



DETERMINATION

DETERMINATION: [2001] IASC 109
THE ROUTE: ITALY
THE APPLICANT: ANSETT INTERNATIONAL LIMITED
(ACN 060 622 460)
(ANSETT INTERNATIONAL)
PUBLIC REGISTER FILE: IASC/APP/200118

1 The application

1.1 On 4 June 2001, Ansett International applied for an allocation of capacity on the Italy route. Ansett International is seeking an allocation of 75 seats per week of third country code share capacity. Ansett International intends to code share on three Singapore Airlines services per week between Italy and Australia using 25 seats per service.

1.2 The Commission published a notice on 8 June 2001 inviting other applications for all or any part of the capacity and submissions from interested parties about the Ansett International application. No submission were received.

1.3 All non-confidential material supplied by the applicant is filed on the Register of Public Documents. Any confidential material supplied by the applicant is filed on the Commission's confidential register.

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Italy air services arrangements, third country code share operations are allowed. There are 1000 seats per week available in each direction for third country code share operations.

3 Commission's assessment

3.1 Under paragraph 6.2 of the Minister's Policy Statement, in the absence of submissions about or opposing an application, the Commission is required only to apply the criteria in paragraph 4 of the Policy Statement. Under paragraph 4 the use of Australian entitlements by a 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 Ansett International this means that there is public benefit arising from the use of the entitlements. Therefore, the Commission

concludes that an allocation of 75 seats of third country code share capacity to Ansett International would be of benefit to the public.

3.2 Section 15(2)(d) of the Act specifies that 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. Ansett International has stated that the capacity would be used in a code share arrangement with Singapore Airlines. The Commission has previously approved the operation of capacity by Ansett International in joint services with Singapore Airlines and will do so in this case, subject to its usual conditions.

4 Determination allocating capacity on the Italy route to Ansett International ([2001] IASC 109)

4.1 The Commission makes a determination in favour of Ansett International, allocating 75 seats per week in each direction of third country code share capacity under the Australia - Italy 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:

- Ansett International is required to fully utilise the capacity from no later than 1 September 2001 or from such other date approved by the Commission;
- only Ansett International is permitted to utilise the capacity;
- the capacity may be used by Ansett International to provide joint services with Singapore Airlines pursuant to the Alliance Agreement dated 17 December 1997 as authorised under the *Trade Practices Act* and in accordance with:
 - the Code Share Agreement dated 2 September 1998 between Ansett International and Singapore Airlines as extended or as amended with respect to Appendix A;
 - the Code Share Agreement as otherwise amended, with the prior consent of the Commission; or
 - any new joint service agreement between Ansett International and Singapore Airlines for operations on the Australia-Italy route, whether or not it replaces the existing agreement, with the prior approval of the Commission;

subject to the following conditions:

- Ansett International must price and sell its services on the route independently of Singapore Airlines and not share or pool revenue except to the extent authorised under the *Trade Practices Act*; and
- Ansett International must take all reasonable steps to ensure that passengers are informed, at the time of booking, of the carrier actually operating the flight;
- for so long as the Commission requires, Ansett International will provide within 30 days of the end of each calendar quarter, a report on the number of seats subject to this determination that are sold by Ansett International in that quarter;
- if the air services arrangements between Australia and Italy are amended to express code share capacity in units other than services, Ansett International is required to return any capacity excess to its requirements;
- changes in relation to the ownership and control of Ansett International are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Italy 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 Ansett International or be in a position to exercise effective control of Ansett International, without the prior consent of the Commission; and
 - changes in relation to the management, status or location of operations and Head Office of Ansett International 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 – Italy air services arrangements.

Dated: 19 June 2001

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member