



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2008] IASC 123  
**Renewal of:** [2004] IASC 106  
**The Route:** Philippines  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200820

#### 1 The application for renewal

1.1 On 3 June 2004, the Commission issued Determination [2004] IASC 106 (the Determination) allocating 229 seats per week in each direction on the Philippines route to Qantas. The determination was subsequently varied by Decision [2007] IASC 222 to reduce the capacity allocation to 129 seats per week.

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 5 December 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 a total allocation of 1,216 seats per week on the route, but is only utilising 916 seats per week of the capacity allocated;

- according to the Register of Available Capacity, there are 1,284 seats per week in each direction available for immediate allocation;
- 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 The Commission has noted the under utilisation of the total capacity allocated under three Determinations for Qantas on the Philippines route. However, the Commission notes advice from Qantas in April 2008 that it expects to introduce larger aircraft on the route within the next year. The Commission anticipates that Qantas will keep it informed of the airline's plans in this regard when providing its next capacity utilisation report in October/November 2008.

2.3 The Commission concludes that the renewal of Determination [2004] IASC 106 would be of benefit to the public.

2.4 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 106 allocating capacity on the Philippines route to Qantas ([2008] IASC 123)**

3.1 The Commission makes a determination in favour of Qantas, allocating 129 seats per week of capacity in each direction on the Philippines route under the Australia – Philippines air services arrangements.

3.2 The determination is for five years from 6 December 2009.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas or another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity;
- neither Qantas nor another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;

- 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;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – Philippines 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 – Philippines air services arrangements.

Dated: 8 October 2008

John Martin  
Chairman

Philippa Stone  
Member

Ian Smith  
Member