



Australian Government
International Air Services Commission

RENEWAL DETERMINATION

Determination: [2017] IASC 129
Renewal of: [2007] IASC 110
The Route: China
The Applicant: Qantas Airways Limited (Qantas)
(ABN 16 009 661 901)
Public Register File: IASC/APP/201759

The Commission makes a fresh determination allocating unlimited freight capacity and frequency on the China route valid for 10 years from 24 October 2018.

1 The application for renewal

1.1 On 11 October 2007, the Commission's delegate issued Determination [2007] IASC 110 (the Determination) allocating in favour of Qantas unlimited capacity and frequency to operate all-cargo services on the China route in accordance with the Australia-China air services arrangements. The Determination is valid for 10 years from 24 October 2008.

1.2 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 is due to expire on 23 October 2018. In view of this, the Commission sent, on 16 October 2017, a letter to Qantas inviting it to apply for renewal if it wished to renew the Determination.

1.3 Qantas applied to the Commission on 8 November 2017 for a renewal of the Determination for a further period of 10 years from 24 October 2018.

1.4 As required by sections 12 and 17 of the Act, the Commission published a notice on 8 November 2017 inviting other applications for the capacity. No competing applications were received.

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

2 Relevant provisions of the air services arrangements

2.1 Paragraph 7(2)(aa) of the Act requires the Commission not to allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement(s).

2.2 Under the Australia – China air services arrangements, there are no limitations in relation to frequency, capacity or aircraft type to operate dedicated cargo services between Australia and China.

3 Commission's assessment

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, the Minister issued Policy Statement No. 5 dated 19 May 2004 (the Policy Statement). 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.

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

3.4 The Commission notes that:

- there are no other applicants seeking capacity on the route; and
- Qantas and its wholly-owned subsidiary, Jetstar, are established international carriers and are therefore reasonably capable of obtaining the necessary approvals to operate on the route and of implementing their proposed services.

3.5 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. The Commission notes that Qantas operates freight services between Sydney and Shanghai and between Sydney and points in the United States via Jakarta, Bangkok and Shanghai¹. Furthermore, there are no other applicants seeking capacity on the China route and there is unlimited capacity to operate all-cargo services on the route.

3.7 In these circumstances, the Commission has decided that the renewal of Determination [2007] IASC 110 would be of benefit to the public.

¹ 2017 Northern Summer International Airlines Timetable Summary

3.8 Subsection 15(1) of the Act empowers the Commission to include such terms and conditions as it thinks fit.

4 Determination for renewal of Determination [2007] IASC 110 allocating capacity on the China route to Qantas International Airlines Pty Ltd ([2017] IASC 129)

4.1 Pursuant to section 8 of the Act, the Commission makes a determination in favour of Qantas allocating unlimited frequency, capacity or aircraft type to operate dedicated cargo services between Australia and China in accordance with the Australia-China air services arrangements.

4.2 The determination is valid for 10 years from 24 October 2018.

4.3 The determination is subject to the following conditions:

- Qantas is required to utilise the capacity from no later than 30 December 2018 or such other date approved by the Commission.
- Only Qantas is permitted to utilise the capacity.
- Changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
 - results in the designation of Qantas as an Australian carrier under the Australia – China 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 without the prior consent of the Commission.

Dated: 7 December 2017



IAN DOUGLAS
Chairperson



JAN HARRIS
Commissioner



KAREN GOSLING
Commissioner