

RENEWAL DETERMINATION

DETERMINATION NO: [2000] IASC 108
RENEWAL OF: DETERMINATION IASC/DET/9506
THE ROUTE: ZIMBABWE
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)

1 The application for renewal

1.1 On 28 July 1995, the Commission issued Determination IASC/DET/9506 (the determination) allocating 1 B747 frequency per week in each direction to Qantas Airways Limited (Qantas) on the Zimbabwe route. The determination was varied by IASC/DEC/9832 to 420 seats per week, following changes to the Australia-Zimbabwe ASA to express passenger capacity entitlements in seats per week.

1.2 The determination expires on 27 July 2000.

1.3 Qantas has applied to the Commission seeking a renewal of the determination. The Commission subsequently published a notice inviting submissions from any interested person about the renewal of the determination, and other applications for an allocation of all or part of the capacity subject to renewal. No submissions or other applications were received.

2 Commission's consideration

2.1 Under section 11 of the *International Air Services Commission Act 1992* (the Act), the Minister may make Policy Statements setting out matters relevant to the Commission's performance of its functions. Under the Policy Statement (No. 3), issued by the Minister on 23 April 1997, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 The Commission therefore concludes that the renewal of Determination IASC/DET/9506 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the belief of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice. 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 IASC/DET/9506 allocating capacity on the Zimbabwe route to Qantas ([2000] IASC 108)

3.1 The Commission finds a renewal of the Determination IASC/DET/9506 allocating capacity to Qantas on the Zimbabwe route would be of benefit to the public.

3.2 The Commission makes a fresh determination in favour of Qantas, allocating 420 seats per week in each direction on the Zimbabwe route.

3.3 The determination is for 5 years from 28 July 2000 and is subject to the following conditions:

- that Qantas is required to fully utilise the allocated capacity from 28 July 2000;
- only Qantas is permitted to utilise the capacity;
- Qantas may use the capacity to provide services jointly with Air Zimbabwe in accordance with:
 - the Commercial Agreement between Qantas and Air Zimbabwe made on 30 June 1989, as extended from time to time in accordance with its terms; or
 - variations to the Qantas- Air Zimbabwe Commercial Agreement, subject to the prior approval of the Commission; or
 - any new joint service arrangements between Qantas and Air Zimbabwe for operations on the Australia – Zimbabwe route, whether or not it replaces the existing agreement, with the prior approval of the Commission;

and in any case, in accordance with this determination,

- to the extent that the capacity is used to provide joint services with Air Zimbabwe:
 - Qantas must price and sell its services on the route independently;
 - Qantas must not pool revenues with Air Zimbabwe.
- 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-Zimbabwe Air Services Agreement 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 results in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia-Zimbabwe Air Services Agreement.

Dated: 21 February 2000

Michael Lawriwsky
Member

Stephen Lonergan
Member