



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

<b>Determination:</b>	<b>[2010] IASC 117</b>
<b>Renewal of:</b>	<b>[2005] IASC 122</b>
<b>The Route:</b>	<b>Indonesia</b>
<b>The Applicant:</b>	<b>Qantas Airways Ltd (ACN 009 661 901) (Qantas)</b>
<b>Public Register File:</b>	<b>IASC/APP/201013</b>

#### 1 The application for renewal

1.1 On 7 November 2005, the Commission issued Determination [2005] IASC 122 (the Determination), allocating to Qantas 780 seats weekly between any points in Australia and authorised points in Indonesia under the Australia – Indonesia air services arrangements. The Qantas Group is using the allocation to operate services to Jakarta and Denpasar.

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 29 July 2011.

1.3 Qantas applied to the Commission on 10 September 2010 for a renewal of the Determination. The Commission published a notice on 14 October 2010 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 utilising the relevant capacity;
- according to the Register of Available Capacity, there are 4,000 seats per week of capacity available for allocation between Sydney, Melbourne,

Brisbane and Perth and points in Indonesia (although the Commission allocated all of that capacity on the date of this determination to Qantas and other carriers – see separate determinations);

- 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 [2005] IASC 122 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. Qantas has requested the inclusion of conditions enabling the capacity to be used by a wholly-owned subsidiary of Qantas and for the capacity to be used in joint services between them. The Commission will include these conditions, noting that the same conditions apply to other determinations in favour of Qantas on the Indonesia route.

### **3 Determination for renewal of Determination [2005] IASC 122 allocating capacity on the Indonesia route to Qantas ([2010] IASC 117)**

3.1 The Commission makes a determination in favour of Qantas, allocating 780 seats weekly in each direction on the Australia – Indonesia route under the Australia – Indonesia air services arrangements:

3.2 The determination is for five years from 30 July 2011.

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;
- 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 the 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 the airline as an Australian carrier under the Australia – Indonesia 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 – Indonesia air services arrangements.

Dated: 25 October 2010

Ian Smith  
Member Presiding

Stephen Bartos  
Member