



## Australian Government

### International Air Services Commission

#### DECISION

<b>Decisions:</b>	<b>[2006] IASC 203</b>
<b>Variation of:</b>	<b>[2004] IASC 101</b>
<b>The Route:</b>	<b>China</b>
<b>The Applicant</b>	<b>Qantas Airways Limited (ACN 009 661 901) (Qantas)</b>
<b>Public Register File:</b>	<b>IASC/APP/200601</b>

#### 1 The application

1.1 On 30 March 2006, Qantas applied to permit Air China to code share on Qantas operated services between Australia and China with effect from 15 May 2006. Under the proposed arrangement, Air China would purchase a block of 15 seats on each of the three weekly A330 services operated by Qantas between Sydney and Beijing.

1.2 The Commission published a notice on 10 April 2006 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 - China air services arrangements allow the designated airlines of the two countries to enter into co-operative marketing arrangements with each other, including code-sharing.

#### 3 Delegate's assessment

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 When considering applications to vary determinations, the Commission (or its delegate) must decide whether the determinations, as varied, would be of benefit to the public. Under section 6.3 of the Minister's policy statement, where a carrier requests a variation of a determination to allow it flexibility in operating its capacity and no submission is received about the application, only the criteria in paragraph 4 of the policy statement are applicable. Under paragraph 4, 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.

3.3 Under section 15(2)(e) of the Act, 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 advised in its application that the code share arrangement is a block-space agreement whereby Air China purchases a block of seats on each flight. Oral advice from Qantas is that this is a “soft block”, whereby Air China may return unsold seats from its block to Qantas.

3.4 The delegate notes that the code share arrangement is very small in scale, involving only 15 seats per flight, and that no code sharing is proposed by Qantas on Air China’s services. The delegate concludes that there is likely to be little if any adverse impact on competition in the Australia – China market from the proposed arrangement.

3.5 Qantas has undertaken to provide the finalised code share agreement to the Commission as soon as possible. The delegate will authorise the use of the capacity in joint services with Air China, subject to Qantas providing the finalised code share agreement to the Commission before the commencement of the services.

3.6 The delegate, on behalf of the Commission, will vary the determination as requested by Qantas.

#### **4 Decision [2006] IASC 203**

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2004] IASC 101 by:

*adding* the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Air China in accordance with:
  - the finalised code share agreement between Qantas and Air China, subject to 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;
  - or any subsequent code share agreement between Qantas and Air China for operations on the Australia-China route with the prior approval of the Commission;
- under any code share agreement with Air China:
  - Qantas must price and sell its services on the route independently of Air China;
  - Qantas must not share or pool revenues on the route with Air China;

- Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking.

Dated: 19 April 2006

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners