



## Australian Government

### International Air Services Commission

## RENEWAL DETERMINATION

**Determination:** [2007] IASC 109  
**Renewal of:** [2002] IASC 123  
**The Route:** Indonesia  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/200715

### 1 The application for renewal

1.1 On 10 October 2002, the Commission issued Determination [2002] IASC 123 (the Determination) allocating 240 seats weekly in each direction between Indonesia and any one or more of the following points: Sydney, Melbourne, Brisbane, Perth and any other Australian point. The Determination also allocated 1,600 seats weekly beyond Indonesia in each direction with four frequencies any or all of which may serve Denpasar.

1.2 The Determination was varied by Decision [2004] IASC 218 to reduce the capacity allocation to 850 seats weekly beyond Indonesia in each direction with three frequencies any or all of which may serve Denpasar; and by Decision [2007] IASC 211 to authorise code sharing between Qantas and Air France.

1.3 The Qantas Group is using the allocation to operate services to Jakarta and Denpasar and for services beyond Indonesia to Singapore.

1.4 Under the *International Air Services Commission Act 1992* (the Act), the Commission must start its consideration of the renewal of a determination at least 12 months before the expiry of the Determination. The Determination expires on 30 September 2008.

1.5 Qantas applied to the Commission on 24 August 2007 for a renewal of the Determination. The Commission published a notice on 6 September 2007 inviting other applications for an allocation of the capacity subject to renewal. No other applications were received.

1.6 All material supplied by the applicant is filed on the Register of Public Documents.

## **2 Delegate's consideration**

2.1 In accordance with section 27AB of 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.

2.2 Under the Minister's Policy Statement (No. 5) of 19 May 2004, there is a rebuttable presumption in favour of the carrier seeking the renewal. The delegate notes that:

- Qantas has been utilising the relevant capacity;
- according to the Register of Available Capacity, there are 6,390 seats weekly of capacity available for immediate allocation between Indonesia and Sydney, Melbourne, Brisbane and Perth. There is unlimited capacity available between Indonesia and other cities in Australia. For services beyond Indonesia, there are 20 frequencies per week using up to 5,790 seats available for immediate allocation;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 In these circumstances, the delegate concludes that the renewal of Determination [2002] IASC 123 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice and current air services arrangements. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

## **3 Determination for renewal of Determination [2002] IASC 123 allocating capacity on the Indonesia route to Qantas ([2007] IASC 109)**

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating the following capacity under the Australia – Indonesia air services arrangements:

- Between Australia and Indonesia, 240 seats weekly in each direction between Indonesia and any one or more of the following points: Sydney, Melbourne, Brisbane, Perth and any other Australian point; and
- Beyond Indonesia, 850 seats weekly in each direction with three frequencies any or all of which may serve Denpasar.

3.2 The determination is for five years from 1 October 2008.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- 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;
- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- the capacity may be used by Qantas to provide joint services with Air France in accordance with:
  - the Code Share agreement, signed by Qantas and Air France dated 31 October 2004, as amended by Exhibit A.3
  - or any subsequent code share agreement between Qantas and Air France for operations on the Indonesia route, with the prior approval of the Commission;
- under any code share agreement with Air France:
  - Qantas must price and sell its services on the route independently of Air France; and
  - Qantas must not share or pool revenues on the route with Air France
- 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;
- 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 – Indonesia 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 – Indonesia air services arrangements.

Dated: 11 October 2007

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners