already code shares on twice daily British Airways services between London and Geneva. The new code share services would connect with Qantas services to Sydney via Bangkok. Under the Determination, Qantas is permitted presently to utilise the capacity for joint services with Finnair, but that arrangement did not commence due to changes to Finnair's schedules.

1.2 The Commission published a notice on 23 January 2008, 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 air services arrangements between Australia and Switzerland, the designated airlines of Australia may enter into code share arrangements as marketing airlines with third country airlines on up to a total of twenty-one frequencies per week in each direction. Qantas currently holds allocations totalling all of these entitlements.

### 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 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 capacity in joint services with another carrier.

3.4 Qantas states that the code share will be a free sale arrangement and the airlines will set fares independently of each other. A signed copy of the Amendment Annex to the existing Qantas - British Airways code share agreement will be provided to the Commission as soon as possible. The delegate, on behalf of the Commission, will authorise the use of the capacity in joint services with British Airways on the basis that the amendment annex is provided to the Commission before the commencement of services.

3.5 The delegate, on behalf of the Commission, will vary the determinations on the Switzerland route as requested by Qantas.

## **4 Decision [2008] IASC 202**

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2006] IASC 116 by *adding* the following conditions to the determination:

- “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, and the amendment annex to that agreement between Qantas and British Airways for operations on the Australia – Switzerland Route, provided it is received and approved by the Commission prior to the joint services commencing;
  - or any subsequent code share agreement between Qantas and British Airways for operations on the Australia – Switzerland route, whether or not it replaces the existing agreement, with the prior approval of the Commission or the delegate;
- under any code share agreement with British Airways:
  - Qantas must price and sell its services on the route independently of British Airways;
  - Qantas must not share or pool revenues on the route with British Airways;”

Dated: 31 January 2008

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners