



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION NO: [2002] IASC 120
THE ROUTE: UNITED KINGDOM
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)
PUBLIC REGISTER FILE: IASC/APP/200215

1 The application

1.1 On 17 July 2002, Qantas applied for an allocation of three services per week in each direction on the United Kingdom route under the Australia – United Kingdom air services arrangements.

1.2 Qantas proposes to increase services on the United Kingdom route from 18 per week at present to 21 per week from 8 December 2002. Qantas has also requested approval for British Airways to code share on the services and for the airlines to price and market their services together and share/pool revenue/profits on the route.

1.3 On 24 July 2002, the Commission published a notice inviting submissions from interested parties about the application. No submissions opposing the application were received. The Commission received a submission from the Australian Tourist Commission supporting Qantas' application.

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

2 Provisions of relevant air services arrangements

2.1 Operation of the capacity proposed in the application is consistent with the provisions of the Australia-United Kingdom air services arrangements.

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.

3.2 Therefore, the Commission concludes that an allocation to Qantas of three services per week on the United Kingdom route would be of benefit to the public.

3.3 The Commission will include conditions in the determination which are consistent with determinations [2001] IASC 124 and [2002] IASC 103 both of which allocate capacity to Qantas on the United Kingdom route.

4 Determination allocating capacity on the United Kingdom route to Qantas ([2002] IASC 120)

4.1 The Commission makes a determination in favour of Qantas Airways Limited, allocating three services per week in each direction between Australia and the United Kingdom.

4.2 The determination is for five years from the date of this Determination.

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from 31 December 2002;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide services jointly with British Airways in accordance with:
 - the code share agreement dated 5 October 1997; or
 - any new code share agreement, whether or not it replaces the existing agreement, with the prior approval of the Commission;
- under the arrangements with British Airways, Qantas may only price and market its services, or share or pool revenues/profits on the route, jointly with British Airways as long as such practices are authorised under the *Trade Practices Act 1974* or otherwise authorised by the Australian Competition Tribunal, in the event of review by that Tribunal;
- to the extent that the capacity is used to provide joint services on the route, Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking;
- 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 – United Kingdom 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 – United Kingdom air services arrangements.

Dated: 8 August 2002

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member