



Australian Government

International Air Services Commission

DECISION

Decisions:	[2006] IASC 219
Variation of:	[2003] IASC 120
The Routes:	Singapore
The Applicant	Qantas Airways Limited (ACN 009 661 901) (Qantas)
Public Register File:	IASC/APP/200611

1 The application

1.1 On 30 June 2006, Qantas applied for a variation to Determination [2003] IASC 120 (the Determination) to permit Jet Airways to code share on selected Qantas services between Singapore and Sydney, Melbourne, Brisbane, Perth and Adelaide. Qantas proposes to code share on daily Jet Airways' services between Singapore and Mumbai, New Delhi and Chennai.

1.2 Qantas proposes to exercise full fifth freedom traffic rights on code share services between Singapore and Mumbai and Singapore and New Delhi. Qantas states that due to traffic rights limitations in the Australia-Singapore air services arrangements it will be limited to transit traffic making direct connections at Singapore on the Australia and Chennai route. Qantas subsequently advised that it would only exercise own stopover rights, rather than full fifth freedom rights and that the services would not commence until early September 2006.

1.3 The Commission published a notice on 5 July 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 – 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.

2.2 However, the arrangements specifically exclude full beyond fifth freedom traffic rights between Singapore and Madras (Chennai).

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. Qantas is proposing to enter into a joint services arrangement with Jet Airways. At this stage the Commission has been provided with a draft copy of the agreement which is a free sale type agreement and does not involve coordinated pricing or revenue pooling between the partners. The Commission will authorise the use of capacity in joint services with Jet Airways provided that the final agreement is materially consistent with the draft agreement and is submitted to the Commission prior to the commencement of services.

3.3 The Commission has previously authorised the use of capacity in joint services between Qantas and British Airways, Finnair, Gulf Air, Swiss International, Air France and Air Malta on services between Australia and Singapore.

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

4 Decision [2006] IASC 219

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 Jet Airways in accordance with:
 - the draft code share agreement dated 11 July 2006 and the finalised code share agreement, signed by Qantas and Jet Airways, being approved by the Commission, with such additional conditions (if any) as the Commission may require, prior to the code share services commencing;
 - or any subsequent code share agreement between Qantas and Jet Airways for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Jet Airways:

- Qantas must price and sell its services on the route independently of Jet Airways;
- Qantas must not share or pool revenues on the route with Jet Airways.

Dated: 21 July 2006

John Martin
Chairman

Michael Lawriwsky
Member

Vanessa Fanning
Member