



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2008] IASC 118  
**The Route:** Indonesia  
**The Applicant:** Qantas Airways Limited (Qantas)  
(ACN 009 661 901)  
**Public Register File:** IASC/APP/200824

## 1 The application

1.1 On 10 September 2008, Qantas applied to the Commission for an allocation of 1,074 seats of capacity per week on the Indonesia route. This application has been made to enable Jetstar Airways (Jetstar) to introduce a daily Airbus A320 return service on the Brisbane–Darwin–Denpasar sector from 3 December 2008. Jetstar has configured these aircraft with 177 seats. Qantas proposes to code share on Jetstar's services on the Indonesia route. Qantas also foreshadowed the possibility of deploying larger aircraft on some other sectors on the Indonesia route during the Northern Winter 2008 scheduling season. Qantas sought a five year determination.

1.2 Qantas advised that, from late October 2008, Jetstar would replace current Qantas services from Perth to Denpasar and Jakarta respectively, using Airbus A320 aircraft. Three weekly services would be operated on each sector initially, increasing to four weekly services on the Perth–Denpasar sector during the Northern Winter 2008 scheduling season.

1.3 Jetstar currently operates four weekly services on the Sydney–Denpasar sector and two weekly services on the Melbourne–Denpasar sector using Airbus A330 aircraft configured with 303 seats.

1.4 The Commission published a notice on 15 September 2008 inviting other applications for the capacity. No other applications were received.

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

## 2 Provisions of relevant air services arrangements

2.1 The air services arrangements between Australia and Indonesia permit the designation of multiple Australian airlines. According to the Register of Available Capacity, there are 5,982 seats per week available for allocation between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia. There are no

restrictions on capacity between other points in Australia and authorised points in Indonesia.

2.2 The Commission has previously made allocations on the Indonesia route totalling 4,410 seats per week to Qantas and 408 seats per week to OzJet, as well as an allocation of unrestricted capacity to Airnorth from points in Australia other than Sydney, Melbourne, Brisbane and Perth.

### **3 Delegate's consideration**

3.1 In accordance with section 27AB of the Act and regulation 3A of the *International Air Services Commission Regulations 1992*, the delegate of the Commission considers the Qantas application.

3.2 Qantas is the only applicant for the capacity. 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 concludes that an allocation to Qantas of 1,074 seats per week in each direction on the Indonesia route would be of benefit to the public. The Commission has previously allocated capacity to Qantas which can be used by wholly-owned subsidiaries of Qantas on a number of routes and will do so on this occasion.

3.4 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 is proposing to code share on Jetstar-operated services. The Commission's view has been that there can generally be expected to be no lessening of public benefit from authorising the parent airline code sharing with the subsidiary airline. The delegate will authorise the use of the capacity by Qantas in code share services with its wholly-owned subsidiaries on the Indonesia route.

### **4 Determination allocating capacity on the Indonesia route to Qantas ([2008] IASC 118)**

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 1,074 seats per week, in each direction on the Indonesia route in accordance with the terms of the Australia – Indonesia air services arrangements.

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

4.3 The determination is subject to the following conditions, which apply to Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas:

- Qantas is required to fully utilise the capacity from no later than 28 March 2009, 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;
- Qantas is not 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;
- 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 booking;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
  - 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 – Indonesia air services arrangements.

Dated: 24 September 2008

Michael Bird  
 Executive Director  
 Delegate of the IASC Commissioners