



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination:	[2008] IASC 122
Renewal of:	[2004] IASC 104
The Route:	India
The Applicant:	Qantas Airways Limited (ACN 009 661 901) (Qantas)
Public Register File:	IASC/APP/200820

1 The application for renewal

1.1 On 29 June 2004, the Commission issued Determination [2004] IASC 104 allocating 2,100 seats of capacity per week in each direction on the Australia-India route, in accordance with the Australia-India air services arrangements. The Commission reduced the capacity allocated to 1,175 seats per week in response to an application from Qantas by making Decision [2007] IASC 217. The Commission also permitted a free-sale code share agreement with Jet Airways on Qantas' services between Sydney and Mumbai by making Decision [2007] IASC 212.

1.2 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 28 June 2009.

1.3 Qantas applied to the Commission on 25 August 2008 for a renewal of the Determination. The Commission published a notice on 18 September 2008 inviting other applications for an allocation of the capacity subject to renewal. No other applications were received.

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

2 Commission's consideration

2.1 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 Commission notes that:

- Qantas has been fully utilising the relevant capacity;

- According to the Register of Available Capacity, there are 5,325 seats of capacity available to Mumbai, New Delhi, Kolkata, Chennai, Bangalore and Hyderabad.
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.2 In these circumstances, the Commission concludes that the renewal of Determination [2004] IASC 104 would be of benefit to the public.

2.3 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 [2004] IASC 104 allocating capacity on the India route to Qantas ([2008] IASC 122)

3.1 The Commission makes a determination in favour of Qantas, allocating 1,175 seats of capacity per week in each direction on the Australia – India route, under the Australia – India air services arrangements.

3.2 The determination is for five years from 29 June 2009.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide services jointly with Jet Airways in accordance with:
 - the Codeshare Agreement dated 6 September 2006, as amended by the Amendment Agreement dated 7 August 2008; or
 - any subsequent code share agreement between Qantas and Jet Airways for operations on the Australia-India 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 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:
 - results in the designation of Qantas as an Australian carrier under the Australia – India 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 – India air services arrangements.

Dated: 8 October 2008

John Martin
Chairman

Philippa Stone
Member

Ian Smith
Member