



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2005] IASC 107
The Route: Hong Kong
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register: IASC/APP/200508

1 The application

1.1 On 20 June 2005, Qantas applied for an allocation of one unit of all-cargo capacity on the Hong Kong route. Qantas plans to introduce an additional B747 freighter service from 25 July 2005.

1.2 On 23 June 2005, the Commission published a notice inviting applications from interested parties for allocations of capacity on the route. No other applications were received. All material supplied by the applicant is filed on the Commission's Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The Register of Available Capacity indicates that there is only one all-cargo frequency available for immediate allocation. However, the Register indicates that there are 24 frequencies available for passenger services and notes that the designated airlines of Australia may, at their discretion, freely convert and reconvert capacity for the operation of passenger and all-cargo services between Hong Kong and Sydney, Melbourne, Brisbane and Perth. As a result an airline can be allocated a passenger frequency that may, at the airline's discretion, be used as an all-cargo frequency.

2.2 All-cargo services may only be operated between Australia and Hong Kong and optionally via permitted intermediate points. However, Australian carriers are not permitted to uplift freight at an intermediate point for discharge in Hong Kong. Also no all-cargo operations beyond Hong Kong are permitted.

2.3 Under the air services arrangements between Australia and Hong Kong capacity for passenger and all-cargo services between all points in Australia other than Sydney, Melbourne, Brisbane and Perth and Hong Kong is unlimited.

3 Delegate's consideration

3.1 In accordance with section 27AB of the International Air Services Commission Act 1992 (the Act) and regulation 3A of the International Air Services Commission Amendment Regulations 2003 (No.1), the delegate of the Commission considers the Qantas application.

3.2 Under paragraph 6.2 of the Minister's policy statement (No. 5), of 19 May 2004, the Commission is required only to apply the criteria in paragraph 4 of the policy statement. Under paragraph 4, the use of entitlements by an Australian 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.

3.3 The delegate concludes that an allocation to Qantas of one all-cargo frequency per week on the Australia – Hong Kong route would be of benefit to the public.

3.4 As the capacity can be freely converted to passenger capacity the Commission will include the usual conditions it adds to determinations allocating passenger capacity on the Hong Kong route to permit subsidiaries of Qantas to utilise the capacity.

4 Determination allocating capacity on the Hong Kong route to Qantas ([2005] IASC 107)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating one all-cargo frequency capacity per week in each direction between any points in Australia and Hong Kong under the Australia – Hong Kong air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 30 November 2005, or from such other date approved by the Commission.
- 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: 14 July 2005

Michael Bird
Executive Director
Delegate of the IASC Commissioners