



Australian Government

International Air Services Commission

DECISION

Decision:	[2007] IASC 205
Variation of:	[2001] IASC 119, [2002] IASC 105, [2003] IASC 107, [2004] IASC 115, [2004] IASC 116, [2006] IASC 108 and [2006] IASC 114
The Route:	Hong Kong
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/200706

1 The application

1.1 On 16 March 2007, Qantas applied for a variation to Determinations [2001] IASC 119, [2002] IASC 105, [2003] IASC 107, [2004] IASC 115, [2004] IASC 116, [2006] IASC 108 and [2006] IASC 114 to permit Air France to code share on Qantas services on the Hong Kong route. Under these determinations Qantas is not permitted to utilise the capacity for joint services with another carrier without the approval of the Commission.

1.2 From 1 May 2007 Qantas plans to expand code share arrangements with Air France to include services between Australia and Paris via Hong Kong, in addition to its current code share services to Paris via London and Singapore with British Airways and Air France respectively. Under the expanded arrangements Qantas would code share on Air France's Hong Kong-Paris services and Air France would code share on all Qantas services between Hong Kong and Sydney, Melbourne, Brisbane and Perth.

1.3 The Commission published a notice on 23 March 2007, inviting submissions about the application. No submissions were received. All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Qantas currently holds an allocation of 250 one way seats per day, averaged over 12 months in each direction on France Route 1, through IASC Determination [2006] IASC 118. Qantas states that the number of passengers it carries on its code share services with British Airways and Air France falls well below this limit and that it is confident that the proposed new code share services can be accommodated within its existing allocation.

2.2 The Australia-Hong Kong air services arrangements permit Australian airlines to code share with third country carriers to Hong Kong and to points beyond, including France. Australia does not have traffic rights between Hong Kong and France under either air services agreement, but Qantas will be restricting sales to Australia-France passengers and therefore will not be exercising traffic rights at Hong Kong.

3 Delegate's consideration

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 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.

3.3 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 capacity in joint services with another carrier.

3.4 Qantas states that the code share will be a free sale arrangement and the amendment annex to the existing Qantas-Air France code share agreement has been provided to the Commission. The delegate, on behalf of the Commission, will authorise the use of the capacity in joint services with Air France on the basis that the amendment annex is consistent with the terms of the existing code share agreement as approved by the Commission.

3.5 An allocation of capacity on the France route is not required as the proposed code share arrangements can be accommodated within Qantas' existing allocation.

3.6 The delegate, on behalf of the Commission, will vary the determinations on the Hong Kong route as requested by Qantas.

4 Decision [2007] IASC 205

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determinations [2001] IASC 119, [2002] IASC 105, [2003] IASC 107, [2004] IASC 115, [2004] IASC 116, [2006] IASC 108 and [2006] IASC 114 by *adding* the following conditions to the determinations:

- the capacity may be used by Qantas to provide services jointly with Air France in accordance with:
 - the code share agreement dated 31 October 2004 and the amendment annex dated 16 April 2007, between Qantas and Air France, for operations on the Australia – Hong Kong Route;
 - or any subsequent code share agreement between Qantas and Air France, for operations on the Australia – Hong Kong Route with the prior approval of the Commission or the delegate;
- under any code share agreement with Air France:
 - Qantas must price and sell its services on the route independently of Air France;
 - Qantas must not share or pool revenues on the route with Air France;
- 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: 24 April 2007

Dilip Mathew
Senior Adviser
Delegate of the IASC Commissioners