



# INTERNATIONAL AIR SERVICES COMMISSION

## DETERMINATION

**DETERMINATION NO:** [2002] IASC 105  
**THE ROUTE:** HONG KONG  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(ACN 009 661 901)  
**PUBLIC REGISTER FILE:** IASC/APP/200202

### 1 The application

1.1 On 8 February 2002, Qantas applied for an allocation of five frequencies and 988 seats per week on the Hong Kong route under the Australia – Hong Kong air services arrangements. The application was in response to the Commission's notice of 10 January 2002 that it was conducting a review of all determinations allocating capacity to Ansett International Limited (Administrators appointed), including on the Hong Kong route.

1.2 Qantas proposes to introduce an additional three B767-300 services per week between Sydney and Hong Kong from 31 March 2002. It plans to commence a further B767-300 weekly service between Sydney and Hong Kong from 27 October 2002. The remaining frequency sought is to provide an allocation to support an existing Qantas service which is currently operated on a supplementary basis.

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 The Australia – Hong Kong air services arrangements allow the designated airlines of each country to operate up to 9,000 seats per week for passenger services with a maximum of 28 services per week. A further two frequencies per week are available for all cargo services and each of these frequencies is convertible to be operated as passenger services at the ratio of 400 seats and one passenger frequency.

### **3 Commission's consideration**

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 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 five frequencies and 988 seats per week on the Hong Kong route would be of benefit to the public.

### **4 Determination allocating capacity on the Hong Kong route to Qantas ([2002] IASC 105)**

4.1 The Commission makes a determination in favour of Qantas, allocating 988 seats and five frequencies per week for passenger services on the Hong Kong route.

4.2 The Determination is for five years from the date of this Determination and is subject to the following conditions:

- Qantas is required to fully utilise four of the five frequencies from no later than 1 April 2002. The fifth frequency is required to be utilised from no later than the start of the Northern Winter 2002 scheduling period;
- 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;
- 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 - Hong Kong 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 - Hong Kong air services arrangements.

Dated: 19 March 2002

Ross Jones  
Chairman

Michael Lawriwsky  
Member

Stephen Lonergan  
Member