



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination:	[2017] IASC 123
Renewal of:	[2008] IASC 119
The Route:	Thailand
The Applicant:	Qantas Airways Limited (ABN 16 009 661 901) (Qantas)
Public Register File:	IASC/APP/201749

The Commission makes a fresh determination allocating to Qantas unlimited capacity to operate cargo services on the Thailand route. The determination is valid for 10 years from 28 September 2018.

1 The application for renewal

1.1 On 28 September 2008, the Commission's delegate issued in favour of Qantas Determination [2008] IASC 119 (the Determination) allocating unlimited capacity to operate all-cargo services on the Thailand route. The Determination was valid for 10 years from the date of issue.

1.2 Section 17 of the *International Air Services Commission Act 1992* (the Act) requires the Commission to start its consideration of the renewal of a determination at least 12 months before the expiry of the Determination. The Determination expires on 27 September 2018. In view of this, the Commission wrote to Qantas, on 7 September 2017, inviting it to apply for renewal if it wished to renew the Determination.

1.3 Qantas applied to the Commission on 13 September 2017 for a renewal of the allocation of unlimited all-cargo capacity for a further period of 10 years from 28 September 2018.

1.4 As required by sections 12 and 17 of the Act, the Commission published a notice on 13 September 2017 inviting other applications for the capacity. No other application was received.

1.5 All non-confidential material supplied by the applicant is available on the Commission's website (www.iasc.gov.au).

2 Air services arrangements

Under the Australia-Thailand air services arrangements, the designated airlines of Australia can operate all-cargo services without limitation on the capacity or frequency or type of aircraft used on the specified route schedule.

3 Commission's consideration

3.1 In considering an application for renewal of a determination under section 8 of the Act, the Commission must make the same allocation of capacity as the original determination unless the Commission is satisfied that the allocation is no longer of benefit to the public. In assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out for that purpose in the policy statement made by the Minister under section 11 of the Act.

3.2 Pursuant to section 11 of the Act, then Minister for Transport and Regional Services, the Hon. John Anderson MP issued Policy Statement No. 5 (hereinafter referred to as the Policy Statement) dated 19 May 2004. The Policy Statement sets out the range of criteria which the Commission is required to apply in assessing the benefit to the public of allocations of capacity. It also provides other guidance to the Commission in performing its functions.

3.3 Paragraph 6.1 of the Policy Statement provides that in circumstances where capacity is not limited under a bilateral agreement, only the criteria in paragraph 4 are applicable.

3.4 Paragraph 4 effectively provides that the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public unless such carriers are not reasonably capable of obtaining the necessary approvals to operate on the route and are not reasonably capable of implementing their applications.

3.5 Additionally, under paragraph 8.1 of the Policy Statement, there is a presumption in favour of the carrier seeking the renewal which may be rebutted only in the following circumstances: (1) that the carrier seeking renewal has failed to service the route effectively; and (2) that the use of the capacity in whole or in part by another Australian carrier that has applied for the capacity would better serve the public having regard to the criteria in paragraphs 4 and 5 of the Policy Statement.

3.6 The Commission has no information that Qantas has failed to service the route effectively or that another carrier is interested to apply for the capacity sought to be renewed. For this reason, the Commission assessed the application only under paragraph 4 and did not see the need to apply the additional criteria in paragraph 5 of the Policy Statement.

3.7 In accordance with paragraph 4 of the Policy Statement, the Commission considers that Qantas is reasonably capable of obtaining the necessary approvals to operate on the route and of implementing its proposed all-cargo services on the

Thailand route. In light of this, the Commission has decided to allocate in favour of Qantas unlimited capacity and frequency to operate all-cargo services between Australia and Thailand subject to the conditions set out below.

4 Determination for renewal of Determination [2008] IASC 106 allocating capacity to Qantas on the Thailand route ([2017] IASC 123)

4.1 Pursuant to section 8 of the Act, the Commission makes a determination in favour of Qantas, allocating unlimited capacity and frequency to operate all-cargo services on the Thailand route in accordance with the Australia - Thailand air services arrangements.

4.2 The determination is valid for 10 years from 28 September 2018.

4.3 The determination is subject to the following conditions:

- Qantas is required to utilise the capacity;
- Qantas is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person unless approved by the Commission; and
- changes in relation to the ownership and control of Qantas is permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Thailand 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.

Dated: 4 October 2017



IAN DOUGLAS
Chairperson



JAN HARRIS
Commissioner