



# INTERNATIONAL AIR SERVICES COMMISSION

## DECISION

<b>DECISION:</b>	<b>[2003] IASC 207</b>
<b>VARIATION OF:</b>	<b>IASC/DET/9813, [2002] IASC 113, &amp; [2002] IASC 123</b>
<b>THE ROUTE:</b>	<b>INDONESIA</b>
<b>THE APPLICANT:</b>	<b>QANTAS AIRWAYS LIMITED (ACN 009 661 991) (QANTAS)</b>
<b>PUBLIC REGISTER:</b>	<b>IASC/APP/200311</b>

### 1 The application

1.1 On 11 June 2003 Qantas applied to vary Determinations IASC/DET/9813, [2002] IASC 113 and [2002] IASC 123 (the Determinations) which allocate capacity on the Indonesia route to enable it to operate joint passenger services with Australian Airlines. On 23 April 2003 the Commission in Decision [2003] IASC 203 approved joint services for cargo sales only.

1.2 The Commission published a notice on 17 June 2003 inviting submissions from interested parties about the application for joint passenger services. No submissions were received.

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

### 2 Provisions of relevant air services arrangements

2.1 Australia's air services arrangements with Indonesia permit multiple designation of Australian carriers and the designated airlines may enter into cooperative marketing arrangements such as blocked space or code sharing with an airline of either country or a third country.

### 3 Commission's assessment

3.1 Pursuant to s.15(2)(e) of the Act, a carrier cannot use allocated capacity by providing services jointly with any another carrier without the prior approval of the Commission.

3.2 While Qantas proposes to code share on Australian Airlines' services for cargo sales only it has requested approval to code share for passenger services as well. In its application Qantas submitted that authorisation for the Qantas code to be placed on Australian Airlines' services and vice versa, for cargo and passenger services, or both, should be capable of routine authorisation within the capacity allocation whenever a determination allows for the use of capacity by Qantas and Australian Airlines.

3.3 The Commission has previously considered this issue in Decision [2003] IASC

207 on the Malaysia route. In that case the Commission concluded that there would be no lessening of public benefit from authorising Qantas and Australian Airlines to code share on the Malaysia route. The Commission does not differ from that view in this case.

3.4 Qantas has not provided the Commission with a code share agreement between Qantas and AAL. In this case the Commission does not require the code share agreement as the approval is limited to sales by a parent airline on a wholly owned subsidiary and vice versa.

3.5 The Commission will vary the determinations as requested.

## **4 Decision [2003] IASC 207**

4.1 In accordance with section 24 of the Act, the Commission varies Determinations IASC/DET/9813, [2002] IASC 113 & [2002] IASC 123 which allocate capacity on the Indonesia route, as requested by Qantas, by:

*removing* the following condition from each of the Determinations:

- the capacity may be used by Australian Airlines to provide joint services with Qantas for cargo sales only between Australia and Indonesia.

*adding* the following conditions to each of the Determinations:

- 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;
- the capacity may be used by Australian Airlines to provide joint services with Qantas and vice versa between Australia and Indonesia;
- to the extent that the capacity is used by Qantas to provide joint passenger services with Australian Airlines or vice versa, Qantas and Australian Airlines must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking.

Dated: 10 July 2003

Ross Jones  
Chairman

Stephen Lonergan  
Member

Michael Lawriwsky  
Member