



INTERNATIONAL AIR SERVICES COMMISSION

DETERMINATION

DETERMINATION NO: [2003] IASC 102
THE ROUTE: SWITZERLAND
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)
PUBLIC REGISTER FILE: IASC/APP/200301

1 The application

1.1 On 12 February 2003, Qantas applied for an allocation of 3.5 units of capacity weekly on the Switzerland route under the Australia – Switzerland air services arrangements. Qantas proposes to use the capacity to code share on daily services operated by Swiss International between Frankfurt and Switzerland. Services are planned to commence in the Northern Summer scheduling period.

1.2 On 18 February 2003, the Commission published a notice inviting applications for capacity on the Switzerland route or submissions about the Qantas application. No applications were received. A submission supporting the allocation of capacity to Qantas was received from the Government of Western Australia. The Government of Western Australia submitted that the proposed code share arrangements would strengthen the financial viability of Qantas' Frankfurt services and that this route along with the European market as a whole was extremely important to Western Australian tourism.

1.3 All material supplied by the applicant and submitter 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 The Australia – Switzerland air services arrangements allow the designated airlines of each country to operate up to 7 frequencies for passenger services with any aircraft type in any configuration.

2.2 When a designated airline of Australia enters into code sharing arrangements with an airline of Switzerland for international sectors, each code share service (whether as the operating or non-operating airline) will be counted as the equivalent of 0.5 of a frequency.

3 Current services

3.1 Qantas currently has an allocation of seven third-country code share frequencies on the Switzerland route which are used to provide services with British Airways over London.

4 Commission's consideration

4.1 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 3.5 frequencies per week in each direction on the Switzerland route would be of benefit to the public.

4.2 Section 15(2)(e) 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 to code share with Swiss International. The Commission will allocate the capacity on the condition that the code share agreement is consistent with the draft code share agreement provided by Qantas and that the Commission approves the final code share agreement before services commence.

5 Determination allocating capacity on the Switzerland route to Qantas ([2003] IASC 102)

5.1 The Commission makes a determination in favour of Qantas, allocating 3.5 frequencies per week for passenger services on the Switzerland route.

5.2 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 the capacity from 30 April 2003;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas to provide joint services with Swiss International in accordance with:
 - the finalised code share agreement being approved by the Commission, with such additional conditions (if any) as the Commission may require, prior to the commencement of services;

- any subsequent code share agreement between Qantas with Swiss International for operations on the Australia - Switzerland route, whether or not it replaces the existing agreement, with the prior approval of the Commission; and
- under any code share agreement with Swiss International:
 - Qantas must price and sell its services on the route independently of Swiss International;
 - Qantas must not share or pool revenues under any such agreement;
- 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 - Switzerland 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 - Switzerland air services arrangements.

Dated: 7 March 2003

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member