

Australian Government

International Air Services Commission

# ANNUAL 2016-17

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For further information please contact the Executive Director: International Air Services Commission, Tel: (02) 6267 1100, Fax: (02) 6267 1111, e-mail: iasc@infrastructure.gov.au or visit the Commission's website at www.iasc.gov.au

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#### Australian Government

#### **International Air Services Commission**

The Hon Darren Chester MP Minister for Infrastructure and Transport Parliament House CANBERRA ACT 2600

Dear Minister Chester

We are pleased to submit the twenty-fifth Annual Report of the International Air Services Commission, for the year ended 30 June 2017.

Our report is submitted to you in accordance with subsection 53(1) of the *International Air Services Commission Act 1992* (the Act) and is for presentation to each House of the Parliament in accordance with subsection 53(2) of the Act.

Yours sincerely

Dr Ian Douglas Chairperson

10 August 2017

Jan Harris Commissioner

111 Alinga Street Canberra City ACT Australia • Postal: GPO Box 630 Canberra ACT 2601 Australia Tel: (02) 6267 1100 • Fax: (02) 6267 1111 • Internet: www.iasc.gov.au • Email: IASC@infrastructure.gov.au • ABN 86 267 354 017 The International Air Services Commission is an independent statutory authority, established under the *International Air Services Commission Act 1992.* It allocates capacity available under Australia's air services arrangements with other economies to existing and prospective Australian international airlines by making formal determinations. Applications are assessed against public benefit criteria set out in a policy statement issued to the Commission by the Minister for Infrastructure and Regional Development.

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# PART 1

# The Year in Review by the Chairperson, Dr Ian Douglas

This annual report marks the twenty-fifth year of operations of the International Air Services Commission (the Commission). It is my pleasure to provide an overview of the activities of the Commission for the last 12 months.

In the financial year 2016–2017, there was again a steady growth of international passenger movements into and out of Australia, with an increase of 7.2% in passenger traffic compared with last year. Airlines increased their capacity in response to this growth by 7.8% and load factors decreased by 0.5 percentage points.

A review of aviation data published by the Bureau of Infrastructure, Transport and Regional Economics (BITRE), from 1985 to 2016, indicates that passenger traffic in Australia consistently increased year after year except in 2001 to 2003 when it dipped to its lowest following terrorist attacks in the USA and the spread of severe acute respiratory syndrome (SARS) overseas. In 2008, even with the global financial crisis, we continued to witness an increase in international travel in Australia although slightly moderating, from 6.0% growth in 2007 to 3.1% in 2008. In the last five calendar years, growth in international passenger traffic has steadily increased on an average of nearly 6%, with 2016 posting close to an 8% growth<sup>1</sup>.

The China route has seen a significant capacity growth over the past few years, with China being both a source of tourism and a travel destination for Australians. With the growth of passenger movements between Australia and mainland China, Qantas has increased its capacity allocation on the route to enable it to operate unlimited capacity and frequency while Virgin Australia sought and was issued in June 2016, 1,925 seats per week of passenger capacity in each direction. Virgin Australia plans to operate services between Australia and mainland China during the Northern Winter 2017 (October 2017– March 2018) scheduling period, subject to a range of commercial considerations including obtaining suitable slots. Additionally, Pacific Air Express sought and was issued unlimited freight capacity to operate all-cargo services between Australia and mainland China considerations including obtaining to commercial considerations including obtaining to operate all-cargo services between Australia and mainland China. Subject to certain commercial considerations including obtaining

<sup>1</sup> https://bitre.gov.au/statistics/aviation/index.aspx

suitable slots, Pacific Air Express plans to commence freight services between Australia and mainland China in November 2017.

Qantas also applied for and was issued seven weekly frequencies in each direction on the Vietnam route. The capacity is being utilised by Jetstar Airways, a wholly-owned subsidiary of Qantas, to operate direct services on Sydney-Ho Chi Minh and Melbourne-Ho Chi Minh city pairs. Qantas code shares on the Jetstar flights.

In 2016–17, Australian airlines operating international services appear to have rationalised their operations on certain routes either ceasing or reducing their operations – for example, both Qantas and Virgin Australia returned part of their capacity entitlements on the Indonesia route. Last year, Virgin Australia returned its capacity allocation on the Thailand route when it ceased operating to Phuket in February 2016 and this year, the airline returned capacity on the United Arab Emirates route. Qantas withdrew its own-operated services on the Cairns-Port Moresby sector in November 2016 and instead decided to commence services between Brisbane and Port Moresby.

When Air New Zealand decided to cease operating its direct services between Auckland and Norfolk Island with effect from May 2017, Norfolk Island Airlines saw a niche market. It applied for and was issued unlimited passenger capacity on the New Zealand route to operate two weekly services on a Boeing 737–300 between Norfolk Island and Auckland. The services will be operated under a wet lease arrangement between Norfolk Island Airlines and Nauru Airlines, a foreign-registered carrier operating under an Australian air operator's certificate. Norfolk Island Airlines and Nauru Airlines operated their first bi-weekly service between Norfolk Island and Auckland on 17 June 2017.

A majority of the work of the Commission during the reporting period involved renewal of capacity allocations. Qantas renewed its capacity allocations on Fiji, France, Korea, Papua New Guinea, South Africa, Thailand, United States of America, United Arab Emirates and on the Singapore route to be used to exercise own stop-over rights between Singapore and Colombo. Virgin Australia, on the other hand, renewed its capacity allocations on Fiji, Italy, Solomon Islands and on the Singapore route for the exercise of own stop-over rights between Singapore rights between Singapore and Colombo. Pacific Air Express renewed and increased its capacity allocation to unlimited on the Nauru route.

Another area of significant work for the Commission in the last financial year was assessing applications by the airlines to use their allocated capacity for code sharing either with another Australian carrier or with a foreign airline. Code sharing allows an airline to expand its international network by enabling it to offer services, as marketing carrier, on routes where it does not have its own operations. For the operating carrier, code share arrangements enable it to obtain traffic feed and distribution outside the operating carrier's home market. It therefore enhances the airline's presence in a market where otherwise that airline has no profile, usually at the end of a route away from the operating carrier's home country.

Where the bilateral air services arrangements allow for code sharing, the Commission usually grants an airline's request to use the capacity for code share services unless the Commission has serious concerns that the proposed code share arrangements would negatively impact on competition on the route. For example, in a route where there is only one operator and the proposed code share is with another carrier that has a strong profile in that market, the Commission would have serious concerns that approving this would result in a higher barrier to entry and close the market from a third airline which might consider operating a competitive service. The case study in part 3 of this report discusses this further.

During the reporting period, the Commission approved Qantas' applications to vary multiple determinations to permit code sharing with Air Niugini on the Brisbane/Sydney and Port Moresby sectors; Fiji Airways on the Singapore route; Jet Airways on the Thailand route; and on the Singapore and Thailand routes, for code sharing between Jetstar and Finnair. Virgin Australia sought and was granted variations of multiple determinations to permit the use of the capacity for code sharing with Hong Kong Airlines on the Hong Kong route; and with Air Berlin, Air Canada, Alitalia and Hong Kong Airlines on the trans-Tasman route.

### Appointment matters

On 31 December 2016, Mr King's term of appointment ended. While many straightforward matters come through to the Commission, a couple of complex and contested cases had to be dealt with sensitivity and deliberated upon thoroughly. Mr King's depth of industry knowledge and experience proved invaluable during the assessment of these complex cases. I thank him for his measured and thoughtful contribution to those deliberations which, no doubt, strengthened the Commission's ultimate decisions.

As we bid Mr King farewell, we welcomed Ms Jan Harris as a Member of the Commission upon her appointment by the Governor-General on 24 November 2016. Ms Harris brings to the Commission a wealth of experience, both from her long-standing career in the Treasury Department and the private sector. I thank Ms Harris for her contribution in the past months, in particular, her expertise on governance matters which helped steer the Commission in discharging its functions properly in accordance with the Act and administrative law requirements.

As we review our performance during the year, I would like to thank the Executive Director, Ms Marlene Tucker, and her small team in the Secretariat for their invaluable advice and assistance in ensuring that the Commission functions smoothly and efficiently.

Dr lan Douglas Chairperson



# PART 2

# Overview of the International Air Services Commission

### The role and functions of the Commission

The Commission is an independent statutory authority established under the *International Air Services Act 1992* (the Act). The object of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services, resulting in:

- increased responsiveness by airlines to the needs of consumers, including an increased range of choices and benefits;
- growth in Australian tourism and trade; and
- the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The Commission's primary responsibility is to serve the object of the Act by allocating capacity entitlements to Australian airlines for the operation of international airline services. The capacity allocated by the Commission comes from entitlements available to Australia's international carriers under air services arrangements between Australia and other economies. In particular, the functions of the Commission are to:

- make determinations allocating capacity to Australian carriers in both contested and uncontested situations;
- renew determinations on application by carriers;
- conduct reviews of determinations; and
- provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.

The Act is complemented by a policy statement from the Minister. The Minister's policy statement sets out criteria to be applied by the Commission in various circumstances. More complex public benefit criteria may be applied in cases where there are two carriers

seeking the same limited amount of capacity, compared with an uncontested application from a well-established airline. The Minister's policy statement is a legislative instrument under section 11 of the Act. It is reproduced at Appendix 6<sup>2</sup>.

Determinations allocating capacity are usually made for a period of five years for routes where capacity or route entitlements are restricted. In cases where capacity entitlements and route rights are unrestricted, determinations may be issued for a period of ten years. In either case, the Commission has the discretion to make interim determinations, which are for a period of three years. Interim determinations are normally made when capacity is being allocated to a new Australian operator. If an applicant requests that a determination be made for a shorter period, the Commission has the option to agree to this.

Carriers normally wish to renew determinations as they come towards their expiry date. The Commission is required to start reviews of these determinations at least one year before they expire. Except for interim determinations, there is a rebuttable presumption in favour of the carrier seeking renewal that the determination will be renewed as sought. The presumption does not apply if an initial new Australian carrier seeks to enter the route but there is not sufficient capacity available for that carrier to develop an efficient and sustainable operation (referred to as the 'start-up phase). The presumption may also be rebutted after the start-up phase on the route if:

- > the carrier seeking renewal has failed to service the route effectively; and
- if the use of the capacity in whole or part by another Australian carrier that has applied for capacity would better serve the public having regard to the criteria set out in paragraph 4 and 5 of the Minister's policy statement.

From time to time, airlines apply to the Commission to vary determinations held by them. There can be a number of reasons for an airline to seek a variation – for example, the airline may be seeking authorisation to use its allocated capacity to code share with another airline. The Commission conducts a review of the determination and as part of this process, it invites submissions about the application. In the case of applications to authorise code sharing, where the capacity that can be used for code share operations is available under the relevant air services arrangements, the Commission would generally be expected to authorise such applications. If the Commission has serious concerns that the proposed code share may not be of benefit to the public, it may subject the application to a more detailed assessment using the paragraph 5 criteria in the Minister's policy statement. Before doing so, it is required to consult the Australian Competition and Consumer Commission.

The Commission may itself initiate a review of a determination if it is concerned that a carrier might be in breach of a condition of the determination. This can occur, for example, where a carrier has been allocated capacity, but had not used that capacity by the time it was required to do so by the Commission. Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.

<sup>2</sup> The existing policy statement, issued in 2004, is currently under review. It was originally scheduled to sunset on, and therefore cease to be in force from, 1 April 2017 but the Attorney-General deferred the sunsetting of the policy statement until 1 April 2018.

The Commission has published procedures it follows in considering applications and making determinations. A summary of these procedures is at Appendix 5. The procedures are designed with the aim of ensuring that applicants and other interested parties understand the requirements for making applications or submissions, are familiar with the Commission's decision-making processes, and are aware of their rights and obligations.

### Executive profile

The Act provides for a Chairperson and two Commission members. Currently, the Commission is comprised of a Chairperson, Dr Ian Douglas, and a Member, Ms Jan Harris. Both were appointed by the Governor-General on a part-time basis.

The membership of the Commission as at 30 June 2017 is as follows:

#### **Dr lan Douglas**



Dr Ian Douglas was appointed by the Governor-General as part-time Chairperson of the Commission for a three-year term commencing on 5 May 2016. He has been a Member of the Commission since November 2012. He was Acting Chairperson from October 2015 to May 2016.

Dr Douglas is a Senior Lecturer in Aviation Management in the School of Aviation at the University of New South Wales (UNSW). He holds a Doctor of Business Administration and a post graduate

qualification in Higher Education. His doctoral research addressed the impacts of state ownership and economic freedom on airline financial performance. His ongoing research interests encompass the areas of air transport economics and airline business model convergence. Prior to academia, Dr Douglas had a long career with Qantas Airways, with senior roles in pricing, business development, route management, strategic planning and the Joint Services Agreement with British Airways. Since leaving Qantas, he has consulted to a range of companies including Malaysia Airlines, Thai Airways International, Bain & Co Singapore, Icebox Advertising, Asian Wings Airways and Tourism Queensland. His teaching areas at UNSW Aviation include fleet and network planning, marketing and distribution strategy and air transport economics.

#### Ms Jan Harris



Ms Jan Harris was appointed by the Governor-General as a part-time Member of the Commission for a three-year term commencing on 24 November 2016.

In addition to her role in the Commission, Ms Harris is currently a Non-Executive Director of the Bendigo and Adelaide Bank and an External Member of the Audit and Risk Committee of the Australian Security Intelligence Organisation. In 2015–16, she was a member of the Independent Panel for Eliminating Duplication across NSW Government Agencies.

Ms Harris has had a distinguished career in the Australian Public Service culminating in being the first female appointed as Deputy Secretary of the Department of Treasury, a position she held from 2013 to 2015. She spent most of her working career in Treasury working on budget policy issues, international financial and economic issues, Commonwealth-State financial issues, competition policy, monetary policy, financial markets and taxation policy. She also worked in the Department of the Prime Minister and Cabinet from 2003 to 2007, and was the Economic Counsellor to the Organisation for Economic Co-operation and Development (OECD) in Paris from 1997 to 1999.

Ms Harris graduated in 1981 from the Australian National University with a degree in Bachelor of Economics (Hons).

#### Commissioners' attendance at meetings in 2016–2017

Commissioner	Number of meetings possible	Number of meetings attended
Dr Ian Douglas	13	13
Ms Jan Harris	9	9

### The Secretariat

The Commission is assisted in its work by a small Secretariat. The Secretariat is comprised of officers of the Department of Infrastructure and Regional Development (the Department). The Secretariat is headed by an Executive Director, supported on a part-time basis by an Administrative Officer. The Secretariat provides advice and assistance to the Commissioners on all aspects of the Commission's operations.



From left: Dr lan Douglas – Chairperson, Marlene Tucker – Executive Director, Anita Robinson – Administrative Officer, Ms Jan Harris – Commission Member.

## Communications with interested parties

There are many stakeholders with a direct or indirect interest in what the Commission does. They include:

- the Minister;
- current and prospective Australian international airlines;
- the broader aviation industry, including airport owners, providers of services to airlines and employee associations;
- the international tourism and freight industries, including Australian exporters;
- Australian and State Government departments and agencies;
- > aviation industry investors, analysts and journalists; and
- the travelling public.

The Commission places great importance on maintaining effective relationships with those stakeholders. The Commission takes into account the views and/or interests of the stakeholders in its decision-making processes, as appropriate to particular cases. Regular electronic notification of applications and the Commission's determinations and decisions keeps interested parties up to date with the Commission's activities. At the conclusion of each financial year, the Commission invites stakeholders to provide feedback about the Commission's performance throughout the year. The aggregated results of responses to the survey this year are presented in this annual report at pages 25 to 26.

# The role of the Department of Infrastructure and Regional Development

The Commission works closely with the Department, which has responsibilities complementary to those of the Commission. The Department is responsible for the negotiation and administration of air services arrangements between Australia and other economies. An important part of the negotiating process is to provide opportunities for Australian and foreign airlines to expand their services between Australia and other economies.

The capacity and route entitlements for Australian carriers under each set of air services arrangements are recorded by the Department in a Register of Available Capacity. This is maintained by the Department, in accordance with the requirements of the Act and is available on the Department's website <a href="https://infrastructure.gov.au/aviation/international/capacity.aspx">https://infrastructure.gov.au/aviation/international/capacity.aspx</a>>.

An Australian carrier may apply to the Commission for allocation of capacity recorded on the register as available for immediate allocation. The entitlements on the Register of Available Capacity are adjusted as determinations allocating capacity are made by the Commission, as airlines hand back unused capacity and when the Department negotiates



new or revised capacity entitlements on behalf of the Australian Government. There is regular communication between the Department and the Commission on these matters.

Another area where the roles of the Commission and the Department intersect is in relation to applications from prospective new Australian airlines wishing to operate scheduled international services. Before allocating capacity to an applicant airline, the Commission must be satisfied that the airline is both reasonably capable of obtaining the regulatory approvals necessary to operate on the route and of implementing its proposed services on the route. The Department is responsible for designating and licensing Australian airlines to operate regular scheduled international services. The Commission consults the Department as to whether an Australian airline is reasonably capable of obtaining the regulatory approvals necessary to operate. Furthermore, an airline must hold an allocation of capacity from the Commission before the Department can make operational decisions in relation to the capacity on the route, including the issue of licenses and scheduled international timetable approvals. The Commission and the Department therefore consult closely in cases involving proposed international air service operations by Australian carriers.

# PART 3

# Report on performance

### Overview

The Commission's performance report is based on an assessment of its results for the year using a range of criteria. Three sets of criteria have been adopted by the Commission to enable a thorough assessment of all aspects of its operations. Broadly, the criteria encompass:

- how well the object of the Act has been met by the Commission's decision making;
- how fair and effective the Commission has been in dealing with applicants and interested parties; and
- how efficient the Commission has been in the use of financial resources available to it.

The Commission's assessment of its performance against each of these criteria is set out below.

### Results against performance targets

#### Serving the object of the Act

The object of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services. Under the Act, the Commission's functions are to make determinations; review determinations; and provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations. In fulfilling its functions, the Act requires the Commission to comply with policy statements made by the Minister under section 11 and to have regard to Australia's international obligations concerning the operation of international air services.

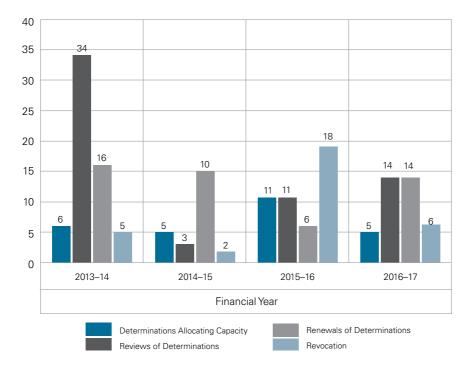
The Commission records annually the number of determinations and decisions (involving reviews and variations of determinations) made for the year. The volume of activity varies from year to year.

The dominant factor underlying the Commission's output is the number of applications made by airlines. The demand for new capacity from the Commission is directly related to the level of demand for air services. In turn, international aviation activity is particularly sensitive to factors such as changes in the strength of the economy and the emergence of security threats, among others.

In the financial year 2016–17, the Commission issued five determinations allocating new capacity; 14 renewal of capacity allocations; 14 decisions varying various determinations including a resolution to extending the date of utilisation of the capacity; and 6 decisions revoking capacity allocations.

The number of applications for renewal of determinations has decreased considerably in the last three years since the Commission implemented in 2014 a process of allowing airlines to consolidate determinations. The consolidation process enables an Australian carrier to bring together some or all of its existing capacity entitlements allocated in various determinations into a single determination. The consolidation of determinations has considerably streamlined the capacity allocation process of the Commission as it lessened the number of applications for renewal of determinations and for variation of conditions. The consolidation of determinations made in the last three financial years impacted the total number of applications made to the Commission this year.

The graph below shows comparative data of the current reporting period (2016–17) with the three preceding years.



#### Historical numbers of determinations and decisions

In 2016–17, five determinations allocating new capacity were made. The allocations reflected the expansion of overseas services by the Australian carriers.

A new carrier, Norfolk Island Airlines, applied for and was issued unlimited passenger capacity on the New Zealand route. In its application, Norfolk Island Airlines indicated it plans to offer two weekly services on a Boeing 737–300 between Norfolk Island and Auckland. The services will be operated under a wet lease arrangement between Norfolk Island Airlines and Nauru Airlines, a foreign-registered carrier operating under an Australian air operator's certificate. As Norfolk Island Airlines is a new carrier and has not previously operated regular international air public transport services, the Commission sought advice from the Department of Infrastructure and Regional Development to determine if the airline would reasonably be able to obtain the necessary regulatory approvals to operate on the New Zealand route. Likewise, as the actual carrier operating the services between Norfolk Island and Auckland would be Nauru Airlines, the Commission also sought advice from the Department if Nauru Airlines would be reasonably able to obtain the necessary regulatory approvals to operate the service. The Department, in response, advised that they do not foresee any reason why Norfolk Island Airlines, or Nauru Airlines, will not be able to secure the necessary regulatory approvals. The Norfolk Island Airlines and Nauru Airlines operated their first service between Norfolk Island and Auckland on 17 June 2017. This service effectively replaces the Norfolk Island-Auckland flights which were operated by Air New Zealand until May 2017.

Pacific Air Express, an Australian carrier which currently holds capacity allocations on the Vanuatu, Papua New Guinea and Nauru routes, applied for and was issued unlimited freight capacity on the China route. Subject to certain commercial considerations including the ability to obtain suitable slots, Pacific Air Express intends to commence its freight services between Australia and mainland China in November 2017. Pacific Air Express joins Qantas (which operates direct freight services between Sydney and Shanghai), Federal Express (Fedex) and Polar Air Cargo in operating freight services between points in Australia and points in China.

Pacific Air Express also renewed its freight capacity on the Nauru route and had its capacity allocation increased to unlimited frequency consistent with the amendments made to the Australia-Nauru air services arrangements.

Qantas was allocated seven weekly frequencies of new capacity on the Vietnam route to enable its wholly-owned subsidiary Jetstar to operate services from Sydney and Melbourne to Ho Chi Minh City. Jetstar commenced its services to Ho Chi Minh City in May 2017.

After returning some unused capacity on the Indonesia route in April this year, Qantas applied for and was granted, in June, 100 additional seats of passenger capacity on the route.

During the reporting period, the Commission issued 14 renewal determinations. Qantas renewed its capacity allocations on the following routes:

- Fiji for the use of Qantas' wholly-owned subsidiary, Jetstar, which operates services between Sydney/Gold Coast and Nadi;
- France with permission to code share with British Airways and Emirates;
- Korea with permission to code share with Asiana Airlines;
- Papua New Guinea with permission to code share with Air Niugini on the Brisbane/ Sydney- Port Moresby sectors;
- South Africa;
- Thailand with permission to code share with Bangkok Airways, British Airways, Emirates Airways, Finnair, Jet Airways and Jetstar Asia;
- United States of America with permission to code share with its wholly-owned subsidiary and American Airlines;
- United Arab Emirates with permission to code share with its wholly-owned subsidiary and Emirates; and
- Singapore to be used to exercise own stop-over rights between Singapore and Colombo and with permission to code share with Emirates and SriLankan Airlines.

Virgin Australia, on the other hand, renewed its capacity allocations on the following routes:

- ► Fiji;
- Italy for the provision of code share services with Singapore Airlines and Etihad Airways;
- Singapore for the exercise of own stop-over rights between Singapore and Colombo with permission to codes share operated by Singapore Airlines to Colombo via Singapore; and
- Solomon Islands.

The Commission made six decisions revoking certain determinations upon the application of the airlines. Qantas had determinations revoked on the Taiwan route; and while it revoked its determinations on the China route, it replaced them with one determination allocating unlimited capacity and frequency. As mentioned earlier, Qantas reduced its capacity allocation on the Indonesia route by revoking its determination.

Virgin Australia ceased operating its own services to the United Arab Emirates and as a result sought a revocation of its determination on the route.

Additionally, as a result of the conclusion of revised air services arrangements between the aeronautical authorities of Australia and Taiwan during the year, capacity used for code share services is no longer counted under the arrangements. On this basis, Qantas sought, and was granted, revocation of its determinations on the Taiwan route.

As in previous reporting periods, an area of significant work for the Commission is assessing applications by the airlines to use their allocated capacity for code sharing with another carrier. Out of 14 reviews of determinations conducted by the Commission, as initiated by the Australian carriers, 12 related to code sharing.

During the reporting period, the Commission approved Qantas' applications to vary multiple determinations to permit code sharing with Air Niugini on the Brisbane-Port Moresby and Sydney-Port Moresby sectors; Fiji Airways on the Singapore route; Jet Airways on the Thailand route; and on the Singapore and Thailand routes, for code sharing between Jetstar and Finnair.

Virgin Australia sought and was granted variations of multiple determinations to permit the use of the capacity for code sharing with Hong Kong Airlines on the Hong Kong route; and with Air Berlin, Air Canada, Alitalia and Hong Kong Airlines on the trans-Tasman route.

A brief summary of all determinations and decisions for 2016–2017 is at Appendix 1. A detailed description of each case is provided at Appendix 2.

The Commission's full determinations in these cases are available from its website, <www.iasc.gov.au>.

## Case Study – Papua New Guinea

#### Introduction

In previous annual reports, the Commission has highlighted one of its more complex cases to provide an insight into how it assesses applications which raise contentious and difficult issues. This year, the Commission's case study focusses on the differences between blocked space and free sale code sharing as illustrated by the Qantas applications to permit the use of capacity entitlements to provide code share services, under free sale arrangements, with Air Niugini on the Papua New Guinea (PNG) route.

#### The application

On 25 August 2016, Qantas applied to the Commission for a variation of three determinations allocating capacity on the PNG route to enable reciprocal code sharing with Air Niugini under new free sale arrangements. In its application, Qantas indicated it planned to code share on passenger services operated by Air Niugini between Port Moresby and Brisbane/Sydney/Cairns, while Air Niugini planned to code share on Qantas-operated passenger services between Brisbane and Port Moresby.

At the time of the application, Qantas had a total allocation of 1,888 seats per week of capacity on the PNG route. Of the 1,888 seats allocated to Qantas, the Commission authorised 1,000 seats for code sharing, under a hard block arrangement, on the Brisbane-Port Moresby and Sydney-Port-Moresby city pairs operated by Air Niugini.<sup>3</sup> The Port Moresby-Cairns sector was excluded and was independently operated by both Qantas and Air Niugini. The remaining capacity allocation of 888 seats per week did not have permission to be used for code share services<sup>4</sup>.

The Commission's previous approval was due to expire on 30 June 2017; hence the application of Qantas to renew the approval for code sharing but under free sale arrangements. In its application, Qantas proposes to:

- continue code sharing with Air Niugini on Brisbane-Port Moresby and Sydney-Port Moresby sectors but under a free-sale arrangement; and
- add Cairns-Port Moresby under the authorisation to code share on a free-sale basis, following Qantas' withdrawal of its own-operated services between Cairns and Port Moresby and commencement of Brisbane-Port Moresby own-operated services.

<sup>3</sup> Decision [2012] IASC 215 varying Determination [2011] IASC 132

<sup>4</sup> Determination [2014] IASC 105

In its initial application, Qantas stated that the application should be assessed against the general criteria for assessing public benefit in paragraph 4 of the Minister's Policy Statement. Paragraph 4 provides for the threshold criteria which every carrier making an application to the Commission should attain – that is, the carrier is reasonably capable of obtaining all regulatory approvals and of implementing its proposed service.

The Commission asked Qantas to provide a supplementary application addressing the additional criteria set out in paragraph 5 of the Minister's Policy Statement. The paragraph 5 criteria comprise competition, tourism, consumer, trade and aviation industry benefits including any other criteria which the Commission may consider relevant, with competition benefits as the pre-eminent consideration.

#### Qantas' supplementary application

In its supplementary application, Qantas submitted that:

- the proposed (free sale) code share arrangements are consistent with and provided for under the air services arrangements between Australia and PNG and that these commercial entitlements should be readily accessible by carriers to compete with existing or potential carriers to whom equivalent rights are available;
- the proposed code share will enable Qantas to maintain a presence on the Cairns-Port Moresby sector offering additional options when flying between Australia and PNG;
- Qantas and Air Niugini independently price and sell services on the PNG route with each airline operating separate yield management systems, creating a competitive dynamic; each carrier offers separate fare structures resulting in varied fare levels and fare conditions, giving passengers more choice and flexibility;
- the presence of other competitors, and the potential for new entrants, continues to act as a real competitive constraint on both Qantas and Air Niugini;
- the proposed code sharing would ensure that Air Niugini remains an operator and competitor on the route, as it would continue to support the viability of Air Niugini's B767 services which provide combined passenger/cargo services;
- the continued operation by Air Niugini of regular B767 services is vital to carriage of palletised and containerised freight;
- Qantas is only in a position to code share with Air Niugini on the PNG route on a free-sale basis (and its hard block code sharing would cease from 30 October 2016);

- Qantas and Air Niugini have extensive domestic networks with their respective home markets which are accessed by both carriers currently only by interline arrangements. Under the proposed code share, Air Niugini will code share on domestic services within Australia operated by Qantas. This will provide more 'destination Australia' travel options and itineraries for Air Niugini to market;
- code sharing has supported the ongoing viability of Air Niugini and as such, has been of vital importance to the PNG economy.

#### Submissions

From the application to the draft decisions, the Commission received a total of nine submissions from the following: the Australian Competition and Consumer Commission (the ACCC), Virgin Australia, Air Niugini, Pacific Air Express, Qantas, two members of the public (Michael Murphy and Brad Jackson) and the Australia-Papua New Guinea Business Council.

#### Australian Competition and Consumer Commission

At the outset, the ACCC noted that it is providing this submission without having had access to information that is relevant to evaluate the likely competition effects of the proposed code share arrangement like airline load factors and profitability on the Australia-PNG route and that the ACCC's submission is focussed on issues of principle to inform the IASC's assessment.

The ACCC stated that from a competition perspective, a hard block code share is preferable to free sale since each carrier has an incentive to market their allocated seats independently. Under a hard block arrangement, which places full commercial responsibility on the marketing carrier for a fixed number of seats, each carrier has an incentive to market their allocated seats independently of each other including different prices. Under free sale there is little incentive to compete on price because the marketing carrier only pays for the seats it sells.

The ACCC also noted two significant changes in the competitive environment since 2012: (1) the exit of Airlines PNG in July 2014<sup>5</sup> on the Brisbane-Port Moresby sector which it operated since 2005; and (2) that passenger traffic between Australia and PNG remained relatively stable between January 2011 and June 2016, in contrast to the strong growth (an average of 12.4%) in the five years preceding to the 2012 IASC decision. The ACCC stated that the IASC should have regard to the reduction in the number of competing carriers and the stability of passenger demand in assessing the likely competitive impact of the (free-sale) code share arrangement.

<sup>5</sup> According to Virgin Australia, PNG Air exited the Cairns-Port Moresby sector in December 2013.

In looking at the likely future with and without the code share, the ACCC noted that without the code share, the Brisbane services would be independently operated and marketed by three competitors – Qantas, Air Niugini and Virgin Australia. On the Cairns-Port Moresby and Sydney-Port Moresby sectors, Air Niugini would be the only operating and marketing carrier. In the event that Air Niugini were to significantly raise price or reduce services on these sectors, there would seem to be a real chance that either Virgin or Qantas would enter and contest these services.

With the code share on the Brisbane sector, Qantas and Air Niugini would be able to market each other's services, and there would be less competition in the marketing of their capacity. On the Cairns and Sydney sectors, Qantas would be able to market Air Niugini capacity, which makes it less likely that Qantas would commence operating its own services on these sectors should Air Niugini significantly raise price or reduce service on these sectors. This leaves Virgin as the main source of competitive constraint on these sectors.

The ACCC further stated that the proposed free sale arrangement has the potential to lessen competition between Qantas and Air Niugini; however, the ACCC said that without the opportunity to examine load factors and profitability on the route or consider the extent of the competitive constraint that Virgin Australia is likely to provide, the ACCC is not in a position to form a clear view on the likely effect on competition. It further stated that given the other significant changes occurring in conjunction with the application – operational changes by Qantas, change from hard block to free sale and uncertainty about the likely effect on competition – it is open to the IASC to grant an approval for a shorter duration than requested.

#### Virgin Australia

In its non-confidential submission, Virgin Australia stated at the outset that the Qantas applications should be rejected on the basis that the proposed use of the capacity for unrestricted code share services will not be of benefit to the public. Concerns raised by Virgin Australia included:

- Qantas' applications do not address, nor even acknowledge, the persistent strong concerns of the Commission over many years regarding the impact on competition of the code share with Air Niugini on the PNG route;
- in the financial year 2016, Qantas and Air Niugini together carried more than 80% of passengers on the route, with the remainder carried by Virgin Australia and such a powerful presence, limits Virgin's ability to compete effectively;
- the increased cooperation (between Qantas and Air Niugini) would entrench their combined market power and the dominance of that partnership would create a significant deterrent for any competitor to enter or expand on the route;

- the absence of attractive routes via third countries, particularly for business travellers, means the potential for third country carriers to provide competitive constraint is extremely limited. Virgin wishes to include a third country code share provision in the air services arrangements so its alliance partners can code share on its Brisbane-Port Moresby services to support the sustainability of these services;
- the Brisbane-Port Moresby sector where Qantas proposes to implement parallel code share arrangements with Qantas and Air Niugini offering code share services on the other's flights, will enable Qantas and Air Niugini to offer double daily service compared with Virgin's six weekly services. Over time, this could erode the performance and threaten the viability of Virgin's services;
- in relation to the Cairns-Port Moresby and Sydney-Port Moresby sectors, if the proposed (free-sale) code share arrangements between the two strongest operators were approved, it would be more difficult for a new entrant to commence services on the route, given the prospect of competing with Air Niugini and Qantas in combination, each with a dominant position at one end of the route; the challenge for a new entrant would be even greater, if the arrangements include frequent flyer program cooperation, on a route dominated by business traffic;
- refusal of the code share would reduce the combined market power of Qantas and Air Niugini thus creating the conditions to support the entry of new carriers or potential expansion of services by Virgin Australia as the only other competitor on the route;
- given that Air Niugini now appears to be in a sustainable financial position, arguments suggesting that code sharing is necessary to ensure the ongoing viability of Air Niugini are tenuous.

#### Qantas' response to Virgin Australia's submission

In its response to Virgin Australia's submission, Qantas submitted that refusing the code share would be contrary to the intent of the Australia-PNG air services treaty/ agreement. Qantas stated that the previous hard block code share arrangement led to market distortions as services on the route do not attract an even distribution of demand across the week and lack depth, meaning the hard block requires the purchase of capacity which the code share partner cannot use. It further alleged that the absence of regulatory approval for code sharing on the Cairns sector contributed to Qantas' withdrawal of services on that sector.

#### Air Niugini

With the proposed code sharing, Air Niugini intends to:

- increase its Cairns services, from 11 F70/F100 flights to at least 14 per week, following Qantas' withdrawal on this sector;
- increase its Sydney services, from two B737 services to three per week;
- continue its wide body services because Qantas' support (by selling seats through its extensive customer network and base) is critical to Air Niugini achieving sufficient loads for viable wide body operations. However, with Qantas introducing daily flights, it will not be sustainable for Air Niugini to maintain 13 services per week.

Without the proposed code sharing, Air Niugini would need to review its services on Cairns, Brisbane and Sydney. There is a risk that, without the revenue contribution from Qantas seat sales, Air Niugini would withdraw from the Sydney sector and would likely withdraw its wide body services on Brisbane as it would not be sustainable. The code share will enable Air Niugini to operate more efficiently on all sectors as it will allow it to achieve higher load factors as seats can be sold through Qantas' wider network and marketing channels.

#### Other stakeholders

Two members of the public made separate submissions in support of the proposed code share arrangements. One made a submission before a draft decision was issued by the Commission; the other, after the draft decision was released.

Both members of the public observed that the cessation of Qantas' services on the Cairns sector meant that Air Niugini would be the only airline offering services on the route. Both persons supported the proposed code share on the Cairns-Port Moresby sector as it would result in a choice of either Air Niugini or Qantas ticketing and would provide incentive for price competitiveness.

The Australia-Papua New Guinea Business Council expressed concern on the Commission's draft decision to disallow the proposed code share between Qantas and Air Niugini on the Cairns-Port Moresby sector. The Council said the rejection of the code share will leave Air Niugini as the monopoly operator on the Cairns sector and would be 'deleterious to Australian business interests generally'. The Council underscored the importance of Cairns as a gateway between Australia and Papua New Guinea and that Cairns would be less attractive for travellers if Air Niugini holds a monopoly on the sector.

#### The Decision

The Commission issued Draft Decisions and stakeholders were given the opportunity to make further submissions.

In its Final Decisions<sup>6</sup>, the Commission varied the three determinations and granted permission for the capacity allocations to be used for free-sale code sharing by Qantas and Air Niugini on the Brisbane-Port Moresby and Sydney-Port Moresby sectors until 30 June 2018. The Commission did not grant permission for free-sale code sharing on the Cairns-Port Moresby sector.

#### Process and rationale

In accordance with the requirements of the Act, the Commission invited submissions from the public. Consistent with its administrative procedures, the Commission published the Qantas applications and all non-confidential submissions on its website and notified interested parties by email. In making its decision, the Commission considered all submissions received.

In light of potential competition issues and concerns from various stakeholders, the Commission decided it would apply the additional criteria set out in paragraph 5 of the Minister's Policy Statement in addition to the general criteria in paragraph 4. Qantas was invited to submit a supplementary application addressing the paragraph 5 criteria of competition, tourism, consumer, trade and aviation industry benefits and any other criteria which it believed the Commission may consider relevant.

Assessing the applications using the paragraph 5 criteria enabled the Commission greater scope to assess the impact on competition of the proposed free-sale code sharing on the PNG route and its benefit to the public. It was also consistent with the approach taken by previous Commissions in assessing the code share application of Qantas on the PNG route.

#### Brisbane-Port Moresby / Sydney-Port Moresby

Code sharing on the PNG route has been the subject of concern over a series of Commission decisions since 2002. Code share arrangements on the Brisbane-Port Moresby and Sydney-Port Moresby sectors have previously been approved on the basis of hard block code share arrangements between Qantas and Air Niugini. A blocked space code share arrangement moves some risk of the flight to the marketing carrier (Qantas) as the seat block must be paid for regardless of its utilisation. If the market softens, the marketing carrier has an incentive to discount some of its fares (even below the average seat cost) to stimulate the market and to generate traffic that makes some contribution towards the sunk cost of the seat

6 [2016] IASC 220, 221, 222

purchase. This risk assumed by the marketing carrier provides a degree of public benefit from the code share.

The shift from hard block to free-sale code share arrangement between Qantas and Air Niugini moves the commercial risk on the flights from Qantas to Air Niugini and would likely lessen Air Niuguni's competitive position. However, the Commission considered that the potential lessening of competition on the Brisbane and Sydney sectors is offset by the introduction by Qantas of a daily service operated in its own right on the Brisbane-Port Moresby sector, increasing to three the number of competitors on that sector. These flights not only serve the Brisbane market, but can consolidate connecting traffic from other Australian cities. Also, the introduction of a third Air Niugini B737 service on the Sydney sector adds frequency and capacity for travellers.

In terms of consumer benefits, the Commission considered there is little evidence that the code share between Qantas and Air Niugini over the years lowered airfares. Qantas' yields on both the Brisbane and Sydney sectors have been consistently high. However, the code share benefitted consumers by providing better connectivity to domestic flights offered respectively by Qantas and Air Niugini.

On a route with such a high proportion of business related traffic, frequency and convenience of schedule are arguably more important for most passengers. Although high fares do add to the cost of doing business, better connectivity can reduce overall travel cost and travel time. Travellers are likely to welcome the increased competition and choice of service that the return of Qantas to the Brisbane sector will bring. They will now have the choice of three differing on-board products, and as price is less important on this sector than most, quality of service will be an important factor in determining which carriers are the most successful. However, the consumer benefits will be partially offset by Qantas' decision to withdraw from the Cairns sector.

On the Sydney-Port Moresby sector, while Air Niugini is the only carrier servicing the sector operating three services per week, the Sydney service faces competition from connecting services from Brisbane operated by all three airlines (Virgin Australia, Qantas and Air Niugini).

In terms of trade benefits, the Commission considered that without the code share, the viability of Air Niugini's 767 services could be jeopardised. The Commission considered that the loss of the B767 aircraft (as a result of the code share being rejected) would be significant, both for Australian exporters and for trade between the two countries generally.

The Commission decided to approve the code share arrangements on the Sydney and Brisbane sectors. However, it considered there was uncertainty about the impact of the shift from hard block to free sale code share. For this reason, it decided to grant approval for a shorter period than requested, until 30 June 2018, with the view to reviewing the arrangement should Qantas seek an extension.

#### Cairns-Port Moresby

Previously, the code share approval by the Commission was on Sydney and Brisbane sectors only. Qantas has now requested to expand the code share, under a freesale arrangement, to Cairns-Port Moresby sector with Qantas ceasing its own operations on this sector and leaving Air Niugini to be the sole provider of service on the sector.

The Commission considered that approving the code share on the Cairns sector would entrench the monopoly position of Air Niugini as sole operator on the sector. If the code share were approved on this sector, Qantas would not be expected to price below the airfares offered by Air Niugini. The code share would only result in putting a higher barrier for other entrants to operate on the sector. The combined market power of the code share partners would likely close the market from a third airline which might consider operating a competitive service, because instead of competing against only one operator (which may have a dominant position at one end of the route), it will compete against two (Qantas and Air Niugini, each with a dominant position at one of the two ends).

#### **Observations**

The Commission continues to monitor the PNG market and notes that even without the code share, Air Niugini has increased its services between Port Moresby and Cairns from 11 to 14 per week (nine F28–70 and six F28–100). Air Niugini has also increased its weekly services between Port Moresby and Sydney from two B737 services to three; and has maintained its seven wide body services per week using B767–300 between Port Moresby and Brisbane.

As the Commission indicated in its decisions, should Qantas wish to extend the authorisation for code sharing, it may seek a review of the code share arrangements some time next year.

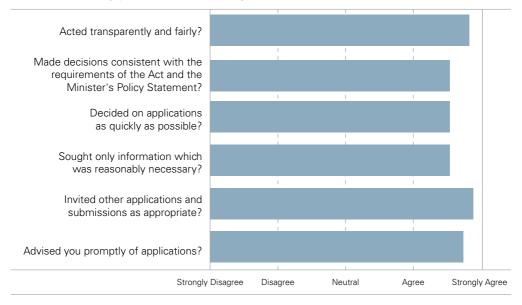
## Serving applicants and interested parties

The Commission uses the detailed commitments set out in its service charter as the framework for assessing its service performance. The specific undertakings in the service charter encompass both the ways in which the Commission engages with interested parties and how it makes its decisions. This framework provides the basis for an objective assessment of the Commission's performance.

Again this year, clients were invited to assess the Commission's performance by completing an electronic questionnaire. The questions allow respondents to evaluate how well the Commission performed against each of the specific undertakings set out in the charter. Questionnaire responses may be made anonymously, although some of those responding chose to disclose their identity. The Commission very much appreciates the effort made by respondents to provide their views on the Commission's performance.

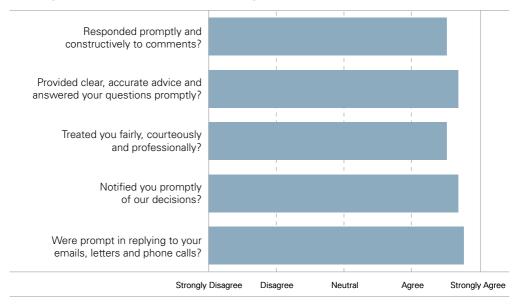
Each year, respondent scores against each criterion are aggregated and averaged. For 2016–17, the Commission's over-all performance was rated above average, which indicates that stakeholders continue to rate the Commission's performance favourably.

The following charts summarise the feedback from stakeholders of the Commission's service performance during the year:



#### Decision making process - Do you agree that we:

#### Dealings with stakeholders - Do you agree that we:



The Commission also records the time taken to make each of its decisions, as it considers timeliness to be a particularly important performance benchmark.

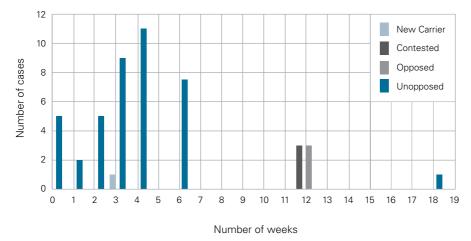
One of the commitments in the service charter is that the Commission will make decisions about uncontested and unopposed applications within four weeks of receipt and contested or opposed applications within 12 weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this.

Except for one case concerning code sharing on the Papua New Guinea route, the applications were uncontested and unopposed. The Commission generally dealt with these straightforward applications within the four-week period. On a number of occassions, decisions fell into the fifth week to align with regular Commission meetings.

The Qantas' application to vary three determinations on the Papua New Guinea route to allow the capacity to be used for code sharing with Air Niugini was opposed by Virgin Australia and generated submissions from various stakeholders, and so took 12 weeks to finalise, well within the timeframe for making decisions on opposed matters as set out in the service charter. A draft decision was made before the decision was finalised, which was also subjected to a consultation period.

One application from Virgin Australia took a longer period (a little over 18 weeks) to complete as the Commission had to await one vital document before a decision could be made.

Detailed information about the Commission's timeliness performance is contained in the following chart.



#### Distribution of decision times by type of case

Note: The chart does not include the 16 renewal determinations. Renewals are initiated by the Commission on a time frame that suits airlines' requirements and are generally uncontested.

## Efficiency of financial resources

The Commission's budget for the year was \$443,000. These funds were made available from the resources of the Aviation and Airports Division of the Department. The Commission's budget expenditure is mostly attributable to the salaries and superannuation of Secretariat staff and fees paid to Commission members including superannuation. Other expenditures include the Commissioners' expenses in connection with their travel to Canberra to attend meetings and the production of the annual report. Most corporate overheads and property operating expenditures are paid for by the Department, as the Commission is housed in a departmental building.

The Commission's total expenditure for 2016–17 was about \$27,000 – less than the allocated budget. The budget anticipated the appointment of a third Commissioner after Mr John King's appointment ended on 31 December 2016. As no appointment was made, the Commission underspent its budget. Discretionary spending was contained within the Commission's budget.

The Commission considers the expenditures to have been made efficiently and effectively. The Commission has delivered steady efficiency gains over a long period. During the year, officers from the Department provided administrative support to the Commission. One external officer was temporarily seconded to the Secretariat as Acting Executive Director when the incumbent was on leave.

Part 5 of this report details the Commission's financial performance.



# PART 4

# Management and accountability

# Corporate governance practices

As the Commission is a small organisation, it requires less complex corporate governance structures than those of larger bodies such as Government departments. The Commission considers its corporate governance arrangements to be appropriate for its small size and consistent with its statutory role and responsibilities. There are two parts to the governance arrangements. The first of these addresses the Commission's responsibilities under the *International Air Services Commission Act 1992* (the Act). The second part of the governance structure concerns staffing of the Commission's Secretariat and the expenditure of the Commission's budget.

Part 4 of the Act sets out procedures with which the Commission must comply. The Commission considers that it meets these requirements in full. The most significant of the requirements concerns the holding of meetings. The Commission usually meets at its offices in Canberra. However, when urgent issues arise and it is not practicable to have a face-to-face meeting in Canberra, the Commission conducts meetings either by email or by teleconference. The use of electronic media for conducting meetings reduces travel costs associated with face-to-face meetings, representing a saving to the Commission's budget. A quorum of members is present at all meetings and minutes are kept of proceedings at all of its meetings.

During its meetings, the Commission discusses the applications from carriers and make determinations and decisions in accordance with the Act and the Minister's Policy Statement. Additionally, administrative issues such as staffing, financial and risk management issues, as appropriate, are discussed at these meetings. Commissioners and the Secretariat maintain regular contact via email and telephone about matters requiring the Commission's attention in the periods between meetings.

Part 4 of the Act enables the Commission to hold hearings at its discretion. No hearings were held this year.

Part 5 of the Act deals with the membership of the Commission. The Chairperson and members are appointed by the Governor-General after approval by Cabinet, which considers recommendations of the Minister for Infrastructure and Transport (the Minister). A member may be appointed on a full-time or part-time basis and the Minister may determine the terms and conditions of appointment on matters not provided under the Act. The Act also provides that a Commissioner may be appointed for a period not exceeding five years. Currently, all Commissioners have been appointed as part-time and for a period of three years. The Remuneration Tribunal sets members' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

The Act further provides that the Minister may appoint a person to act as Chairperson or Member of the Commission under certain circumstances. The Hon Darren Chester MP, Minister for Infrastructure and Transport, extended the appointment of Mr John King as Commission Member on an acting and part-time basis from 1 July to 31 December 2016.

Section 47 of the Act requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners are fully aware of this obligation.

Section 53 of the Act requires the Commission to prepare and give to the Minister a report of its operations for the financial year. The Commissioners review drafts of the annual report during its preparation. The final report is cleared and signed off by them and provided to the Minister in accordance with the requirements of the Act. The report is tabled in both Houses of Parliament.

The second part of the Commission's corporate governance arrangements arises from the Commission's relationship with the Department of Infrastructure and Regional Development (the Department). Secretariat staff members are officers of the Department and are subject to the same responsibilities and obligations applying to all departmental staff. The Commission's Executive Director is responsible for the day to day management of the Secretariat, in accordance with these obligations and responsibilities. Secretariat staff members are expected to adhere to the Australian Public Service's Values and Code of Conduct.

# **External scrutiny**

There was no formal external scrutiny of the Commission this year and no determinations or decisions made by it were the subject of judicial (or administrative) review<sup>7</sup>.

# Management of human resources

As at 30 June 2017, the Secretariat was comprised of one full-time Executive Level 2 officer as Executive Director (Ms Marlene Tucker) and one part-time APS 5 officer as Administrative Officer (Ms Anita Robinson). During the reporting period, an external

<sup>7</sup> Decisions made by the Commission are not subject to merits review by the Administrative Appeals Tribunal.

officer (Mr Christopher Samuel) in October 2016 acted as Executive Director during Ms Tucker's absence.

As officers of the Department, Secretariat staff members' employment conditions are determined by the Department's normal employment arrangements. However, as part of the arrangements to ensure independence of the Commission from the Department, Secretariat staff members are responsible directly to the Commissioners on Commission matters.

The Department's human resource management policies and practices apply to Secretariat staff. These include performance management arrangements, including six-monthly discussions about work performance and professional development. The Commissioners support the professional development of Secretariat members by encouraging participation in appropriate study, training courses and conferences.

In August 2016, the Chairperson, Dr Douglas, was one of the panel discussants at the CAPA Australia Pacific Aviation Summit 2016 in Brisbane. The Executive Director, Ms Tucker, attended the CAPA aviation summits in Brisbane (in August 2016) and Canberra (in March 2017).

Secretariat staff support the Commission's work through the preparation of briefing and agenda papers for meetings; preparing all Commission meeting requirements; drafting determinations and decisions for consideration by Commissioners; responding to queries from the public; and providing advice to the Commissioners and other external stakeholders.

# Asset management

Asset management is not a prominent aspect of the business of the Commission.

# Purchasing

The Commission made no significant purchases during the year.

# Consultants, contractors and competitive tendering

During the reporting period, the Commission did not engage the services of consultants or contractors and did not engage in competitive tendering.



# PART 5

# Financial report

# Financial report as at 30 June 2017

	(1)	(2)	(3)	(4)
	2016–17 Budget \$′000	2016–17 Actual \$′000	Variation (Column 2–1) \$′000	2017–18 Budget \$′000
Salaries/ Commissioners' fees	380	390	0	401
Revenue	0	0	0	0
Supplier expenses	62	24	0	34
Total	442	414	0	435
Staff	1.6	1.6		1.6

# **Explanatory notes**

The Commission's financial report is prepared on an accrual budgeting basis.

The Commission's budget is provided from funds allocated to the Aviation and Airports Division within the Department of Infrastructure and Regional Development. The Commission's offices are in a departmental building.



# Determinations and Decisions

This table summarises briefly the determinations and decisions issued during 2016–17. A full summary is at Appendix 2. Individual determinations and decisions may be viewed on the Commission's website at <www.iasc.gov.au>.

Route	Airline	IASC Number	Date	Unit	Unit Capacity Allocated Comment	Comment
China	Pacific Air Express	[2017] IASC 111 *	13 Jun 17			Allocation of unlimited all-cargo capacity and frequency
China	Qantas	[2017] IASC 104	23 Mar 17			Allocation of unlimited capacity
China	Qantas	[2017] IASC 203* 29 Mar 17	29 Mar 17			Revocation of [2015] IASC 109
China	Qantas	[2017] IASC 204*	29 Mar 17			Revocation of [2016] IASC 102
Fiji	Qantas	[2016] IASC 111	19 Dec 16	852	per week in each direction	Renewal of [2011] IASC 130, allocating 852 seats of capacity on Fiji route
Fiji	Virgin Australia	[2016] IASC 112	19 Dec 16	907	per week in each direction	Renewal of [2011] IASC 131, allocating 907 seats per week of capacity
France	Qantas	[2016] IASC 108* 06 Jul 16	06 Jul 16	250	one-way seats per day	Renewal of [2011] IASC 119, allocating 250 one-way seats per day
Hong Kong	Virgin Australia	[2017] IASC 212 07 Jun 17	07 Jun 17			Variation of [2016] IASC 107 to permit the capacity allocated to be used for code sharing between Virgin Australia and Hong Kong Airlines

\* Indicates a determination or decision made by the Commission's delegate.

Route	Airline	IASC Number	Date	Unit	Capacity Allocated	Comment
Indonesia	Qantas	[2017] IASC 208	19 Apr 17			Revocation of [2015] IASC 114
Indonesia	Qantas	[2017] IASC 112	26 Jun 17	100	per week in each direction	Allocation of 100 seats per week in each direction
Indonesia	Virgin Australia	[2017] IASC 205*	10 Apr 17	280	per week in each direction	Variation of [2015] IASC 110 to reduce capacity allocation from 2800 seats to 280 seats per week
Italy	Virgin Australia	[2017] IASC 107	03 May 17	300	per week in each direction	Renewal of [2013] IASC 122, allocating 300 third country code share seats and permitting code share services with Singapore Airlines and Etihad Airways
Korea	Qantas	[2016] IASC 109*	14 Jul 16	500	per week in each direction	Renewal of [2011] IASC 125, allocating 500 seats of capacity per week in each direction
Nauru	Pacific Air Express	[2017] IASC 109*	09 Jun 17			Allocation of unlimited freight capacity
New Zealand	Norfolk Island Airlines	[2017] IASC 101	10 Feb 17			Allocation of unlimited capacity and frequency
New Zealand	Virgin Australia	[2016] IASC 217*	08 Sep 16			Variation of [2007] IASC 118 to permit Alitalia to code share on services operated by Virgin Australia International Airlines Pty Ltd between Australia and New Zealand
New Zealand	Virgin Australia	[2016] IASC 218*	21 Sep 16			Variation of [2007] IASC 118 to permit Air Berlin to code share on Virgin Australia services on New Zealand route
New Zealand	Virgin Australia	[2017] IASC 207	19 Apr 17			Variation of [2007] IASC 118 to permit capacity for code sharing with Air Canada
New Zealand	Virgin Australia	[2017] IASC 211	07 Jun 17			Variation of [2007] IASC 118 to permit capacity allocated to be used for code sharing between Virgin Australia and Hong Kong Airlines
Papua New Guinea	Qantas	[2016] IASC 110*	12 Aug 16	1000	per week in each direction	Renewal of [2011] IASC 132, allocating 1,000 seats per week in each direction

Route	Airline	IASC Number	Date	Unit	Unit Capacity Allocated	Comment
Papua New Guinea	Qantas	[2016] IASC 220	16 Nov 16			Variation of [2011] IASC 132 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors
Papua New Guinea	Qantas	[2016] IASC 221	16 Nov 16			Variation of [2014] IASC 105 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors
Papua New Guinea	Qantas	[2016] IASC 222	16 Nov 16			Variation of [2016] IASC 110 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors
Singapore	Qantas	[2016] IASC 223	19 Dec 16			Variation of [2007] IASC 116 to permit Fiji Airways to code share on Qantas-operated services
Singapore	Qantas	[2017] IASC 106	27 Apr 17	300	per week in each direction	Renewal of [2013] IASC 120, allocating 300 seats per week on the Singapore route to be used to exercise own stop-over rights between Singapore and Colombo, and permits code share on services operated by Emirates and SriLankan Airlines to Colombo via Singapore
Singapore	Qantas	[2017] IASC 209	07 Jun 17			Variation of [2007] IASC 116 to permit capacity to be used for code share between Jetstar and Finnair
Singapore	Virgin Australia	[2017] IASC 105	27 Apr 17	400	per week in each direction	Renewal of [2013] IASC 121, allocating 400 seats per week on the Singapore route to be used to exercise own stop-over rights between Singapore and Colombo, and permits code share on services operated by Singapore Airlines to Colombo via Singapore
Solomon Islands	Virgin Australia	[2016] IASC 114	19 Dec 16	360	per week in each direction	Renewal of [2011] IASC 115, allocating 360 seats per week of capacity
South Africa	Qantas	[2017] IASC 102	10 Feb 17	7	per week in each direction	Renewal of [2012] IASC 106, allocating seven frequencies per week
Taiwan	Qantas	[2017] IASC 201	09 Mar 17			Revocation of [2011] IASC 106

	Route	Airline	IASC Number	Date	Unit	Capacity Allocated	Comment
Cantas[2016] IASC 219*22 Sep 16Cantas[2017] IASC 10807 Jun 1735.6per week inCantas[2017] IASC 21007 Jun 1735.6per week inCantas[2017] IASC 21007 Jun 1735.6per week incrabQantas[2017] IASC 21007 Jun 17seach directionvrabVirgin[2017] IASC 21019 Dec 1614per week ineach direction10 Apr 17seach directionseach directionvrabVirgin[2017] IASC 210*10 Apr 17seach directionsAustralia[2017] IASC 110*09 Jun 17seach directiondantas[2017] IASC 103*21 Mar 177per week in	Taiwan	Qantas	[2017] IASC 202	09 Mar 17			Revocation of [2015] IASC 106
Cantas[2017] IASC 10807 Jun 1735.6per week inCantas[2017] IASC 21007 Jun 17each directionLabCantas[2017] IASC 21007 Jun 17each directionLabCantas[2016] IASC 11319 Dec 1614per week inLabVirgin[2017] IASC 206*10 Apr 17each directionLabVirgin[2017] IASC 206*10 Apr 17nLabCantas[2017] IASC 10*09 Jun 17nCantas[2017] IASC 103*21 Mar 177per week in	Thailand	Qantas	[2016] IASC 219*	22 Sep 16			Variation of [2011] IASC 123 to permit the use of the capacity for code share services between Qantas and Jet Airways
Cantas       [2017] IASC 210       07 Jun 17         rab       Cantas       [2016] IASC 113       19 Dec 16       14       per week in each direction         rab       Virgin       [2017] IASC 206*       10 Apr 17       each direction         rab       Virgin       [2017] IASC 206*       10 Apr 17       each direction         a       Australia       [2017] IASC 206*       10 Apr 17       antas       [2017] IASC 110*         a       Cantas       [2017] IASC 110*       09 Jun 17       antas       antas       [2017] IASC 103*       21 Mar 17       7	Thailand	Qantas	[2017] IASC 108	07 Jun 17	35.6	per week in each direction	Renewal of [2011] IASC 123, allocating 35.6 B747 equivalent units and 26 third country code share frequencies of passenger capacity per week
rabQantas[2016] IASC 11319 Dec 1614per week in each directionkVirgin[2017] IASC 206*10 Apr 17each directionkMustralia[2017] IASC 206*10 Apr 17antasQantas[2017] IASC 110*09 Jun 17antaseach directionCantas[2017] IASC 103*21 Mar 177per week in	Thailand	Qantas	[2017] IASC 210	07 Jun 17			Variation of [2011] IASC 123 to permit code sharing between Jetstar and Finnair
trabVirgin[2017] IASC 206*10 Apr 17aburtaliaAustraliaCantas[2017] IASC 110*09 Jun 17Cantas[2017] IASC 103*21 Mar 177per week incantas[2017] IASC 103*21 Mar 177cantas[2017] IASC 103*21 Mar 177cantas[2017] IASC 103*21 Mar 177	United Arab Emirates		[2016] IASC 113	19 Dec 16	14	per week in each direction	Renewal of [2012] IASC 107, allocating 14 frequencies
Qantas     [2017] IASC 110*     09 Jun 17       Qantas     [2017] IASC 103*     21 Mar 17     7       Per week in     each direction	United Arab Emirates	Virgin Australia	[2017] IASC 206*	10 Apr 17			Revocation of [2014] IASC 116
Qantas [2017] IASC 103* 21 Mar 17 7 per week in each direction	United States	Qantas	[2017] IASC 110*	09 Jun 17			Renewal of [2008] IASC 103, allocating unlimited passenger and cargo capacity
	Vietnam	Qantas	[2017] IASC 103*	21 Mar 17	7	per week in each direction	Allocation of seven frequencies per week

# Route-by-route summary of Commission determinations and decisions in 2016–17

This appendix provides a summary of the Commission's determinations and decisions for 2016–17. Full determinations and decisions can be viewed on the Commission's website at <<www.iasc.gov.au>

# China

Upon the application of Qantas, the Commission issued, on 23 March 2017, **Determination [2017] IASC 104** allocating unlimited capacity and frequency on the China route. The determination is valid for 10 years from 23 March 2017.

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Upon the application of Qantas, the Commission's delegate issued, on 29 March 2017, **Decision [2017] IASC 203\*** to revoke Determination [2015] IASC 109 which allocated unlimited passenger capacity between non-major gateways in Australia and points in China.

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Upon the application of Qantas, the Commission's delegate issued, on 29 March 2017, **Decision [2017] IASC 204\*** to revoke Determination [2016] IASC 102 which allocated 4,471 weekly seats of capacity on the China route.

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Upon the application of Pacific Air Express, the Commission's delegate issued, on 13 June 2017, **Determination [2017] IASC 111\*** allocating unlimited capacity and frequency on the China route. The determination is valid for 10 years from 13 June 2017.

# Fiji

Upon the application of Qantas, the Commission issued, on 19 December 2016, **Determination [2016] IASC 111,** which renewed Determination [2011] IASC 130, allocating to Qantas Airways 852 seats of capacity per week in each direction on the Fiji route. The determination is valid for five years from 5 November 2017.

\* Indicates a determination or decision made by the Commission's delegate.

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Upon the application of Virgin Australia, the Commission issued, on 19 December 2016, **Determination [2016] IASC 112**, which renewed Determination [2011] IASC 131, allocating 907 seats of passenger capacity per week in each direction on the Fiji route. The determination is valid for five years from 5 November 2017.

# France

Upon the application of Qantas, the Commission's delegate issued, on 6 July 2016, **Determination [2016] IASC 108\***, allocating to Qantas 250 one-way seats per day of capacity on France route 1. The determination is valid for five years from 22 May 2017.

# Hong Kong

Upon the application of Virgin Australia, the Commission issued, on 7 June 2017, **Decision [2017] IASC 212**, varying Determination [2016] IASC 107 to permit the use of capacity allocated on the Hong Kong route to be used for code sharing between Virgin Australia and Hong Kong Airlines. The permission is valid for the duration of the determination.

# Indonesia

Upon the application of Virgin Australia, the Commission's delegate issued, on 10 April 2017, **Decision [2017] IASC 205\***, varying Determination [2015] IASC 110 to reduce the capacity allocation by 2,520 weekly seats, leaving 280 seats per week in each direction allocated on the said Determination on the Indonesia route.

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Upon the request of Qantas, the Commission issued, on 19 April 2017, **Decision [2017] IASC 208**, revoking Determination [2015] IASC 114, which allocated 1,570 seats of capacity on the Indonesia route.

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Upon the request of Qantas, the Commission issued, on 26 June 2017, **Determination [2017] IASC 112**, allocating 100 seats per week in each direction on the Indonesia route. The allocation is valid for five years from 26 June 2017.

# Italy

Upon the application of Virgin Australia, the Commission's delegate issued, on 3 May 2017, **Determination [2017] IASC 107**, which renewed Determination [2013] IASC 122, allocating to Virgin Australia 300 third country code share seats per week on the Italy route. The determination also permits the use of the capacity by Virgin Australia for the provision of code share services with Singapore Airlines and Etihad Airways. The determination is valid for five years from 8 April 2018.

# Korea

Upon the application of Qantas, the Commission's delegate issued, on 14 July 2016, **Determination [2016] IASC 109\***, which renewed Determination [2011] IASC 125, allocating to Qantas 500 seats of capacity per week in each direction on the Korea route. The determination is valid for five years from 1 July 2017.

# Nauru

Upon the application of Pacific Air Express, the Commission's delegate issued, on 9 June 2017, **Determination [2017] IASC 109\*** which renewed Determination [2013] IASC 126 allocating unlimited freight capacity each week in each direction on the Nauru route. The determination is valid for 10 years from 19 May 2018.

# **New Zealand**

Upon the request of Norfolk Island Airlines, the Commission issued, on 10 February 2017, **Interim Determination [2017] IASC 101**, allocating to Norfolk Island Airlines unlimited capacity to operate scheduled passenger services between Australia and New Zealand. The interim determination is valid for three years from 10 February 2017.

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Upon the application of Virgin Australia, the Commission's delegate issued, on 8 September 2016, **Decision [2016] IASC 217\***, varying Determination [2007] IASC 118 to permit Alitalia to code share on services operated by Virgin Australia between Australia and New Zealand. The permission is valid for the duration of the determination.

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Upon the application of Virgin Australia, the Commission's delegate issued, on 21 September 2016, **Decision [2016] IASC 218\***, varying Determination [2007] IASC 118 to permit Air Berlin to code share on services operated by Virgin Australia between Australia and New Zealand. The permission is valid for the duration of the determination.

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Upon the application of Virgin Australia, the Commission issued, on 19 May 2017, **Decision [2017] IASC 207**, varying Determination [2007] IASC 118 to permit Air Canada to code share on services operated by Virgin Australia between Australia and New Zealand. The permission is valid for the duration of the determination.

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Upon the application of Virgin Australia, the Commission issued, on 7 June 2017, **Decision [2017] IASC 211**, varying Determination [2007] IASC 118 to permit Hong Kong Airlines to code share on services operated by Virgin Australia between Australia and New Zealand. The permission is valid for the duration of the determination.

# Papua New Guinea

Upon the application of Qantas, the Commission's delegate issued, on 12 August 2016, **Determination [2016] IASC 110\***, which renewed Determination [2011] IASC 132, allocating to Qantas 1000 seats of capacity per week in each direction on the Papua New Guinea route. The determination is valid for five years from 1 July 2017.

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Upon the request of Qantas, the Commission issued, on 16 November 2016, **Decision [2016] IASC 220**, varying Determination [2011] IASC 132 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors. The permission is valid for the duration of the determination.

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Upon the request of Qantas, the Commission issued, on 16 November 2016, **Decision [2016] IASC 221**, varying Determination [2014] IASC 105 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors. The permission is valid for the duration of the determination.

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Upon the request of Qantas, the Commission issued, on 16 November 2016, **Decision [2016] IASC 222**, varying Determination [2016] IASC 110 to permit the use of the capacity under free sale code sharing between Qantas and Air Niugini on the Brisbane and Sydney sectors. The permission is valid for the duration of the determination.

# Singapore

Upon the request of Qantas, the Commission issued, on 19 December 2016, Decision [2016] IASC 223, varying Determination [2007] IASC 116 to permit Fiji Airways to code share on Qantas operated services on the Singapore route. The permission is valid for the duration of the determination.

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Upon the application of Qantas, the Commission issued, on 27 April, Determination [2017] IASC 106, which renewed Determination [2013] IASC 120, allocating to Qantas 300 seats per week on the Singapore route to be used to exercise own stop-over rights between Singapore and Colombo, and permits code share services operated by Emirates and SriLankan Airlines to Colombo via Singapore. The determination is valid for five years from 28 March 2018.

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Upon the request of Qantas, the Commission issued, on 7 June 2017, **Decision [2017] IASC 209**, varying Determination [2007] IASC 116 to permit capacity to be used for code share between Jetstar and Finnair. The permission is valid for the duration of the determination.  $\rightarrow \rightarrow \rightarrow$ 

Upon the application of Virgin Australia, the Commission issued, on 27 April 2017, **Determination [2017] IASC 105**, which renewed Determination [2013] IASC 121, allocating to Virgin Australia 400 seats per week to be used to exercise own stop-over rights between Singapore and Colombo, and permits code share on services operated by Singapore Airlines to Colombo via Singapore. The determination is valid for five years from 28 March 2018.

# Solomon Islands

Upon the application of Virgin Australia, the Commission issued, on 19 December 2016, **Determination [2016] IASC 114**, which renewed Determination [2011] IASC 115, allocating 360 seats of passenger capacity per week in each direction on the Solomon Islands route. The determination is valid for five years from 10 December 2017.

# South Africa

Upon the application of Qantas, the Commission issued, on 10 February 2017, **Determination [2017] IASC 102,** which renewed Determination [2012] IASC 106, allocating to Qantas seven frequencies per week in each direction on the South Africa route. The determination is valid for five years from 17 December 2017.

# Taiwan

Upon the request of Qantas, the Commission issued, on 9 March 2017, **Decision [2017] IASC 201,** revoking Determination [2011] IASC 106, which allocated 2,121 weekly seats of capacity on the Taiwan route.

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Upon the request of Qantas, the Commission issued, on 9 March 2017, Decision [2017] IASC 202, revoking Determination [2015] IASC 106, which allocated 1,260 weekly seats of capacity on the Taiwan route.

# Thailand

Upon the request of Qantas, the Commission's delegate issued, on 7 June 2017, **Decision [2016] IASC 219\***, varying Determination [2011] IASC 123 to permit capacity to be used for code share between Qantas and Jet Airways on the Thailand route. The permission is valid for the duration of the determination.

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Upon the application of Qantas, the Commission issued, on 7 June 2017, **Determination [2017] IASC 108**, which renewed Determination [2011] IASC 123, allocating to Qantas 35.6 B747 equivalent units of capacity per week in each direction for passenger services and 26 third country code share frequencies per week in each direction on the Thailand route. The determination is valid for five years from 1 July 2018.



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Upon the request of Qantas, the Commission issued, on 7 June 2017, **Decision [2017] IASC 210**, varying Determination [2007] IASC 123 to permit capacity to be used for code share between Jetstar Airways and Finnair on the Thailand route. The permission is valid for the duration of the determination.

# **United Arab Emirates**

Upon the application of Qantas, the Commission issued, on 19 December 2016, Determination [2016] IASC 113, which renewed Determination [2012] IASC 107, allocating to Qantas 14 frequencies per week in each direction on the United Arab Emirates route. The determination is valid for five years from 13 November 2017.

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Upon the request of Virgin Australia, the Commission's delegate issued, on 10 April 2017, **Decision [2017] IASC 206\***, revoking Determination [2014] IASC 116, which allocated three services per week on the United Arab Emirates route.

# **United States**

Upon the application of Qantas, the Commission's delegate issued, on 9 June 2017, **Determination [2017] IASC 110\***, which renewed Determination [2008] IASC 103, allocating to Qantas unlimited passenger and cargo capacity to operate scheduled services on the United States route. The determination is valid for ten years from 2 April 2018.

# Vietnam

Upon the application of Qantas, the Commission's delegate issued, on 21 March 2017, **Determination [2017] IASC 103\***, allocating to Qantas seven frequencies of capacity per week in each direction on the Vietnam route. The determination is valid for five years from 21 March 2017.

# Other information

# Occupational health and safety

As the staff members of the Secretariat are employees of the Department of Infrastructure and Regional Development, (the Department), they are subject to the same occupational health and safety arrangements as departmental officers. The Department's annual report contains details of those arrangements.

# Freedom of information

The International Air Services Commission (the Commission) is an agency subject to the *Freedom of Information Act 1982* (the FOI Act). Major reforms of the FOI Act in 2011 required relevant agencies to comply with the Information Publication Scheme (IPS) set out in Part II of the FOI Act. In compliance with the IPS requirements, the Commission has established an Information Publication Plan which is available on its website <a href="http://www.iasc.gov.au/foi/ipp.aspx">http://www.iasc.gov.au/foi/ipp.aspx</a>.

The Commission also makes available on its website information about its organisational structure; the membership of the Commission including biographical notes of the current Members of the Commission; its functions including its decision-making powers and other powers affecting the public; copies of its annual reports; its legislative framework and its guidelines and procedures; copies of all determinations and decisions issued; applications including submissions in relation to the applications (if any); contact details of the Commission and its Executive Director; and the Commission's operational information. Operational information refers to the information held by the Commission to assist it in performing or exercising its functions or powers in making decisions or recommendations affecting the public.

The information contained in this report meets the requirements of the FOI Act, as amended. Refer to Appendix 4 for further details.

The Commission received no requests under the FOI Act in 2016–17.



# Advertising and market research

The Commission does not advertise its functions and services. During the reporting period, the Commission did not pay any person for advertising or for performing any market research.

The Commission maintains its own website <www.iasc.gov.au> which provides details about its functions, the applications it receives and determinations/decisions it has issued, among other matters. The Commission updates its website on a regular basis.

# Ecologically sustainable development and environmental performance reporting

The Commission's offices and Secretariat staff are located within the Department's buildings and as such are covered by the Department's processes in this area.

# Freedom of information schedule

ltem	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information</i> <i>Act 1982</i> (the FOI Act) might not be required because information or documents may be readily available on the Commission's website. Formal requests under the FOI Act must be made in writing to the Executive Director, FOI contact officer, of the Commission. The Commission maintains a dedicated FOI page on its website which sets out the information required to be published under section 8 of the FOI Act.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed below. The Commission welcomes views and comments from members of the public and bodies outside the Commonwealth concerning its functions.
Commission powers	The Commission exercises decision-making powers under the Act. It has the power to do everything necessary or convenient to be done for, or in connection with, performing those functions. The Commission has a range of specific powers that include convening public hearings and summoning witnesses.
Decision process	The general power to grant or refuse access to Commission documents under the FOI Act is held by the Chairperson of the Commission. On 19 August 2013, the Chairperson authorised the Executive Director, and in his/her absence, the Senior Adviser, to exercise the Chairperson's powers and functions under the FOI Act.



ltem	Information
Documents available for inspection	The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.
	The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines are available on request or from the Commission's website. Documents may also be obtained by facsimile or by email. Operational files are maintained on all the Commission's activities and are stored at the office of the Commission. These files are not open to public access.
Functions of the Commission and	The functions of the Commission, as set out in section 6 of the <i>International Air Services Commission Act 1992</i> , are to:
How it is	(a) make determinations;
organised	(b) conduct reviews of those determinations; and
	(c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.
	The organisation of the Commission is described in Part 2 of this report.
FOI Contact Officer	The Executive Director, and in his/her absence, the Senior Adviser is the Commission's FOI contact officer. Any request or query on FOI matters may be directed to the:
	International Air Services Commission GPO Box 630 Canberra ACT 2601 Australia Phone: (612) 6267 1100 Email: iasc@infrastructure.gov.au

# Commission procedures

The Commission has published procedures for making determinations allocating available capacity. The procedures are designed to be consistent with the requirements of the *International Air Services Commission Act 1992* (the Act), its implementing regulations, administrative law principles and the Minister's policy statement which complements the Act. The Commission's procedures are intended to ensure procedural fairness for both the applicants and other interested parties; ensure the Commission's processes are open and transparent; and provide guidance to anyone wishing to apply for, or make submissions about, matters being considered by the Commission. The Secretariat provides further individual guidance to applicants for capacity and other stakeholders when requested.

The Commission's procedures incorporate the following main steps:

- A Register of Public Documents is created for each route and is made available for viewing. The Commission requires a public version of all applications for, and submissions about, an allocation of capacity to be made available. A small amount of information received by the Commission is of a commercial-in-confidence or confidential nature and is held on the Commission's confidential register. All public documents are published on the Commission's website and distributed electronically to all stakeholders in its mailing list. Any member of the public may request to be included in the Commission's mailing list.
- The Commission will publish a notice inviting other applications for capacity in response to an initial application for capacity, and submissions about applications where required by the Act and Minister's policy statement.
- The Commission will assess the application in accordance with the relevant criteria set out in the Minister' Policy Statement. More complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established carrier.
- Where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.



- The Minister's policy statement requires the Commission to ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- A hearing may be conducted by the Commission if further information is needed to establish the nature and extent of a proposal's public benefit and, in the case of two or more competing applications, decide which application would be of the greatest benefit to the public.
- The Commission will publish a draft determination in the case of competing applications or if it is proposed to reject all or part of an application, or where non-standard conditions are being proposed. This provides applicants and other interested parties with an opportunity to comment on the Commission's proposal prior to the issuing of a final determination. In other cases the Commission will proceed directly to a final determination.

The Commission regularly updates its procedures. They are available from the Commission's website at <a href="http://www.iasc.gov.au">http://www.iasc.gov.au</a>, or upon request to the Commission.

# Minister's Policy Statement

International Air Services Policy Statement No. 5 dated 19 May 2004

made pursuant to section 11 of the

International Air Services Commission Act 1992

# Background

The Aviation Legislation Amendment Act 2002 (AVLA) inserted Part 3A into the International Air Services Commission Act 1992. It permits the International Air Services Commission to delegate some of the Commission's powers and functions regarding the allocation of capacity in the operation of international air services to an Australian Public Service employee in the Department of Transport and Regional Services. The International Air Services Commission Amendment Regulations 2003 specify the circumstances in which the Commission may delegate those powers and functions.

The effect of these amendments is to streamline the procedures for considering applications from Australian carriers for a determination granting capacity.

References to the Commission in this instrument include the delegate of the Commission unless expressly excluded.

# 1. CITATION

1.1 This instrument may be referred to as the International Air Services Policy Statement No.5. This policy statement replaces the policy statement made under section 11 of the International Air Services Commission Act 1992 by the instrument dated 23 April 1997 (as amended on 9 March 1999).

# 2. DEFINITIONS

2.1 In this policy statement, unless the contrary intention appears:

"Act" means the International Air Services Commission Act 1992 (as amended)

"commercially sustainable level of capacity" means the minimum capacity necessary to permit the development of efficient commercially sustainable operations on a route.

"Commission" means the International Air Services Commission, unless otherwise specified.

"delegate" means a person exercising the powers and functions of the Commission pursuant to section 27AB of the Act.

"new entrant" means, in relation to a route, an Australian carrier that has not previously been allocated a commercially sustainable level of capacity in relation to that route.

"route" relates to the full set of entitlements available to Australian carriers under a particular bilateral arrangement. All the combinations of origin, destination, intermediate and beyond points available to Australian carriers under the bilateral arrangement constitute a single route.

"start-up phase" means, in relation to any route, the period from 1 July 1992, or from such later date as a particular bilateral arrangement becomes subject to the Act in order that available capacity under that arrangement may be allocated by the Commission, until the date on which a determination has been made under the section 7 or 8 of the Act allocating a commercially sustainable level of capacity on the route to a new entrant.

### 3. GENERAL

- 3.1 This policy statement sets out the criteria to be applied by the Commission in performing its functions in relation to allocations of capacity to Australian carriers:
  - in particular types of circumstances where the Commission is not obliged to apply the full range of criteria set out in paragraphs 4 and 5 below;
  - during the start up phase on a route;
  - when considering the renewal of determinations including interim determinations; and
  - when considering the review of determinations including variation and transfer applications.
- 3.2 The Commission should, in any adjudication of applications for capacity allocation, seek to maximise the benefits to the public to be gained from the operation of the capacity, assessed in accordance with the Act and against applicable criteria set out in this policy statement. When calling for applications, the Commission may set out matters it considers particularly important and the weighting that it is likely to give each of those matters.

- 3.3 In general, where capacity is subject to competing applications, the Government considers that own aircraft operations deliver greater benefits per unit of capacity used than code share operations involving arrangements for marketing seats on international carriers operated by another carrier or carriers.
- 3.4 In allocating capacity between competing applicants, the Commission may specify points to be served on the route when the criteria in paragraph 5 below are being applied. In other cases the Commission is to provide the carrier with flexibility to distribute capacity allowed to it among some or all of the combinations available on the route. However, in circumstances where, under a particular bilateral arrangement, limitations apply which prevent the same amount of capacity from being operated over the entire route, the Commission is to apply the provisions of paragraphs 4, 5 and 6 below as appropriate to the allocation of that limited capacity.
- 3.5 Subject to paragraphs 4, 5, 6 and 7 below, in allocating capacity on a route, the Commission will have regard to the objective of providing reasonable growth in entitlements to all Australian carriers operating on that route.
- 3.6 Where capacity that can be used for code share operations is available under air services arrangements, including where foreign airlines have rights to code share on services operated by Australian carriers, the Commission would generally be expected to authorise applications for use of capacity to code share. However, if the Commission has serious concerns that a code share application (or other joint service proposal) may not be of benefit to the public, it may subject the application to more detailed assessment using the additional criteria set out in paragraph 5 (whether the application is contested or not). Before doing so, the Commission will consult with the Australian Competition and Consumer Commission.
- 3.7 Where the Commission authorises a carrier to utilise allocated capacity to provide joint services with another carrier, the Commission will include a condition in all relevant determinations and decisions that the Australian carrier concerned should take all reasonable steps to ensure that passengers are informed, at the time of booking, that another carrier may operate the flight.

# 4. GENERAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC

- 4.1 Subject to paragraph 6 below, the general criteria against which the benefit to the public is to be assessed by the Commission in considering an allocation of capacity or the renewal or review of a determination allocating capacity to an Australian carrier are set out below:
  - (a) Subject to (b), the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public.

- (b) It is not of benefit to the public for the Commission to allocate capacity to Australian carriers unless such carriers:
  - (i) are reasonably capable of obtaining the necessary approvals to operate on the route; and
  - (ii) are reasonably capable of implementing their applications.
- 4.2 The delegate of the Commission must refer any applications back to the members of the Commission where the delegate has doubts that the applicant carrier satisfies the requirements of paragraph 4.1(b).

# 5. ADDITIONAL CRITERIA FOR ASSESSING BENEFITTO THE PUBLIC

5.1 The following additional criteria are applicable in assessing the benefit to the public in all circumstances other than is provided in relation to particular circumstances set out in paragraph 6 below.

### **Competition Benefits**

- (a) In assessing the extent to which applications will contribute to the development of a competitive environment for the provision of international air services, the Commission should have regard to:
  - the need for Australian carriers to be able to compete effectively with one another and the carriers of foreign countries;
  - the number of carriers on a particular route and the existing distribution of capacity between Australian carriers;
  - prospects for lower tariffs, increased choice and frequency of service and innovative product differentiation;
  - the extent to which applicants are proposing to provide capacity on aircraft they will operate themselves;
  - the provisions of any commercial agreements between an applicant and another carrier affecting services on the route but only to the extent of determining comparative benefits between competing applications;
  - any determinations made by the Australian Competition and Consumer Commission or the Australian Competition Tribunal in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route; and
  - any decisions or notifications made by the Australian Competition and Consumer Commission in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route.

# Other Benefits

### Tourism Benefits

- (b) In assessing the extent to which applications will promote tourism to and within Australia, the Commission should have regard to:
  - the level of promotion, market development and investment proposed by each of the applicants; and
  - route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

### Consumer Benefits

- (c) In assessing the extent to which the applications will maximise benefits to Australian consumers, the Commission should have regard to:
  - the degree of choice (including, for example, choice of airport(s), seat availability, range of product);
  - efficiencies achieved as reflected in lower tariffs and improved standards of service;
  - the stimulation of innovation on the part of incumbent carriers; and
  - route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

### Trade Benefits

- (d) In assessing the extent to which applications will promote international trade, the Commission should have regard to:
  - the availability of frequent, low cost, reliable freight movement for Australian exporters and importers.

# Industry Structure

(e) The Commission should assess the extent to which applications will impact positively on the Australian aviation industry.

# Other Criteria

- (f) The Commission may also assess applications against such other criteria as it considers relevant.
- 5.2 The Commission is not obliged to apply all the criteria set out in paragraph 5.1, if it is satisfied that the criteria relevant to the application have been met. In applying all criteria, the Commission should take as the pre-eminent consideration, the competition benefits of each application.

# 6. CRITERIA APPLICABLE IN PARTICULAR CIRCUMSTANCES

### Where capacity is not limited

6.1 In circumstances where capacity is not limited under a bilateral agreement, only the criteria in paragraph 4 are applicable.

# Where there is only one applicant or sufficient available capacity

- 6.2 In circumstances where:
  - (a) there is only one applicant (or where more than one application is made but all except one are withdrawn) for allocation of capacity on a route; or
  - (b) there is more than one applicant but the amount of available capacity is equal to or exceeds the total amount of capacity applied for:

only the criteria in paragraph 4 are applicable.

# Variations of existing Determinations

- 6.3 Subject to paragraph 6.4, when the Commission is required to assess the benefit to the public, in circumstances where:
  - (a) a carrier requests a variation of a determination to allow it flexibility in operating its capacity, including to use Australian capacity in a code share arrangement with a foreign carrier; and
  - (b) no submission is received about the application

only the criteria in paragraph 4 are applicable.

- 6.4 The Commission may apply the additional criteria set out in paragraph 5 where submissions are received about the application for variation, provided those criteria were considered when the original application for allocation of capacity was made, or in the circumstances set out in paragraph 3.6 above including where no submissions are received.
- 6.5 In circumstances where a carrier requests a variation of a determination to allow it flexibility in operating capacity allocated to it to include a condition of the type referred to in section 15(2)(ea) of the Act, the criteria set out in paragraph 4 above are applicable to any persons of the description used in that section.

# 7. ALLOCATION CRITERIA – START UP PHASE

7.1 Where capacity is limited under a bilateral arrangement, during the start up phase in relation to any route on which an Australian carrier is already operating scheduled international services, the preeminent consideration is to introduce competition on the route through the allocation to an initial new entrant of sufficient capacity to develop an efficient and commercially sustainable operation. The Commission should therefore allocate such capacity to an initial new entrant, providing it is satisfied that:

- (a) the level of capacity available and in prospect is sufficient to support efficient, commercially sustainable operations by both a new entrant and an incumbent Australian carrier:
- (b) the new entrant's tariff and service proposals would enhance competition on the route:
- (c) approval would not result in a decrease in inbound tourism to Australia or to Australian consumer benefits or trade; and
- (d) the new entrant is reasonably capable of obtaining the necessary approvals and commencing operations as proposed.
- 7.2 Where a bilateral arrangement provides for dedicated freight capacity in addition to other capacity (whether that other capacity is for passenger services alone or in combination with, or convertible to, freight services (however described), the start-up phase will be applied separately in relation to:
  - (a) capacity involving the operation of passenger services (even if freight is also carried on those services); and
  - (b) capacity for the operation of dedicated freight services, (irrespective of whether this would involve the use of dedicated freight capacity or the use of dedicated freight capacity in combination with other capacity under a bilateral arrangement):

and the application of the start up phase criteria in the case of either (a) or (b) above will not end the start up phase in the case of the other.

- 7.3 An Australian carrier seeking an allocation of capacity, or which may be permitted to use capacity allocated to an incumbent Australian carrier, will not be taken to be a new entrant if it is a subsidiary or a holding company of an incumbent Australian carrier operating on the route or if there is another substantial connection between the two carriers in relation to ownership and control.
- 7.4 Where there are applications for capacity on a route during the start up phase by two or more prospective new entrants, the criteria set out in paragraphs 4 and 5 are to be applied in selecting one of those applicants as the initial new entrant to be allocated the level of capacity referred to in paragraph 7.1.
- 7.5 Where the Commission invites applications for capacity on a route during the start up phase and none of the applications received are from new entrants, the criteria in paragraph 4 and, subject to paragraph 6.2, in paragraph 5 above are to be applied in considering an allocation.

7.6 In considering determinations during the start up phase, the Commission shall have particular regard to the possible use of interim determinations to facilitate the introduction of competition on the route without any unnecessary delay in the use of capacity.

# 8. RENEWAL OF DETERMINATIONS

- 8.1 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of the renewal of determinations, other than interim determinations, are set out below. The criteria reflect a presumption in favour of the carrier seeking renewal which may be rebutted only by application of the criteria in the circumstances described:
  - (a) During the start up phase on the route:
    - the start up phase allocation criteria set out in paragraph 7 apply in relation to that part of the capacity which is reasonably necessary for a level of scheduled international services necessary to permit the development of efficient commercially sustainable operations; and
    - the criteria set out in paragraph 8.1(b) below apply to the balance of the capacity.
  - (b) After the start up phase on the route:
    - whether the carrier seeking renewal has failed to service the route effectively; and
    - whether use of the capacity in whole or part by another Australian carrier that has applied for the capacity would better serve the public having regard to the criteria set out in paragraphs 4 and 5.

In relation to subparagraph (b), the Commission should issue a fresh determination allocating the capacity to the carrier seeking renewal unless both the criteria are met, in which case all or part of the capacity can be reallocated.

# **Renewal of Interim Determinations**

- 8.2 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations are:
  - (a) during the start up phase on the route
    - the criteria set out in paragraph 7 as applicable.
  - (b) after the start up phase on the route
    - the criteria set out in paragraphs 4 and 5.

# 9. THE 'USE IT OR LOSE IT' PRINCIPLE

- 9.1 For the purposes of specifying a period within which capacity allocated to an Australian carrier must be fully used, the Commission should specify as short a period as is reasonable having regard to the steps required to commence operations. Except in exceptional circumstances, the Commission should not specify a period longer than 3 years.
- 9.2 When seasonal variations in demand are a feature of a route or code share arrangements between airlines and cause temporary minor variations in capacity usage, or unforseen conditions outside the control of operating international airlines cause temporary suspension of services, the Commission may take these circumstances into account when interpreting the term "fully used" in section 15(2)(c) of the Act.

# 10. APPROVAL OF TRANSFER APPLICATIONS

- 10.1 For the purposes of considering transfer applications the Commission should take into account that approvals which encourage speculative activity would not be of benefit to the public. Except in exceptional circumstances, approvals should not be given that would have the effect of allowing a carrier that has never exercised an allocation or has only exercised it for less than a reasonable period, to transfer that allocation.
- 10.2 A period of 6 months would usually represent a reasonable period for the purposes of subparagraph 10.1.

# 11 PERIOD FOR WHICH A DETERMINATION IS IN FORCE

- 11.1 The period for which a determination is to be in force is:
  - (a) on routes where either capacity or route rights are restricted:
    - (i) if the determination is an interim determination 3 years; or
    - (ii) if the determination is not an interim determination 5 years

unless a carrier applies in writing requesting that a determination be for a lesser period than stipulated in (a) or (b). In these circumstances, the Commission may specify a lesser period in any determination relating to the application. In considering the renewal of a determination made in these circumstances, paragraph 8 will not apply.

- (b) on routes where capacity and route rights are unrestricted:
  - (i) if the determination is an interim determination 3 years; or
  - (ii) if the determination is not an interim determination 10 years.



# APPENDIX 7 Service Charter

This charter sets out what we do and the standards of service that you can expect from us.

# From the Chairperson

This charter sets out the standards of service that you can expect from the International Air Services Commission and its staff. These standards apply to how we make decisions and to how we deal with you. We want to give you the best service possible and we welcome your ideas for helping us do so.

Dr Ian Douglas

Chairperson

# About the Commission

The Commission is an independent statutory authority comprised of three part-time Commissioners – a Chairperson and two members – supported by a small secretariat. It is established under the *International Air Services Commission Act 1992* (the Act). The aim of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services.

Our role is to allocate capacity available under Australia's bilateral air service agreements to Australian airlines so they can operate these international air services. We assess applications for capacity from airlines, using public benefit criteria in a policy statement given to us by the Minister for Infrastructure and Transport. If an application meets the criteria, we make a determination granting capacity to the airline concerned. We also decide on airlines' applications to vary determinations, usually to allow for code sharing, and to renew determinations.

For more straightforward cases, we have authorised our delegate, usually the Commission's executive director, to make determinations and decisions on our behalf. The Commissioners decide on the more complex applications. In either case, you can expect the same high level of service from us and our staff.

# Making an application

If you wish to apply for capacity, or make a submission when we have invited these in certain cases, procedures for doing so can be found on our web site at <www.iasc.gov.au>. We suggest that prospective new airlines first contact the Commission's executive director.

# Our clients

In the broadest sense, the Australian community is our primary client because competitive air services promote the welfare of Australians. At a practical level though, airlines are the clients most directly affected by our decisions. However, our work is also relevant to many other parties. These include:

- the travelling public;
- > the tourism and air freight industries, including Australian exporters;
- the wider aviation industry, including airport owners, providers of services to airlines, and employee associations;
- the Minister for Infrastructure and Transport;
- > Australian and State government departments and agencies; and
- the aviation industry media and analysts.

# Our services to you

We aim to provide you with the highest standards of service, both in the way we deal with you and in making our decisions. We make these commitments to you:

### In our dealings with you, we will

- act with as little formality as possible;
- treat you courteously and professionally;
- provide you with clear and accurate advice;
- include contact names and phone numbers in our correspondence;
- answer phone calls promptly by name or return any missed calls within one working day if you leave a message;

- reply to your emails within two working days;
- reply to your letters within ten working days; and
- respond constructively to your suggestions for improving our service.

In our decision-making processes, we will

- notify you within five working days of receiving an application for capacity;
- follow our published procedures for handling applications the procedures are on our website or we will post, email or fax them to you upon request;
- seek only information that we consider is reasonably necessary for us to best carry out our functions;
- protect information you provide to us in confidence (although we prefer to keep confidential information to a minimum to ensure transparent decision making);
- make our decisions consistent with the requirements of the Act and the Minister's policy statement;
- make decisions about uncontested applications within four weeks of receipt and contested or opposed applications within twelve weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this;
- finalise the renewal of existing determinations quickly and, in the case of contested renewals, at least six months prior to the expiry date, circumstances permitting; and
- notify applicants by email within one working day of a decision being made, and other interested parties by email and on our website as soon as practicable thereafter.

# What we ask of you

We ask you to provide comprehensive and accurate information in good time and to be straightforward in your dealings with us. We also ask that you cooperate fully in response to requests for information that we think is relevant to a matter before us.

# Accessibility

We will keep you informed quickly and comprehensively about our activities. We also endeavour to make contacting us as easy as possible. Contact details conclude this charter.

Our primary method of communication is by email. We provide information about current cases directly to interested parties who ask for it by this means. We advise you of applications received, and Commission decisions about those applications. We can email copies of these documents to you, or provide links to the documents on our website. Please contact us if you wish to be added to either notification list.

Our website at <www.iasc.gov.au> provides up-to-date information about the Commission's business. It includes applications received, documents relating to current cases and all Commission determinations and decisions. Other important documents are on the site, including the Act and the Minister's policy statement, as well as the Commission's procedures.

# Feedback and improving our service

We will monitor our performance against our service commitments. We encourage you to comment on our performance, including suggesting ways in which we can improve our service. Comments should be provided to the Commission's executive director by mail, email or telephone.

At the end of each year, we will assess how we have performed against our service standards. We will invite your comments on our service performance through a brief confidential questionnaire. The aggregated results of the assessments will be summarised in our annual report.

# Making a complaint

We regard complaints as part of the feedback process which helps us improve our performance.

If you are dissatisfied with any aspect of our service, it is important that you tell us so we can address your concerns. If you have a complaint you should first try to resolve the issue with the secretariat staff member you dealt with. If you are still not satisfied you should contact the executive director.

# Review

We will review this charter through an ongoing consultative process with our stakeholders to ensure that it is meeting your requirements.

# Contact details

International Air Services Commission

Telephone:	(02) 6267 1100
Facsimile:	(02) 6267 1111
Email:	iasc@infrastructure.gov.au
Internet:	www.iasc.gov.au
Postal address:	GPO Box 630, Canberra ACT 2601
Premises:	Level 4, 111 Alinga Street
	Canberra, ACT

### **APPENDIX 8**

### Commission office holders since 1992

The following tables set out the Chairpersons and Members of the Commission since the Commission was established in 1992.

Chairs	Period	Members	Period
Stuart Fowler	July 1992 to April 1993	Brian Johns	July 1992 to June 1997
James Bain	July 1993 to June 1998	Russell Miller	July 1992 to June 1998
Russell Miller	July 1998 to January 2000	Michael Lawriwsky	December 1997 to February 2007
,	January 2000 to August 2000	Stephen Lonergan	August 1998 to August 2004
(Members presiding at alternate meetings)		Vanessa Fanning	November 2004 to November 2007
Ross Jones	August 2000 to August 2003	Philippa Stone	July 2007 to July 2010
John Martin	November 2003 to November 2009	lan Smith	November 2007 to February 2011
Philippa Stone and lan Smith (Members presiding	November 2009 to June 2010	Stephen Bartos	1 July 2010 to 30 June 2013
at alternate meetings) Ian Smith and	July 2010	lan Douglas	8 November 2012 to 8 November 2015
Stephen Bartos (Members presiding at alternate meetings)	to February 2011	John King	1 July 2013 to 31 December 2016
Jill Walker	9 February 2011 to 11 August 2014	Jan Harris	24 November 2017 to present
lan Douglas and John King (Members presiding at alternate meetings)	11 August 2014 to 8 November 2015		
lan Douglas (Acting)	8 November 2015 to 5 May 2016		
lan Douglas	5 May 2016 to present		



# APPENDIX 9

## Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act 1992</i> , as amended.
Air services arrangement	is a set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier	means a person who
	• conducts, or proposes to conduct, an international airline service to and from Australia; and
	<ul> <li>under the air services arrangements to which the capacity applies, may be permitted to carry passengers or freight, or both passengers and freight, under that arrangement as an airline designated, nominated or otherwise authorised by Australia.</li> </ul>
Available capacity	means that an operational decision is not in force in relation to an amount of capacity available under air services arrangements, so an Australian carrier may seek an allocation of some or all of that capacity.
Benefit to the public	occurs if the Australian carrier to whom the capacity is allocated uses that capacity.
BITRE	means Bureau of Infrastructure, Transport and Regional Economics.

Blocked space	a form of code sharing involving one airline purchasing a "block" of seats on another airline's services, which it is then able to sell to the travelling public.
Capacity	is an amount of space available on an aircraft for the carriage of passengers and/or freight. It may be expressed within air services arrangements in various ways, such as in number of seats, units of capacity, or frequency of service, usually per week, in each direction on a route.
Code sharing	is a form of joint service between two carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.
Commission	means the International Air Services Commission, established by section 6 of the Act.
Commissioner	means a member of the Commission including the Chairperson.
Consolidation of determinations	means the process of consolidating into one determination the capacity entitlements of an Australian carrier originally issued in separate determinations.
Contested application	involves two or more applicants seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Determination	allocates capacity to an Australian carrier, usually for a period of five years, but in some cases for three years (an interim determination), or for ten years (where capacity is not limited under the air services arrangements in question).
Department	means the Department of Infrastructure and Regional Development.
Free-sale	a form of code sharing involving one airline selling seats on another airline's services and paying that other airline an agreed amount for the number of seats actually sold.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.

Hand-back	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
IASC	means the International Air Services Commission, established by section 6 of the Act.
IATA	means International Air Transport Association.
Interim determination	is a determination that is in force for three years, rather than the five (or in some cases 10) years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that usually attaches to a standard determination at the renewal stage.
Jetstar	means Jetstar Airways Pty Ltd.
Joint service	an arrangement entered into by an Australian carrier with another carrier to operate services on a joint basis. It may take different forms such as one or more of code sharing, joint pricing, or revenue and/or cost sharing or pooling. Australian carriers must receive approval from the Commission before using allocated capacity in joint services.
Member	means a member of the Commission.
Minister's policy statement	is a written instrument made by the then Minister for Transport and Regional Services in 2004 under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
Opposed application	a situation in which an interested party makes a submission arguing that an application from a carrier should not be granted by the Commission.
Pacific Air Express	means Pacific Air Express (Australia) Pty Ltd.
Pionair	means Pionair Australia Pty Ltd.
Qantas	Qantas Airways Limited
Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Register of available capacity	sets out the amount of capacity under each of Australia's air services arrangements available for allocation, after deducting any allocations already made by the Commission. The Department maintains the Register and is publicly available on its website.

Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may include updated terms and conditions at the Commission's discretion.
Review	involves an examination of an existing determination, either at the request of a carrier which wishes to vary the determination, or on the Commission's initiative if it is concerned that a carrier has or will breach a condition of the determination. In the case of a carrier-initiated review, the Commission may either vary the determination as requested by the carrier or confirm the determination. For a Commission-initiated review, the Commission may decide to confirm, vary, suspend or revoke the determination.
Revocation	a decision by the Commission to revoke (cancel) a determination.
Route	is the combination of origin, destination, intermediate and beyond points (cities) which an Australian carrier may serve under an air services arrangement.
Tasman Cargo	means Tasman Cargo Airlines
Tigerair Australia	means Tiger International Number1
Uplift-Discharge data	These data detail, by direction, the revenue traffic between the actual points of uplift and discharge within each flight. It shows the movement of traffic between two airports not necessarily directly connected but within the same flight number.
Use it or lose it	a principle requiring allocated capacity to be used, or else be returned for reallocation.
US/USA	United States of America
Variation	a decision amending a determination, including conditions attached to it.
Virgin Australia	refers to Virgin Australia International Airlines Pty Ltd and/or Virgin Australia Airlines (SE Asia) Pty Ltd.

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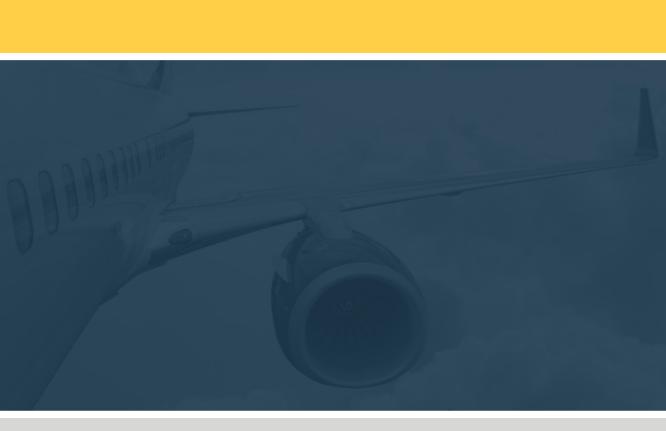
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