



## **Australian Government**

### **International Air Services Commission**

#### **DECISION**

<b>Decisions:</b>	<b>[2005] IASC 208</b>
<b>Variation of:</b>	<b>[2003] IASC 120</b>
<b>The Routes:</b>	<b>Singapore</b>
<b>The Applicant</b>	<b>Qantas Airways Limited</b> <b>(ACN 009 661 901) (Qantas)</b>
<b>Public Register File:</b>	<b>IASC/APP/200518</b>

#### **1 The application**

1.1 On 19 October 2005, Qantas applied for a variation to Determination [2003] IASC 120 (the Determination) to permit Air Malta to code share on daily Qantas services between Australia and Singapore. The proposed new code share services involve Qantas' services to the UK via Singapore which connect with services operated by Air Malta between London and Malta. Qantas would code share on Air Malta's services.

1.2 Qantas already has Commission authorisation to code share with Air Malta on the United Kingdom and Thailand routes. The code share agreement between Qantas and Air Malta is a free sale agreement for passenger traffic only. A signed copy of the Amendment Agreement is to be submitted to the Commission shortly.

1.3 The Commission published a notice on 25 October 2005 inviting submissions about the application. No submissions were received. All public material supplied by the applicant is filed on the Register of Public Documents.

#### **2 Provisions of the relevant air services arrangements**

2.1 The Australia – Singapore air services arrangements allow the designated airlines of Australia to enter into code share, blocked space or other co-operative marketing arrangements with any other airline, including airlines of third parties, as marketing and/or operating airline, provided that the airlines hold the authority to operate or market the service.

#### **3 Commission's assessment**

3.1 When considering applications to vary determinations, the Commission must decide whether the determinations, as varied, would be of benefit to the public. Under paragraph 4 of the Minister's Policy Statement (No. 5), of 19 May 2004, the use of entitlements by Australian carriers under a bilateral arrangement 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 Section 15(2)(e) of the Act requires the Commission to include a condition in determinations stating the extent to which the carrier may use allocated capacity in joint services with another carrier. The Commission has previously authorised the use of capacity in joint services between Qantas and Air Malta on the UK and Thailand routes and will do so in this case. The authorisation will be subject to the Amendment Agreement to the existing code share agreement between the two carriers being submitted to the Commission, prior to the services commencing.

3.3 The Commission will vary the determination as requested by Qantas.

#### **4 Decision [2005] IASC 208**

4.1 In accordance with Section 24 of the Act, the Commission varies Determination [2003] IASC 120 by

*adding* the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Air Malta in accordance with:
  - the code share agreement dated 1 March 2005 and the Amendment Agreement to that code share agreement;
  - or any subsequent code share agreement between Qantas and Air Malta for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Air Malta:
  - Qantas must price and sell its services on the route independently of Air Malta;
  - Qantas must not share or pool revenues on the route with Air Malta.

Dated: 7 November 2005

John Martin  
Chairman

Michael Lawriwsky  
Member

Vanessa Fanning  
Member