



Australian Government

International Air Services Commission

DECISION

Decision: [2008] IASC 201
Variation of: [2003] IASC 107 and [2007] IASC 115
The Route: Hong Kong
The Applicant: Qantas Airways Limited (Qantas)
(ACN 009 661 901)
Public Register: IASC/APP/200725

1 The application

1.1 On 20 December 2007, Qantas applied for a variation to Determination [2003] IASC 107, as renewed by Determination [2007] IASC 115, (the Determinations) to increase the capacity allocated by one frequency per week to a total of four frequencies per week on the Hong Kong route. The airline plans to utilise this extra capacity, together with unused capacity under other determinations on the route, to introduce an additional three A330-300 services per week between Melbourne and Hong Kong from 1 April 2008.

1.2 The Commission published a notice on 7 January 2008 inviting other applications for the capacity and submissions from interested parties. No applications or 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 Under the Australia – Hong Kong air services arrangements, the current passenger capacity entitlement for the designated airlines of Australia is seventy frequencies per week in each direction between Hong Kong and Sydney, Melbourne, Brisbane and Perth. There are forty-one frequencies remaining available for allocation.

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 an application 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 an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public.

3.3 The Explanatory Memorandum to the Minister's policy statement provides guidance to the Commission in relation to requests to vary determinations to add minor amounts of capacity. It states that a minor increase in capacity would not generally exceed one B747 equivalent per week. In this case, the additional once-weekly frequency sought by Qantas would be operated by A330-300 aircraft, which have a smaller number of seats than B747 aircraft. Accordingly, the delegate will vary the Determinations as sought by Qantas.

4 Decision [2008] IASC 201

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determinations [2003] IASC 107 and [2007] IASC 115, as requested by Qantas, by:

(a) removing the following from paragraph 3.1 of Determination [2003] IASC 107

- “allocating three frequencies per week of capacity with any aircraft type in each direction between any points in Australia and Hong Kong”

replacing it with

- “allocating four frequencies per week of capacity with any aircraft type in each direction between any points in Australia and Hong Kong”;

(b) removing the following from paragraph 3.1 of Determination [2007] IASC 115

- “allocating three frequencies per week of capacity with any aircraft type in each direction between any points in Australia and Hong Kong”

replacing it with

- “allocating four frequencies per week of capacity with any aircraft type in each direction between any points in Australia and Hong Kong”.

Dated: 15 January 2008

Michael Bird
Executive Director
Delegate of the IASC Commissioners