



# INTERNATIONAL AIR SERVICES COMMISSION

## RENEWAL DETERMINATION

**DETERMINATION NO:** [2001] IASC 114  
**RENEWAL OF:** DETERMINATION IASC/DET/9615  
**THE ROUTE:** SOUTH AFRICA  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(QANTAS) (ACN 009 661 901)  
**PUBLIC REGISTER FILE:** IASC/APP/200023

### 1 The application for renewal

1.1 The Commission is required by the *International Air Services Commission Act 1992*, to commence consideration of renewals at least 12 months prior to the expiry of the determination. On 27 September 1996, the Commission issued Determination IASC/DET/9615 (the determination) allocating two frequencies per week in each direction between Australia and South Africa. The Determination was varied by Decisions [2000] IASC 217 and [2001] IASC 206 to permit passenger and freight code sharing with South African Airways (SAA). The determination expires on 26 September 2001.

1.2 Qantas has applied to the Commission for a renewal of the determination. The Commission published a notice on 16 November 2000 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

1.3 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. 3), of 23 April 1997, as amended on 9 March 1999, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission also 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 In these circumstances, the Commission concludes that the renewal of Determination IASC/DET/9615 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 *International Air Services Commission Act 1992*, 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/9615 allocating capacity on the South Africa route to Qantas ([2001] IASC 114)**

3.1 The Commission makes a fresh determination in favour of Qantas, allocating two frequencies per week between Australia and South Africa.

3.2 The determination is for 5 years from 27 September 2001.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide passenger and freight services jointly with SAA until 30 June 2002 in accordance with:
  - the Codeshare Agreement dated 18 December 2000 amended by the letter from Qantas to SAA of 19 April 2001 to include freight and the Commercial Agreement dated 18 December 2000 between Qantas and SAA; or
  - any amendments to the code share agreement, or to the commercial agreement in so far as it affects the former, must be approved by the Commission;
  - any new code share agreement or commercial agreement in so far as it affects the former must be approved by 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 under any such agreement; 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;

- the approval will only be effective while Qantas and SAA together operate at least 10 services per week on the route or, allowing for the possibility of some reduction in services during periods of low demand, no less than 250 round trip services per annum for Qantas (excluding supplementary services) and no less than 235 round trip services per annum for SAA (excluding supplementary services), with effect from 15 January 2001;
  - Qantas and SAA withdraw from all IATA tariff coordination activities in relation to air fare levels between Australia and South Africa;
  - Qantas and SAA withdraw from all IATA freight coordination activities in relation to air freight rates between Australia and South Africa whilst a freight code agreement is in effect; and
  - Qantas must submit to the Commission reports each quarter on the number of code share seats sold by it on each of SAA's operated services and by SAA on each of Qantas' operated services.
- 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 - South Africa 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 – South Africa air services arrangements.

Dated: 28 August 2001

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member