



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION: [2001] IASC 110
THE ROUTE: ARGENTINA
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901) (QANTAS)
PUBLIC REGISTER FILE: IASC/APP/200121

1 The application

1.1 On 6 June 2001, Qantas applied for an allocation of capacity on the Argentina route. Qantas is seeking an allocation of 408 seats per week in each direction to enable it to add an additional B747-400 service between Australia and Argentina via New Zealand.

1.2 The Commission published a notice on 13 June 2001 inviting other applications for all or any part of the capacity and submissions from interested parties about the Qantas application. No applications or opposing submissions were received. A submission was received from Mr Rod McGeoch supporting the Qantas application.

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

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Argentina air services arrangements, the designated airlines of Australia are entitled to operate 2800 seats per week in each direction on the Argentina route. Qantas already has an allocation of 792 seats per week and there are 2008 seats per week available for immediate allocation.

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. The Commission received a submission supporting the application.

3.2 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

Qantas, this means that there is public benefit arising from the use of the entitlements. Therefore, the Commission concludes that an allocation to Qantas of 408 seats per week in each direction on the Argentina route would be of benefit to the public.

3.3 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. Qantas has stated that the capacity would be used in a code share arrangement with Aerolineas Argentinas. The Commission has previously approved the operation of capacity by Qantas in joint services with Aerolineas Argentinas and will do so in this case, subject to its usual conditions.

4 Determination allocating capacity on the Argentina route to Qantas ([2001] IASC 110)

4.1 The Commission makes a determination in favour of Qantas, allocating 408 seats per week in each direction on the Argentina route under the Australia - Argentina 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:

- Qantas is required to fully utilise the capacity from no later than 30 November 2001 or from such other date approved by the Commission;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide services jointly with Aerolineas Argentinas in accordance with:
 - the Codeshare Agreement dated 7 September 1998 between Qantas and Aerolineas Argentinas as extended from time to time in accordance with its terms; or
 - any new joint service agreement between Qantas and Aerolineas Argentinas for operations on the Australia-Argentina route, whether or not it replaces the existing agreement, with the prior approval of the Commission;

subject to the following conditions:

- Qantas must price and sell its services on the route independently;
- Qantas must not share or pool revenues; and

- Qantas must take all reasonable steps to ensure that passengers are informed, at the time of booking, of the carrier actually operating the flight;
- 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 - Argentina 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 – Argentina air services arrangements.

Dated: 9 July 2001

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member