



Australian Government

International Air Services Commission

DECISION

Decision: [2006] IASC 206
Variation of: [2002] IASC 113
The Route: Indonesia
The Applicant: Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register: IASC/APP/200602

1 The application

1.1 On 12 April 2006, Qantas applied to the Commission for a variation of Determination [2002] IASC 113 (the Determination) to permit the use of allocated capacity in joint services with any wholly-owned subsidiary of Qantas on the Indonesia route. Jetstar proposes to introduce twice-weekly services between Melbourne and Denpasar, and twice-weekly flights between Sydney and Denpasar, effective from November 2006. Qantas proposes to code share on Jetstar's services.

1.2 The Determination allocates 3,390 seat per week and there is sufficient of this capacity remaining unused by Qantas to facilitate the Jetstar services. The conditions of the Determination currently permit the capacity to be exercised by Qantas or a wholly-owned subsidiary of Qantas and for Qantas to undertake joint services with Australian Airlines, another wholly-owned Qantas' subsidiary.

1.3 The Commission published a notice on 19 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 Commission's consideration

2.1 When considering applications to vary determinations, the Commission 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.

2.2 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 is proposing to code share on Jetstar-operated services.

2.3 The Commission has considered the issue of code sharing between Qantas and wholly-owned subsidiary companies on several occasions in relation to operations by Australian Airlines, another Qantas subsidiary, including on the Indonesia route - see Decision [2003] IASC 207. Similar decisions were made in respect of applications for code sharing on the Malaysia and New Zealand routes ([2003] IASC 205, and [2005] IASC 2006 respectively).

2.4 The Commission's position in those cases was that Qantas and Australian Airlines operated in different markets which best matched their product and cost structures and they would be unlikely to compete on price even where both carriers operated on the same route. The Commission concluded that there can generally be expected to be no lessening of public benefit from authorising the parent airline code sharing with the subsidiary airline. The Commission considers that the same conclusion is applicable in relation to code sharing between Qantas and Jetstar and will vary the Determination as requested by Qantas to give it flexibility to code share with any of its wholly-owned subsidiaries.

3 Decision ([2006] IASC 206)

3.1 In accordance with section 24 of the Act, the Commission varies Determination [2002] IASC 113, which allocates capacity on the Indonesia route, as requested by Qantas, by:

removing the following conditions from [2002] IASC 113:

- 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;

adding the following conditions to [2002] IASC 113:

- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of 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: 8 May 2006

John Martin
Chairman

Michael Lawriwsky
Member

Vanessa Fanning
Member