



Australian Government

International Air Services Commission

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annual report 2005–2006



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Australian Government
International Air Services Commission

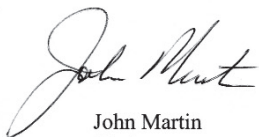
The Hon Warren Truss MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600

Dear Minister

We are pleased to submit the fourteenth Annual Report of the International Air Services Commission, for the year ended 30 June 2006.

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

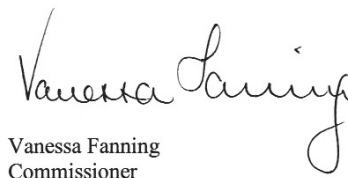
Yours sincerely



John Martin
Chairman



Michael Lawriwsky
Commissioner



Vanessa Fanning
Commissioner

1st September 2006

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Part 1 — Review by Chairman

This report covers the fourteenth year of operations of the Commission and it is pleasing to be able to review another interesting year's work. The size of the aviation market between Australia and other nations as a whole grew over the year, although not all routes expanded. Fortunately, there were again none of the adverse international events that severely disrupted travel demand in the early years of this decade. However, the continuing high price of fuel continues to cast a shadow over the aviation industry, adding substantially to airline operating costs, and there was evidence of a slowing in the rate of growth in travel in the latter months of the year.

The growing demand for air travel prompted Australia's airlines to apply for additional capacity from the Commission on a range of routes, mainly to points within Asia and the south-west Pacific. After appropriate consideration in each case, the Commission assisted the airlines' expansion plans by allocating capacity to them through formal determinations. The Commission also authorised an expansion of code sharing between Qantas and several other airlines, renewed expiring determinations and amended or revoked various existing determinations in response to carrier requests. In total, the Commission made 49 determinations and decisions over the course of the year. This compared with 39 in total last year and was an above average number by historical standards.

Perhaps the most notable event was a Commission decision which facilitated the entry of a new Australian designated airline, Jetstar, into the international arena. In August 2005, the Commission varied an existing determination allocating capacity to Qantas on the New Zealand

route to permit Jetstar to use the capacity. In reaching its decision, the Commission noted that Jetstar had successfully established domestic Australian services and found that the carrier was reasonably capable of obtaining the approvals necessary to operate its services and of implementing its proposals to serve New Zealand. Jetstar, which is a wholly-owned subsidiary of Qantas, introduced services to New Zealand in December 2005.

With Jetstar's New Zealand services established, in early 2006 Qantas announced plans for a major expansion by Jetstar onto a range of new routes. Qantas applied to the Commission in April 2006 to enable Jetstar to operate on five additional routes.

The Commission made a number of determinations and decisions (amendments to existing determinations) which gave Jetstar the opportunity to commence services to Japan, Thailand, Vietnam, Indonesia and the United States (Hawaii). These services are planned to start on all of the routes by late 2006, except for Japan where services should commence in early 2007. The Commission also authorised Qantas and Jetstar to code share with each other on those routes where it was permitted under the air services arrangements between Australia and the countries in question.

The Commission made several other determinations in favour of Qantas, allocating capacity on the India, Korea and Hong Kong routes, the latter to enable further expansion in Qantas' freight operations. We also responded to requests by Qantas to code share with several airlines, such as Air China on the China route and American Airlines on the Canada route, amongst others. Generally the code share applications by

Qantas did not raise competition concerns for the Commission. However, the Commission examined closely a request by Qantas to continue code sharing with Japan Airlines on certain sectors between Australia and Japan. The two airlines are the only direct operators on this major route and hold a dominant share of the market. After thorough analysis of a range of data and market issues, we authorised a continuation of these arrangements for a further two years. This annual report contains a detailed case study of this important decision.

Pacific Blue Airlines, Virgin Blue's Australian international arm, also received new allocations of capacity from the Commission. As a result, the airline has been able to add the Cook Islands and Tonga to the range of destinations it serves within the south Pacific region. Pacific Blue now operates twice-weekly to Rarotonga in the Cook Islands from Brisbane, Sydney and Melbourne via Auckland. It flies direct between Sydney and Tonga twice per week, with regular connections between Sydney and Brisbane, Melbourne and Adelaide.

The Commission renewed determinations in favour of the freight airlines HeavyLift Cargo Airlines, which flies to several south-west Pacific destinations, and Asian Express which operates to New Zealand. At HeavyLift's request, the Commission also made decisions reducing capacity allocations to the airline on three routes.

On the administrative front, the Commission undertook a review of its client service charter, consulting with our stakeholders in the process. In March, the Commission finalised an updated service charter for 2006–08. The new charter maintains our aims of providing high standards of client service and of making decisions in a sound and fair way, as quickly as practicable. A copy of the client service charter is contained at *Appendix 8* of this report. At year's end, we invited our clients to provide feedback on our performance against the standards in our charter. The responses were very positive.

The Commission also reviewed its guidelines for assessing the financial viability of intending new airlines, again in consultation with stakeholders. In July 2005, we amended the guidelines to indicate that the Commission would consider approving applications on a subject to finance basis in certain limited circumstances.

In concluding, I again join with my fellow Commissioners, Vanessa Fanning and Michael Lawriwsky in thanking the members of the Secretariat for their capable advice and support throughout the year. We look forward to the challenges of the coming year.

John Martin
Chairman

Part 2 — Commission overview

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, and
- 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 role is to serve the object of the Act by allocating capacity entitlements to Australian carriers for the operation of international airline services.

The capacity allocated by the Commission is drawn from entitlements available to Australian airlines under air services arrangements between Australia and other countries. More specifically, the functions of the Commission are to:

- make determinations allocating capacity and to renew those determinations, and
- conduct reviews of determinations, and
- provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.

A policy statement by the Minister for Transport and Regional Services instructs the Commission about the way in which it is to perform its functions. The policy statement sets out the criteria to be applied by the Commission in performing its functions in various circumstances,

and provides guidance to the Commission on related matters. The policy statement is a disallowable instrument under section 11 of the Act. It is reproduced at *Appendix 7*.

Determinations are usually granted for a period of five years on routes where capacity or route entitlements are restricted. Where capacity and route rights are unrestricted, determinations are normally issued for a period of 10 years. In either case, the Commission has the discretion to make interim determinations, which are for a period of three years. Where a carrier requests that a determination be made for a shorter period than this, the Commission has the option to do so.

Carriers will normally wish to renew determinations and 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.

From time to time, carriers apply to the Commission to vary a determination.

The Commission conducts a review in response to such a request. If the Commission agrees to the request, it issues a decision amending the determination. The Commission itself may initiate a review of a determination if it considers that there may be grounds for varying, suspending or revoking a determination.

The Commission has published procedures it follows in making determinations. A summary of these procedures is set out at *Appendix 6*. The procedures are intended to ensure that applicants and other interested parties understand the requirements for making applications, are familiar with the Commission's decision making processes, and are aware of their rights and obligations.

Executive profile

The Commission comprises a part-time chairman and two part-time members. The membership of the Commission at 30 June 2006 was as follows:



Mr John Martin, Chairman; Ms Vanessa Fanning, Member and Dr Michael Lawriwsky, Member

Mr John Martin

Mr John Martin, Chairman (appointed in November 2003 for a three year term ending in November 2006). Mr Martin is a Commissioner with the Australian Competition and Consumer Commission (ACCC) where he has responsibility for matters relating to small business and is Chairman of the ACCC Transport Committee. Mr Martin was Executive Director of the Australian Chamber of Commerce and Industry from 1989 until his appointment to the ACCC in June 1999. Previously Mr Martin had policy management roles in the Commonwealth Treasury and Industry Department and was for several years a regional industrial consultant with the United Nations based in South East Asia. Mr Martin has an Economics degree from the ANU.

Dr Michael Lawriwsky

Dr Michael Lawriwsky, Commissioner (appointed in December 1997 and most recently reappointed in February 2004 for a three year term ending in February 2007). He is a Director of the Allen Consulting Group. Formerly Dr Lawriwsky was a Director-Corporate Finance, at ANZ Investment Bank, and prior to that a Professor of Commerce at La Trobe University, where he is currently an Adjunct Professor in the School of Business.

Ms Vanessa Fanning

Ms Vanessa Fanning, Member (appointed in November 2004 for a three year term ending in November 2007). Ms Fanning was until early 2005 the Managing Director of Health Services Australia. She has vast experience in transport policy and regulation and was the head of the Aviation Policy Division (1992–1995) prior to her appointment as Group Manager, Public Policy with the multinational transport company TNT. Ms Fanning holds a BA degree from the University of Melbourne and B.Ec from the Australian National University.

The Secretariat

The Commission is supported by a Secretariat staffed by officers of the Department of Transport and Regional Services (DOTARS). The Secretariat is headed by an Executive Director, supported by a Senior Adviser and an Office Manager. These officers provide advice and assistance to the Commissioners on all aspects of the Commission's operations.

Commissioners' attendance at meetings in 2005–2006

COMMISSIONER	NUMBER OF MEETINGS	NUMBER OF MEETINGS ATTENDED
Mr Martin	10	10
Dr Lawriwsky	10	10
Ms Fanning	10	10



Those pictured from left to right are: John Martin, Chairman; Vanessa Fanning, Member; Roy McAndrew, Senior Adviser; Anita Robinson, Office Manager (front); Michael Lawriwsky, Member; and Michael Bird, Executive Director

Communications with interested parties

There are many parties with a direct or indirect interest in what the Commission does.

They include:

- the Minister for Transport and Regional Services
- existing and prospective Australian international airlines
- the wider 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 these parties. Account is taken of their views and/or interests in the Commission's decision making processes. Regular notification of applications and decisions ensures that interested parties are kept up to date with the Commission's activities.

The role of DOTARS

The Commission works closely with DOTARS, which has responsibilities that are complementary to those of the Commission. On behalf of the Government, DOTARS negotiates Australia's air services arrangements with aeronautical authorities of other countries. These arrangements include entitlements for Australia's carriers to operate agreed amounts of capacity on international routes. This capacity is available for allocation by the Commission to airlines which apply to use it. Available capacity entitlements are recorded in a Register of Available Capacity maintained by DOTARS. These entitlements are adjusted as determinations allocating capacity are made by the Commission and when unused capacity is handed back to the Commission by airlines, or when DOTARS negotiates new capacity entitlements.

The Commission and DOTARS liaise on matters such as whether applicant airlines are likely to be reasonably capable of obtaining the approvals necessary to operate on a route and of implementing their proposals. This is a particularly important process in relation to potential new carriers which do not have an established operational record.

DOTARS is also responsible for designating and licensing airlines to operate regular scheduled international services. A carrier must hold an allocation of capacity from the Commission before it can be licensed to operate.



Part 3 — Report on performance

Overview of Commission performance

The Commission has assessed its performance against three broad criteria. These are whether the Commission has:

- served the object of the Act effectively,
- dealt fairly and appropriately with applicants and other interested parties, and
- made efficient and effective use of its financial resources.

The Commission considers that it has performed well against these criteria. This conclusion has been arrived at after a detailed analysis of performance against the requirements of the Act and specific measures adopted by the Commission. A discussion of the results of the assessment follows.

Results against performance targets

Serving the object of the Act

The Commission considers that its primary performance criterion is to serve the object of the Act effectively, by making its determinations and decisions in accordance with the requirements of the Act and Minister's policy statement. In the Commission's view, its determinations and decisions accorded with these requirements, including following required notification processes and using appropriate decision-making criteria. No concerns were raised with the Commission about its decision-making processes.

The arrangements for decision making by the Commission's delegate continued to work smoothly and have been well accepted by applicants. About thirty percent of all determinations and decisions were made by the delegate this year.

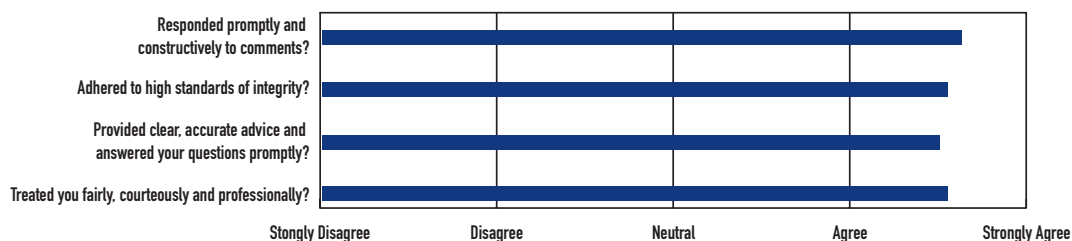
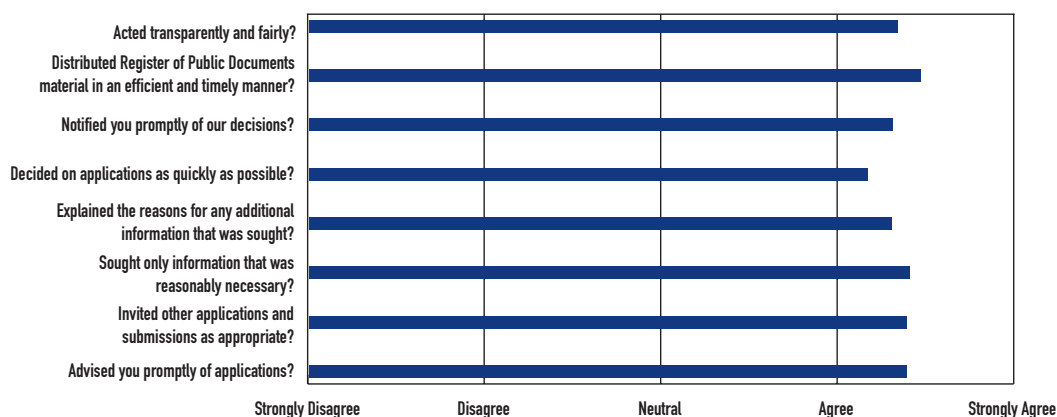
Serving applicants and interested parties — performance against service charter

As in previous years, the Commission used the undertakings set out in its service charter to guide the delivery of services to applicants for capacity and other interested parties. The Commission's undertakings are divided into two groups. The first of these contains commitments about the way in which the Commission aims to deal with those who interact with it. The second category of undertakings deals with the way in which the Commission endeavours to go about its decision-making processes.

At year's end, the Commission's clients were invited to respond to an electronic questionnaire about the Commission's performance over the year. Respondents were able to provide responses anonymously if preferred. The Commission thanks the stakeholders who took the time to respond to the questionnaire. The average of all responses for each indicator is set out in the following two charts.

A meaningful number of responses were received and the Commission was pleased that the feedback was very positive across all indicators, suggesting that our clients are satisfied with the Commission's service standards.

More detailed information about the Commission's performance in the important area of timeliness of decision making is set out in the third chart below. The Commission has two benchmarks for measuring the timeliness of its decision making. The first is a standard of four weeks for uncontested and unopposed applications from the date of receipt of an

Dealings with stakeholders — Do you agree that we:**Decision making process — Do you agree that we:**

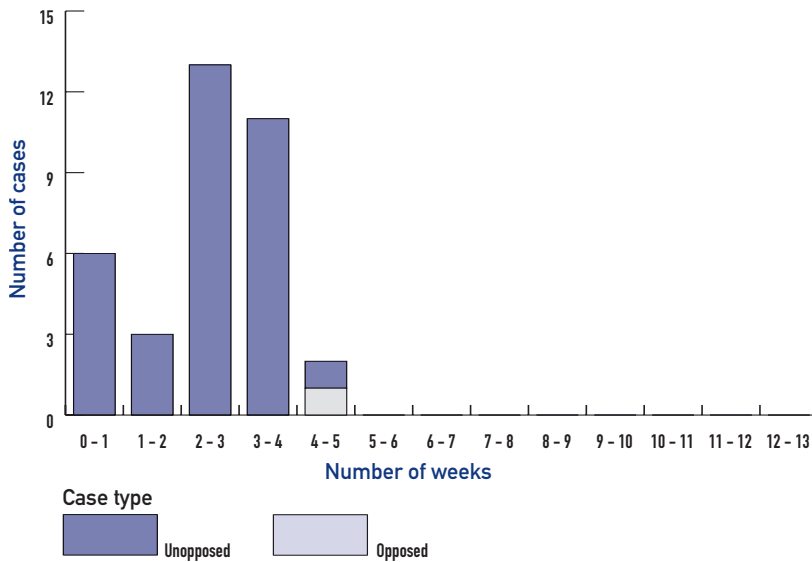
application to the date of publication of determinations or decisions. Uncontested and unopposed cases involve a single applicant with no submissions opposing the granting of the application.

This year, the average time taken to conclude consideration of uncontested and unopposed applications was 2.6 weeks, compared with the four weeks benchmark and an improvement on last year's performance of 3.3 weeks. Only one case took longer than four weeks to conclude and this was finalised after five weeks. Overall, this was the best result the Commission has

achieved in its history, although some past years have involved a greater number of more complex cases. The availability of scope for the Commission to delegate many of its decision making powers to a DOTARS officer (in practice, officers of the Secretariat) continues to enable quicker decision making in many of the more straightforward cases.

The second benchmark relates to contested or opposed applications for which the Commission aims to publish determinations or decisions within 12 weeks from the date of initial application. This benchmark reflects the

Distribution of decision times by type of case



Commission's experience of the typical times required to deal appropriately with such applications. Contested applications involve two or more applicants competing for the same limited capacity, while opposed applications are those which attract submissions against a proposal. Such cases are typically more complex than the uncontested or unopposed cases. They usually involve the application by the Commission of additional public benefit criteria in order to determine an outcome. This year there were no contested cases and on only one occasion did an application attract an opposing submission. This case was concluded within five weeks from the date of application.

Turning to the issue of the number of determinations and decisions, as usual the Commission did not set a quantity performance target for the year. The number of determinations and decisions made by the Commission varies each year for several reasons. These are unrelated to the Commission's performance.

The main determinant of the volume of determinations and decisions is the number of applications received from airlines. This in turn depends on factors such as the rate of growth in passenger and freight demand to and from Australia and the capacity and route opportunities available to Australian carriers under Australia's air services arrangements with other countries. For example, during the downturns in travel demand in the early years of the decade, airlines made fewer applications and consequently the Commission had less business to deal with. In the past few years, as demand has been stronger and new Australian carriers have emerged, the number of determinations and decisions made has grown. A further influencing factor is the varying pattern of the number of determinations expiring each year. This results in more renewed determinations being issued in some years than in others.

Although no quantity target is set, the Commission finds it useful to record the number of determinations and decisions from year to

year. The figures provide a broad indication of the level of output achieved for the amount of Government resources allocated to the Commission, although they do not give any insight into the complexity of particular cases and resources associated with them. The data are also of general interest for comparative purposes with previous years, including in demonstrating the impacts of changing influences in the international aviation environment on Commission activity.

The following graph illustrates the level of activity this year, compared with the previous three years. As the graph shows, the Commission produced more determinations and decisions in total this year than in any of the earlier years shown. While there were somewhat fewer determinations allocating new capacity issued this year than in the past two years, the number of decisions made was higher than in those years. This was achieved with a lower level of staffing and financial resources than last year, as discussed below.

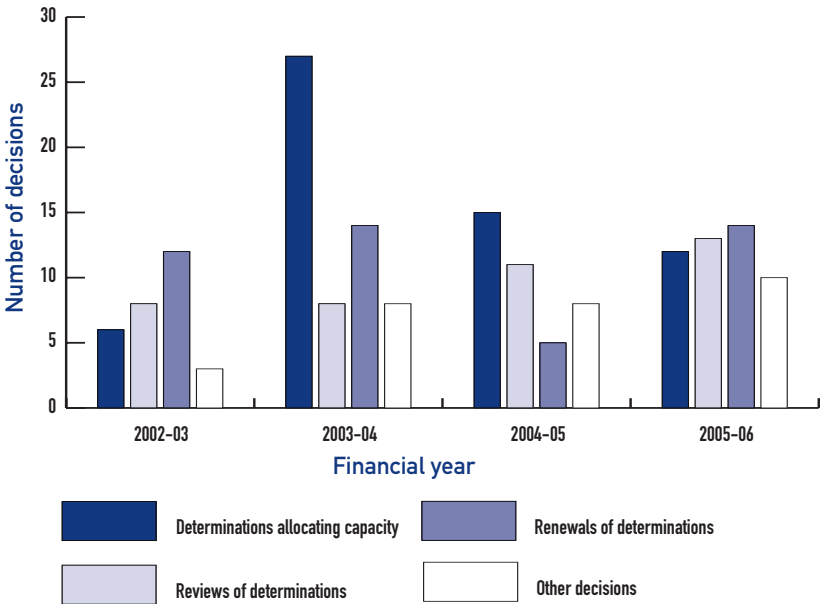
Summary of expenditure

The Commission’s funding is provided from within the resources of the Aviation and Airports Division of DOTARS. These funds cover salary costs for Secretariat staff and the Commission’s administrative needs including advertising of applications, production of its annual report, Commissioners’ fees and travel expenses, and general office requirements. During 2005–06, the Commission was supported by a Secretariat with an average of the equivalent of about 1.9 full time staff, compared with 2.5 full time equivalent staff last year.

As in previous years, corporate overheads and property operating expenditure were paid for by DOTARS, as the Commission’s offices are located in departmental buildings which are not the Commission’s responsibility.

The Commission’s budget for the year was \$380,000. Total expenditure was \$322,000, or about \$58,000 less than budget. The shortfall in expenditure was mainly due to the retirement of two staff with a consequent reduction in salary expenditure and related expenses while replacement staff members were recruited.

Historical analysis of determinations and decisions



The Commission considers that its resources were used efficiently and effectively and that it continues to operate with a lean but appropriate resource level, sufficient for the delivery of high standard results. DOTARS has undertaken to make additional resources available to assist the Commission if sought. While this offer was not called upon during the year, it is welcomed by the Commission. Part 5 contains more details about the Commission's financial performance.

Case study — The Japan route

Introduction

Each year, the Commission provides an in-depth study of a case of interest which highlights some of the issues the Commission considers from time to time. In last year's report, the Commission focussed on the issues involved in deciding between competing applications for freight capacity on the Netherlands route. This year, the discussion is about code sharing between Qantas and Japan Airlines on the Japan route.

The application

Qantas applied on 4 May 2006 for Commission authorisation to continue for three years an arrangement whereby Japan Airlines code shares on Qantas' services between Cairns and Tokyo and between Melbourne and Tokyo. The Commission's previous approval was due to expire on 30 June 2006. Qantas also code shares on Japan Airlines' flights between Brisbane and Japan. However, because of the way capacity is counted under the air services arrangements between Japan and Australia, Qantas, as marketing carrier, does not need approval from the Commission to code share on these services.

Qantas stated that it had complied with the conditions attached to the Commission's existing two year approval of the code share. These required the airlines to price and sell their

services independently of each other and not share revenues, to limit the number of code share seats that could be sold, and to operate a minimum number of 3,200 seats per week between Cairns and Tokyo. Qantas was also required to report quarterly to the Commission its revenue yields and code share seats sold.

In its supporting arguments, Qantas canvassed a number of market factors. It noted that Japanese visitor numbers continued to be weak, with fewer arrivals in 2005 than in 2004. While the number of Australian residents travelling rose, resident travel still made up only about twelve percent of total traffic on the Japan route.

Qantas argued that the weak demand in the market was due to a number of factors, including adverse movements in exchange rates which had made Australia more expensive for Japanese visitors, while some competing markets had become cheaper.

Qantas stated that its financial returns on the route had decreased significantly over the past two years and that the company was incurring losses while maintaining existing service levels. In addition to weak traffic levels, the high cost of fuel had added to the airline's cost base and fuel surcharges had only partly offset this. Qantas suggested that the outlook for the route was poor, with weak forward bookings.

Qantas argued that the code share arrangement had provided a range of benefits. These included the maintenance of services by both Japan Airlines and Qantas and the increased likelihood of long-term sustainability of services on the code share sectors, a two-fold marketing effort in promoting Brisbane, Cairns and Melbourne in Japan supported by the distribution capability of Japan Airlines, and the protection of valuable landing slots at Narita Airport.

Qantas concluded by stating that without continued code share approval, it would not be commercially possible for it to maintain existing

service levels to Cairns and Melbourne. Qantas also suggested that Japan Airlines might reduce service levels without the code share arrangements.

Submissions

The Australian Competition and Consumer Commission (ACCC) made a submission opposing reauthorisation of the code share arrangement. It argued that the code share would continue to raise competition concerns so long as there was no competition from other direct operators on the Japan route. The ACCC noted that, other than a Qantas subsidiary (Jetstar), there was no sign of any new entrant to the route to compete with Qantas and Japan Airlines. Carriers operating between Australia and Japan via other countries were not seen as providing a competitive constraint because of the longer travel times involved. The ACCC considered that Qantas' claims of financial losses were inconsistent with its efforts to retain its existing allocation of capacity, that passenger numbers on the Cairns and Melbourne sectors had risen, and that fuel price rises had affected the profitability of all carriers across all routes. The ACCC believed that Japan Airlines would not withdraw from the Cairns – Tokyo sector if the code share was not

reauthorised. The ACCC concluded that if the authorisation was not renewed, competition was likely to lead to lower fares, improving Australia's attractiveness as a destination.

In responding to the ACCC, Qantas argued that indirect carriers do provide competition for the direct airlines, noting that the third-country carrier market share had risen, despite an increase in capacity operated by Qantas and Japan Airlines.

Qantas also said that it had kept some unused capacity to enable the entry of Jetstar into the Japan market from March 2007. On the issue of increased capacity operated to Cairns and Melbourne, Qantas stated that price discounting had been necessary to maintain passenger numbers and this, combined with the appreciating Australian dollar, had led to yields declining. Combined with rising costs, the Cairns and Melbourne code share sectors were loss-making.

Qantas reiterated its position that it would not be commercially viable to maintain the current level of services on the Tokyo route without re-authorisation of the code share arrangements. Qantas also considered it likely that Japan Airlines would reduce capacity if the code share was not allowed to continue.



Tourism Australia also responded to the ACCC submission, stating that it had concerns about the ACCC advice. Tourism Australia argued that the Japanese inbound tourism market is a difficult one for airlines. With the Japanese distribution system being heavily influenced by Japan Airlines, its involvement in the system needed to be taken into account in the Commission's assessment.

Japan Airlines was faced with restructuring challenges. Part of its corporate strategy involved withdrawing from low yielding leisure routes and its Australian services were being examined in this light. Tourism Australia said that Japan Airlines' public statements suggested it was unlikely to compete more aggressively with Qantas, or serve Melbourne or Cairns in its own right, if code share approval was withdrawn. It was unlikely that another Japanese or Australian carrier, other than Jetstar, would enter the route for at least another two years.

Tourism Australia was concerned about the reaction of the Japanese distribution system to the entry of Jetstar in 2007 if the code share was not extended. It was possible that the Japanese distribution system would reduce its efforts to sell travel to Australia, making it more difficult for Jetstar's Japan services to succeed.

The Commission's assessment

During its previous reviews in 2002 and 2004, the Commission was unable to entirely isolate the impacts of the code share on the Australia – Japan market. This was because of the adverse influence of major international events on traffic levels and market factors. Despite this, the Commission had been able to conclude that there were likely to have been positive impacts from the operation of the code share, including the maintenance of service levels to Cairns and Melbourne and the preservation of runway slots at the capacity constrained Narita airport at

Tokyo. However, the Commission had remained concerned about the absence of competition from other carriers. This opened the possibility for there to be anti-competitive outcomes from the code share if market conditions improved.

In the current review, the Commission observed that the Australia – Japan market continued to be weak, despite more normal international circumstances. Weakness in the visitor market from Japan was notable. This had been partly offset by increasing numbers of Australian resident travellers, although Australian residents still made up only a small proportion of the market. The Commission considered that the strengthening of the Australian dollar relative to the Japanese yen had been a major factor in the contrasting performance of the two market segments.

The Commission assessed data reported to it by Qantas for the code share sectors. In general terms, this showed that revenue yields from economy passengers declined throughout 2004 and 2005 for the Cairns, Melbourne and Brisbane sectors. Yields from business travellers improved in 2005, leading to modest overall yield improvement for the Melbourne services which had the highest proportion of business traffic of the three code share sectors. However, the overall yield performance across the code share sectors had worsened relative to two years ago.

Passenger load factors for Qantas and Japan Airlines had fallen over the past two years, reflecting weakness in Japanese tourist numbers, despite some brief seasonal adjustments by Qantas to capacity on some sectors.

The weakening yields and soft demand, combined with higher costs associated with the sharp increase in the price of fuel, had reduced returns from the route. Qantas stated that all of the code share sectors were loss-making in 2005.

The Commission noted that forecast growth rates in visitor arrivals from Japan were low, although representing some recovery compared with the past decade. The Commission also observed that Qantas' forward bookings were weak.

The Commission concluded that the commercial situation on the route had worsened since the Commission's previous review in April 2004. There was no evidence of anti-competitive behaviour by the code share partners due to the lack of other direct competitors on the route. Although indirect carriers provided some competition, broader market factors seemed to be mainly responsible for ensuring that there were not undesirable outcomes from the code share.

The Commission had been concerned that a strong recovery in the Australia – Japan market could have allowed the code share partners to take advantage of the lack of direct competition on the route. However, the market was still subdued with exchange rate movements and fuel price rises mainly responsible for the decline in the large visitor travel market over the past 12 months.

The Commission affirmed its position in previous reviews that the code share, and associated capacity rationalisation, had assisted in the maintenance of current service levels on the code share routes. The Commission considered it unlikely that frequency levels would be maintained in the event of the code share not being re-authorised, given the prevailing poor market conditions. Reduced service frequencies were unlikely to serve the interests of consumers or the tourism industry.

The Commission concluded that there was unlikely to be reduced public benefit from allowing the

code share to continue. The Commission granted authorisation for a further two years, until 30 June 2008. The Commission decided against approving the three year period sought by Qantas, considering that market circumstances could change significantly over this longer period.

Significant developments post 30 June 2006

There were no significant developments after 30 June 2006.

Outlook for the industry

At the end of last year, the Commission noted the significant cost burden that high oil prices were imposing on international airlines. However, we suggested that, despite this, the demand for travel appeared to be strong.

In fact, oil prices generally moved even higher over the course of this year, with significant impacts on airline profitability. Many airlines introduced or raised fuel surcharges in an endeavour to recover some of the additional costs from higher fuel prices. Despite these extra costs facing travellers, the number of passengers to and from Australia continued to rise, although there was evidence of a slowdown in the second half of the year.

We also speculated in last year's report that new carriers might apply to the Commission. This proved to be the case, with the Commission making a decision that enabled Jetstar to enter the New Zealand route in December 2005. The Commission also created a platform for Jetstar's further expansion by allocating capacity to Qantas which can be used by Jetstar as a wholly-owned subsidiary. Jetstar is likely to enter a range of new routes over the course of the next year.

Late in the year, Queensland Regional Airlines applied for an allocation of capacity. The airline proposed to operate regular passenger services on the Papua New Guinea route between Cairns and Port Moresby.

Relatively recently established airlines, such as Pacific Blue and HeavyLift Cargo Airlines (HeavyLift) consolidated existing operations and Pacific Blue added two new routes. Both are now looking to expand into new markets. Pacific Blue has flagged publicly its intention to operate services on the United States route, but has not yet applied to the Commission for an allocation

of capacity. HeavyLift holds rights from the Commission for freight services to China, the Netherlands and the United States and is working towards starting operations on these routes before the end of 2006.

Looking forward, the high price of oil seems likely to continue imposing significant cost burdens on all airlines. Airlines are likely to maintain their search for cost efficiencies both in operating expenses and other areas of their business. This may tend to limit the extent of air fare rises from fuel costs which may otherwise act to dampen demand for air travel.



Part 4 — Management and accountability

Corporate governance practices

The Commission is a small organisation and, as such, requires less complex corporate governance structures than large bodies such as Government departments. The Commission has corporate governance arrangements that are appropriate for its small scale and budget, and consistent with its role and responsibilities. These arrangements are in two parts, the first of which is directed at addressing the Commission's statutory responsibilities. The second part of the governance structure relates to Secretariat staffing and Commission funding arrangements.

Part 4 of the Act sets out procedures the Commission is required to follow. The Commission adheres carefully to these requirements. In practice, the most significant of these requirements concerns the holding of meetings. Commission meetings are usually convened at the Commission's offices in Canberra. On occasions, when relatively straightforward matters are involved, the Commission may meet by teleconference or email. This reduces time and travel costs associated with face-to-face meetings. The Commission ensures that a quorum of members is present at meetings and that matters are resolved in accordance with the processes required by the Act. Minutes are kept of all meetings.

During Commission meetings, staffing, financial and risk management issues are discussed with the Secretariat. The Commission and the Secretariat also communicate regularly by email and telephone about matters requiring the attention of the Commission in periods between meetings.

This part of the Act provides for the Commission to hold hearings at its discretion. However, no hearings were held during the year.

Part 5 of the Act relates to the membership of the Commission. Commissioners are appointed by the Governor-General after approval by Cabinet following its consideration of recommendations by the Minister for Transport and Regional Services. The current appointments of Commissioners are for periods of three years, although the Act provides that terms of appointment may be for up to five years. The Remuneration Tribunal determines Commissioners' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

Section 47 of Part 5 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. No conflict of interest issues arose during the year.

Part 6, 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 and the final report is signed off by them and delivered to the Minister in accordance with the statutory requirements.

The second element of the Commission's corporate governance arrangements arise from the Commission's links with DOTARS. Secretariat staff members are officers of DOTARS who are subject to the responsibilities and obligations applicable to departmental staff including accountability mechanisms put in place under DOTARS' own corporate governance arrangements. The Commission's Executive Director is responsible for the day to day management of the Secretariat, in accordance with DOTARS' requirements. These arrangements ensure that there are appropriate controls and safeguards over matters such as expenditure of Commission funds.

Secretariat staff members, as officers of the Australian Public Service (APS), are also expected to adhere to the APS Values and Code of Conduct.

External scrutiny

There was no formal external scrutiny of the Commission during the year. No determinations or decisions made by the Commission were the subject of judicial or administrative review.

Management of human resources

The average staffing level of the Secretariat for the year was a little below the previous year, at 1.9 full-time equivalent people, compared with 2.6 in 2004–05. This resulted from staff turnover. As at 30 June, there were two Executive Level 2 officers (both male, both part-time) and one APS 5 officer (female, full-time).

As DOTARS officers, Secretariat staff members' employment conditions are determined by the department's Certified Agreement, except for the Executive Director who has an Australian Workplace Agreement.

DOTARS has undertaken to make additional staffing resources available to the Commission if required as a result of changing workload. Although no additional staffing support was required this year, DOTARS' co-operation provides assurance to the Commission that adequate support will be maintained to enable it to carry out its functions effectively. It also forms part of a strategy to manage the risk associated with dependence on key individuals within the small Secretariat.

As employees of DOTARS, Secretariat officers are subject to its human resource management policies and practices. As part of these arrangements, Secretariat staff members participate in six monthly discussions about their performance against work

objectives and professional development activities undertaken and planned for the future.

The Commissioners assist the professional development of Secretariat members in a number of ways. Participation in training courses and conferences is encouraged. Staff members are involved in the Commission's work through the preparation of agenda papers, participation in discussion, and drafting of determinations and decisions for consideration by Commissioners. As the work demands of the Commission's activities allow, Secretariat staff may be involved from time to time in tasks within DOTARS, as part of the flexible working arrangements between the Commission and DOTARS.

Assets management

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

Purchasing

The Commission made no significant purchases during the year.

Consultants and competitive tendering and contracting

The Commission did not engage any consultancy services.



Part 5 — Financial report

Financial report as at 30 June 2006

	(1) 2005-06 BUDGET \$'000	(2) 2005-06 ACTUAL \$'000	(3) VARIATION (COLUMN 2-1) \$'000	(4) 2006-07 BUDGET \$'000
Salaries	272	222	-50	260
Revenue	-2	-1	1	-1
Supplier expenses	110	101	-9	113
TOTAL	380	322	-58	372
Staff years	2.8	1.9		2.5

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 with DOTARS.

As in past years, property operating expenses and some other corporate overheads incurred by the Commission were budgeted and paid for by DOTARS. Property operating expenses include the lease rental paid, repair and maintenance, electrical and cleaning services.



Part 6 — Appendices

Appendix 1 — Determinations and decisions

This table summarises briefly the determinations and decisions issued by the Commission or its delegate during 2005–06. A fuller summary is at *Appendix 2*. Individual determinations and decisions are available for viewing on the Commission's website at www.iasc.gov.au.

ROUTE	AIRLINE	IASC NUMBER	DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
Canada	Qantas	[2005] IASC 110	26-Sep-05	1,029 seats	Allocation of passenger capacity and code share with American Airlines
China	Qantas	[2006] IASC 203 ^d	19-Apr-06		Variation of [2004] IASC 101 to permit code sharing by Air China on Qantas services
Cook Islands	Pacific Blue Australia	[2005] IASC 111 ^d	13-Oct-05	180 seats	Allocation of passenger capacity
Hong Kong	Qantas	[2005] IASC 107 ^d	14-Jul-05	One all-cargo frequency	Allocation of freight capacity
	Qantas	[2006] IASC 211	08-May-06		Variation of [2001] IASC 119 to permit Finnair to code share on Qantas services
	Qantas	[2006] IASC 213 ^d	11-May-06	(Two frequencies) [*]	Variation of [2004] IASC 115 to reduce capacity allocated from four to two frequencies
India	Qantas	[2005] IASC 112	17-Oct-05	300 third-country code share seats	Allocation of third-country code share passenger capacity
Indonesia	Qantas	[2005] IASC 122	07-Nov-05		Renewal of [2001] IASC 106
	Qantas	[2006] IASC 206	08-May-06		Variation of [2002] IASC 113 to permit a wholly-owned subsidiary to provide joint services with Qantas
Japan	Qantas	[2005] IASC 106 ^d	05-Jul-05	2.4 B767-200 units	Allocation of passenger capacity
	Qantas	[2005] IASC 123	07-Nov-05	1.2 B767-200 units	Renewal of [2001] IASC 107
	Qantas	[2005] IASC 124	07-Nov-05	0.2 B767-200 units	Renewal of [2001] IASC 112
	Qantas	[2005] IASC 126	07-Nov-05	2.4 B767-200 units	Renewal of [2001] IASC 116
	Qantas	[2006] IASC 103	08-May-06	2.4 B767-200 units	Allocation of passenger capacity
	Qantas	[2006] IASC 209	08-May-06		Variation of [2002] IASC 116 and [2004] IASC 120 to permit joint operations between Qantas and any wholly-owned subsidiary

ROUTE	AIRLINE	IASC NUMBER	DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
	Qantas	[2006] IASC 217	09-Jun-06		Variation of [2002] IASC 104 to permit Qantas to code share on services operated by a wholly-owned subsidiary and variation of [2004] IASC 120 to permit a wholly-owned subsidiary to utilise the capacity
	Qantas	[2006] IASC 218	09-Jun-06		Variation of [2002] IASC 104, [2002] IASC 108, [2004] IASC 120, [2005] IASC 123 and [2005] IASC 126 to permit code sharing by Japan Airlines on Qantas services to Cairns and Melbourne until 30 June 2008
Korea	Qantas	[2005] IASC 108 ^d	22-Aug-05	687 seats	Allocation of seasonal passenger capacity
Nauru	HeavyLift Cargo	[2005] IASC 118	07-Nov-05	One frequency not exceeding B737 capacity	Renewal of [2003] IASC 125
New Caledonia	HeavyLift Cargo	[2005] IASC 119	07-Nov-05	One B737 freighter	Renewal of [2003] IASC 126
	Pacific Blue Australia	[2005] IASC 209 ^d	29-Nov-05	(0.75 units)	Revocation of [2003] IASC 129
	Qantas	[2005] IASC 121	07-Nov-05	0.5 units	Renewal of [2001] IASC 104
	Qantas	[2005] IASC 127	07-Nov-05	0.25 units	Renewal of [2001] IASC 117
New Zealand	Asian Express	[2005] IASC 120	07-Nov-05	Unlimited freight	Renewal of [2001] IASC 113
	Norfolk Jet Express	[2005] IASC 205 ^d	20-Jul-05	(Unlimited capacity)	Revocation of [2004] IASC 109
	Qantas	[2005] IASC 206	22-Aug-05		Variation of [2001] IASC 121 to permit Jetstar to use allocated capacity and to authorise code sharing with Qantas
Papua New Guinea	HeavyLift Cargo	[2005] IASC 114	07-Nov-05	60 tonnes	Renewal of [2003] IASC 114
	HeavyLift Cargo	[2005] IASC 117	07-Nov-05	Six tonnes	Renewal of [2003] IASC 124
	HeavyLift Cargo	[2006] IASC 201	28-Mar-06	(20 tonnes)	Variation of [2005] IASC 114 to reduce allocated capacity from 60 tonnes to 40 tonnes of freight capacity
	HeavyLift Cargo	[2006] IASC 202	28-Mar-06	(Six tonnes)	Revocation of [2005] IASC 117
	Pacific Air Express	[2006] IASC 214 ^d	22-May-06	(12.5 tonnes)	Revocation of [2003] IASC 123

ROUTE	AIRLINE	IASC NUMBER	DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
Singapore	Qantas	[2005] IASC 208	07-Nov-05		Variation of [2003] IASC 120 to permit code sharing by Air Malta on Qantas services
Solomon Islands	HeavyLift Cargo	[2005] IASC 207 ^d	06-Sep-05	(25 tonnes)	Revocation of [2003] IASC 127
	HeavyLift Cargo	[2005] IASC 116	07-Nov-05	50 tonnes	Renewal of [2003] IASC 116
South Africa	Qantas	[2005] IASC 125	07-Nov-05	Two frequencies	Renewal of [2001] IASC 114
	Qantas	[2006] IASC 204 ^d	27-Apr-06	(One weekly freighter frequency)	Revocation of [2004] IASC 123
Switzerland	Qantas	[2006] IASC 216	09-Jun-06		Variation of [2002] IASC 107 to permit Qantas to code share on Finnair services between Helsinki and Zurich
Thailand	Qantas	[2005] IASC 113	17-Oct-05	18 northbound/ 11 southbound third-country code share frequencies	Allocation of third-country code share passenger capacity
	Qantas	[2005] IASC 128 ^d	22-Nov-05	1.3 B747 equivalent units	Allocation of seasonal passenger capacity
	Qantas	[2006] IASC 101	08-May-06	2.9 B747 equivalent units	Allocation of passenger capacity
	Qantas	[2006] IASC 207	08-May-06		Variation of [2005] IASC 128 to remove seasonal limitation and change utilisation date to 31 December 2006
	Qantas	[2006] IASC 212 ^d	11-May-06	(18 northbound and 11 southbound third-country code share services)	Revocation of [2005] IASC 113
	Qantas	[2006] IASC 215 ^d	29-May-06	(Six code share services)	Revocation of [2003] IASC 118
Tonga	Pacific Blue Australia	[2005] IASC 109 ^d	08-Sep-05	540 seats	Allocation of passenger capacity
United Kingdom	Qantas	[2006] IASC 210	08-May-06		Variation of [2004] IASC 102 and [2004] IASC 112 to permit Air Malta to code share on Qantas services
United States	Qantas	[2006] IASC 205	08-May-06		Variation of [2001] IASC 125 to permit Mexicana to code share on Qantas services
	Qantas	[2006] IASC 208	08-May-06		Variation of [2001] IASC 125 to permit a wholly-owned subsidiary to utilise the capacity and to code share with Qantas
Vanuatu	HeavyLift Cargo	[2005] IASC 207 ^d	06-Sep-05	(25 tonnes)	Revocation of [2003] IASC 128
	HeavyLift Cargo	[2005] IASC 115	07-Nov-05	25 tonnes	Renewal of [2003] IASC 115
Vietnam	Qantas	[2006] IASC 102	08-May-06	Three frequencies	Allocation of passenger capacity

^d Indicates a determination or decision made by the Commission's delegate

* Brackets indicate a reduction in capacity allocated

Appendix 2 — Route by route summary of Commission determinations and decisions

This appendix contains a detailed summary of the Commission's determinations and decisions for 2005–06. As noted in *Appendix 1*, full copies of determinations and decisions can be viewed on the Commission's website at www.iasc.gov.au.

Canada

On 6 September 2005, Qantas applied for an allocation of 1,029 seats of capacity per week on the Canada route, for the periods between the beginning of the last week in November and the end of the first week in the following February, and between 1 June and 31 August. Qantas proposed to operate three services per week for the peak ski season and for the North American summer school holiday period. Qantas also sought approval for American Airlines to code share on the proposed services.

On 26 September 2005, the Commission issued Determination [2005] IASC 110 allocating the requested capacity for a period of five years and approving the proposed code share arrangements.

China

On 30 March 2006, Qantas applied to vary Determination [2004] IASC 101 to permit Air China to code share on Qantas-operated services between Australia and China. Under the proposed arrangement, Air China would purchase a block of 15 seats on each of the three A330 services operated by Qantas between Sydney and Beijing.

On 19 April 2006, the delegate of the Commission issued Decision [2006] IASC 203 varying the determination as requested.

Cook Islands

On 26 September 2005, Pacific Blue Australia applied for an allocation of 180 seats of capacity per week on the Cook Islands route. Pacific Blue already held an allocation of 180 seats on the route. It proposed to use the new capacity to add a second weekly B737 service between Australia and the Cook Islands.

On 13 October 2005, the delegate of the Commission issued Determination [2005] IASC 111, allocating 180 seats of capacity per week on the Cook Islands route. The determination is for a period of five years.

Hong Kong

On 20 June 2005, Qantas applied for an allocation of one unit of all-cargo capacity on the Hong Kong route. The services were proposed to be performed by an aircraft wet-leased from Atlas Air.

On 14 July 2005, the delegate of the Commission issued Determination [2005] IASC 107, allocating one all-cargo frequency per week between any points in Australia and Hong Kong. The determination is for a period of five years.

On 20 April 2006, Qantas applied for a variation of Determination [2001] IASC 119 to permit Finnair to code share on three Qantas services per week between Melbourne and Hong Kong and vice versa and on three weekly services from Hong Kong to Sydney, with effect from 15 May 2006.

On 8 May 2006, the Commission issued Decision [2006] IASC 211 permitting Qantas to provide services jointly with Finnair.

Qantas applied to the Commission on 4 May 2006 to reduce the capacity allocated by Determination [2004] IASC 115 for services on the Hong Kong route from four to two frequencies per week.

On 11 May 2006, the delegate of the Commission issued Decision [2006] IASC 213 reducing the capacity allocated as requested.

India

On 22 September 2005, Qantas applied for an allocation of 300 third-country code share seats per week on the India route. Qantas proposed to code share on Jetstar Asia services between Singapore and Kolkata (formerly Calcutta). Qantas advised that there were no plans for Jetstar Asia to code share on Qantas services between Singapore and Australia.

On 17 October 2005, the Commission issued Determination [2005] IASC 112, allocating 300 third-country code share seats per week on the India route. The determination is for a period of five years.

Indonesia

On 30 August 2005, Qantas applied to renew Determination [2001] IASC 106, allocating 780 seats of capacity per week to Qantas on the Indonesia route. On 7 November 2005, the Commission made Determination [2005] IASC 122, allocating the capacity for a further five year period from 30 July 2006.

On 12 April 2006, Qantas applied to vary Determination [2002] IASC 113 to permit the use of allocated capacity in joint services with any wholly-owned subsidiary of Qantas on the Indonesia route. Jetstar, a wholly-owned subsidiary of Qantas, proposed to introduce twice-weekly flights between Sydney and Denpasar, effective from November 2006. Qantas already had permission to code share on the route with Australian Airlines, another wholly-owned subsidiary of Qantas.

The Commission made Decision [2006] IASC 206 on 8 May 2006, varying Determination [2002] IASC 113 as requested.

Japan

On 20 June 2005, Qantas applied for an allocation of 2.4 B767-200 units of capacity per week on the Japan route in order to enable Australian Airlines to operate two additional weekly services between Cairns and Nagoya.

On 5 July 2005, the delegate of the Commission issued Determination [2005] IASC 106, allocating the capacity to Qantas for a period of five years.

On 30 August 2005, Qantas applied to renew three determinations which allocated small amounts of capacity on the Japan route. The determinations were [2001] IASC 107, [2001] IASC 112 and [2002] IASC 116 which allocated 1.2, 0.2 and 2.4 B767-200 units of capacity per week respectively. On 7 November 2005, the Commission issued Determinations [2005] IASC 123, [2005] IASC 124 and [2005] IASC 126, renewing each of the expiring determinations. The determinations are for five years from 29 May 2006, 28 August 2006 and 7 November 2006 respectively.

On 12 April 2006, Qantas applied for an allocation of 2.4 B767-200 units of capacity per week on the Japan route. Qantas also applied to vary Determinations [2002] IASC 116 and [2004] IASC 120 to extend until 30 April 2007 the date by which the capacity must be fully utilised, and to permit the capacity to be used in joint services with any wholly-owned subsidiary.

On 8 May 2006, the Commission, in Determination **[2006] IASC 103**, allocated 2.4 B767-200 units to Qantas for a period of five years. The Commission also issued Decision **[2006] IASC 209** varying the determinations as requested by Qantas.

On 4 May 2006, Qantas applied to vary Determinations [2002] IASC 104 and [2004] IASC 120 to complement the variations made by Decision [2006] IASC 209 to permit a wholly-owned subsidiary (in practice, Jetstar) to utilise the capacity and to permit Qantas to code share on those services.

On 9 June 2006, the Commission made Decision **[2006] IASC 217** varying the determinations as requested by Qantas. Along with Determination [2006] IASC 103, the three determinations, as varied, form a block of capacity that may be utilised by a wholly-owned subsidiary of Qantas and on the services of which Qantas may code share.

On 4 May 2006, Qantas applied to extend until 30 June 2009 authorisation for Japan Airlines to code share on Qantas services between Tokyo and Cairns and between Tokyo and Melbourne. Qantas' request entailed variations of the following Determinations: [2002] IASC 104, [2002] IASC 108, [2004] IASC 120, [2005] IASC 123 and [2005] IASC 126.

On 9 June 2006, the Commission issued Decision **[2006] IASC 218** extending the

authorisation of the code share arrangements until 30 June 2008.

A full discussion of this case is provided in Part 3 of this report.

Korea

On 3 August 2005, Qantas applied for an allocation of 687 seats per week of capacity on the Korea route over the period between the beginning of the last week in December and the end of the first week in the following February. Qantas sought the capacity allocation to meet travel demand during the traditional New Year peak period.



On 22 August 2005, the delegate of the Commission issued Determination **[2005] IASC 108** allocating the capacity sought. The determination is for five years.

Nauru

HeavyLift applied to the Commission for a renewal of interim Determination [2003] IASC 125, which allocating one frequency per week with any aircraft type not exceeding the capacity of a B737.

On 7 November 2005, the Commission issued Determination [2005] IASC 118 allocating the capacity requested. The determination is for five years from 12 December 2006.

New Caledonia

HeavyLift applied to the Commission for a renewal of interim Determination [2003] IASC 126, allocating the equivalent of one B737 freighter per week on France – Route 3 (New Caledonia).

On 7 November 2005, the Commission renewed the existing determination in Determination [2005] IASC 119. The determination is for five years from 12 December 2006.

Pacific Blue Australia applied to the Commission on 28 November 2005 to revoke Determination [2003] IASC 129, which allocated 0.75 units of capacity per week on the France – Route 3 (New Caledonia).

On 29 November 2005, the delegate of the Commission issued Decision [2005] IASC 209 in revoking Determination [2003] IASC 129.

On 30 August 2005, Qantas applied to renew two determinations on the France – Route 3 (New Caledonia) route. The determinations were [2001] IASC 104, which allocated 0.5 units of capacity per week, and [2001] IASC 117 which allocated 0.25 units of capacity per week.

On 7 November 2005, the Commission issued Determinations [2005] IASC 121 and [2005] IASC 127 as sought by Qantas. The determinations are for five years from 21 May 2006 and 13 December 2006 respectively.

New Zealand

On 29 August 2005, Asian Express Airlines applied to the Commission for a renewal of Determination [2001] IASC 113, which allocated unlimited freight capacity to the airline on the New Zealand route.



On 7 November 2005, the Commission issued Determination [2005] IASC 120 in favour of Asian Express Airlines. As capacity and route rights are unrestricted on the New Zealand route, the Commission made the allocation for a period of ten years from 28 August 2006.

On 14 July 2005, KordaMentha, acting as Liquidators of Norfolk Jet Express Pty Ltd, applied to the Commission to revoke Determination [2004] IASC 109, which allocated unlimited capacity on the New Zealand route.

On 20 July 2005, in Decision [2005] IASC 205 the delegate of the Commission revoked Determination [2004] IASC 109.

Qantas applied to the Commission on 3 August 2005 for a variation of Determination [2001] IASC 121 to permit Jetstar, a wholly-owned subsidiary of Qantas, to operate services on the New Zealand route. Qantas also sought permission for Jetstar to code share on Qantas services and vice versa.

On 22 August 2005, the Commission issued Decision [2005] IASC 206 varying the determination as requested.

Papua New Guinea

HeavyLift applied to the Commission to renew two interim determinations, namely [2003] IASC 114 and [2003] IASC 124, which allocated 60 tonnes and six tonnes of freight capacity per week respectively to HeavyLift on the Papua New Guinea route.

On 7 November the Commission issued Determinations [2005] IASC 114 and [2005] IASC 117 renewing the determinations for five years from 29 August 2006 and 12 December 2006 respectively.

On 13 March 2006, HeavyLift applied to the Commission to vary Determination [2005] IASC 114 to reduce the amount of capacity allocated by the determination on the Papua New Guinea route from 60 to 40 tonnes per week. At the same time, HeavyLift requested revocation of Determination [2005] IASC 117, which allocated six tonnes of freight capacity.

On 28 March 2006, the Commission issued Decision [2006] IASC 201, varying the determination as requested by HeavyLift, and Decision [2006] IASC 202, which revoked Determination [2005] IASC 117.



On 16 May 2006, Pacific Air Express applied to the Commission for revocation of Determination [2003] IASC 123, which allocated 12.5 tonnes of freight capacity per week on the Papua New Guinea route.

On 22 May 2006, the delegate of the Commission issued Decision [2006] IASC 214, revoking the determination as requested by Pacific Air Express.

Singapore

On 19 October 2005, Qantas applied for a variation of Determination [2003] IASC 120 to permit Air Malta to code share on daily Qantas services between Australia and Singapore. The Commission had previously authorised the use of capacity in joint services between Qantas and Air Malta on the UK and Thailand routes.

On 7 November 2005, the Commission issued Decision [2005] IASC 208 authorising the code sharing sought by Qantas.

Solomon Islands

On 5 September 2005, HeavyLift applied to the Commission to revoke Determination [2003] IASC 127, which allocated 25 tonnes of freight capacity under the Australia — Solomon Islands air services arrangements. At the same time, HeavyLift sought renewal of Determination [2003] IASC 116, which allocated 50 tonnes of freight capacity per week to HeavyLift on the Solomon Islands route.

On 6 September 2005, the delegate of the Commission issued Decision [2005] IASC 207, revoking Determination [2003] IASC 127 as requested by HeavyLift.

On 7 November 2005, the Commission issued Determination [2005] IASC 116 renewing Determination [2003] IASC 116. The determination is for five years from 29 August 2006.

South Africa

On 30 August 2005, Qantas applied for a renewal of Determination [2001] IASC 114, which allocated two frequencies per week to Qantas on the South Africa route.

On 7 November 2005, the Commission issued Determination [2005] IASC 125 for Qantas. The determination is for five years from 27 September 2006.

On 12 April 2006, Qantas applied to the Commission to revoke Determination [2004] IASC 123, which allocated one weekly freighter frequency on the South Africa route.

On 27 April 2006, the delegate of the Commission issued Decision [2006] IASC 204 revoking Determination [2004] IASC 123 as requested by Qantas.

Switzerland

On 19 May 2006, Qantas applied for a variation of Determination [2002] IASC 107 to permit Qantas to code share on daily Finnair services between Zurich and Helsinki and vice versa. Previously, the determination had permitted code sharing on British Airways' services between London and Zurich. On 9 June 2006, the Commission issued Decision [2006] IASC 216 approving the Finnair code share arrangements.

Thailand

On 22 September 2005, Qantas applied for an allocation of third-country code share services on the Thailand route. Qantas proposed to code share on selected Jetstar Asia services between Singapore and Phuket and between Singapore and Bangkok.

On 17 October 2005, the Commission issued Determination [2005] IASC 113, allocating 18 northbound and 11 southbound third-country carrier code share services per week. The determination was for five years.

Subsequently, on 4 May 2006, Qantas applied to have Determination [2005] IASC 113 revoked. The delegate of the Commission revoked the determination in Decision [2006] IASC 212 on 11 May 2006.

On 4 November 2005, Qantas applied for an allocation of 1.3 B747 equivalent units of capacity on the Thailand route for the period between 1 December and the 31st day of the following January.

On 22 November 2006, the delegate of the Commission issued Determination [2005] IASC 128 for Qantas, including the condition that the capacity was to be fully utilised by 3 December 2005. On 12 April 2006, Qantas applied for a variation of the determination to extend the date by which the

capacity must be fully utilised to 31 December 2006. On 8 May 2006, the Commission issued Decision **[2006] IASC 207** varying the determination as requested by Qantas.

At the same time as the application above, Qantas applied for an additional allocation of 2.9 B747 equivalent units of capacity per week in each direction on the Thailand route. The total of 4.2 B747 equivalent units would be used by Jetstar to operate three services per week between Sydney and Phuket and a further three services between Melbourne and Phuket. On the 8 May 2006, the Commission issued Determination **[2006] IASC 101** as sought by Qantas. The determination is for five years.

Qantas applied to the Commission on 4 May 2006 to revoke Determination **[2003] IASC 118**, which allocated six code share services per week on the Thailand route.

On 29 May 2006, the delegate of the Commission issued Decision **[2006] IASC 215** revoking the determination as requested.

Tonga

On 26 August 2005, Pacific Blue Australia applied for an allocation of 540 seats per week of capacity on the Tonga route. The delegate of the Commission issued Determination **[2005] IASC 109** on 8 September 2005 allocating the requested capacity.

United Kingdom

On 20 April 2006, Qantas applied for a variation of Determinations **[2004] IASC 102** and **[2004] IASC 112** to permit Air Malta to code share on additional Qantas services between Australia and the United Kingdom via Singapore. Qantas already had approval for Air Malta to code share on daily services to the

United Kingdom via Singapore and to the United Kingdom via Bangkok. Qantas code shares on Air Malta services between London and Malta.

On 8 May 2006, the Commission issued Decision **[2006] IASC 210** varying the determinations as requested by Qantas.

United States

On 18 April 2006, Qantas applied for a variation of Determination **[2001] IASC 125** to permit Compañía Mexicana de Aviación SA de CV (Mexicana) to code share on Qantas services between Australia and the United States of America from 1 June 2006.

On 8 May 2006, the Commission issued Decision **[2006] IASC 205** authorising the code share arrangements.

Qantas applied to the Commission on 12 April 2006 for a variation of Determination **[2001] IASC 125** to permit Jetstar, a wholly-owned subsidiary of Qantas, to operate services on the United States route and to provide services jointly with Qantas.

On 8 May 2006, the Commission varied the determination with Decision **[2006] IASC 208** as requested by Qantas.

Vanuatu

HeavyLift applied to the Commission on 5 September 2005 to revoke Determination **[2003] IASC 128**, which allocated 25 tonnes of capacity under the Australia – Vanuatu air services arrangements.

On 6 September 2005, the delegate of the Commission revoked the determination with Decision **[2005] IASC 207**.

HeavyLift applied to the Commission for renewal of Determination [2003] IASC 115 which allocated 25 tonnes of freight capacity per week on the Vanuatu route.

On 7 November 2005, the Commission issued Determination [2005] IASC 115 renewing the determination as requested.

Vietnam

On 12 April 2006, Qantas applied for an allocation of three frequencies per week of capacity on the Vietnam route to allow Jetstar, a wholly-owned subsidiary of Qantas, to operate services and for Qantas to code share on the services.

The Commission issued Determination [2006] IASC 102 on 8 May 2006, allocating the requested capacity for a period of five years.



Appendix 3 — Summary of total capacity allocated and available for all routes* (third/fourth freedom capacity)

Passenger capacity as at 30 June 2006

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Argentina	Nil	2,800 seats
Austria	Nil	2,800 seats
Bahrain	Nil	12 frequencies**
Brazil	Nil	Seven frequencies
Brunei Darussalam	Nil	Nine B747s or 18 B767s**
Burma	Nil	Two B747s
Canada	Between the beginning of the last week in November and the end of the first week in February, and between 1 June and 31 August 1,029 seats	Between the beginning of the last week in November and the end of the first week in February, and between 1 June and 31 August 1,971 seats. For all other times outside these periods 3,000 seats
Chile	Nil	2,000 seats
China	2,135 seats	6,365 seats**
Cook Islands	360 seats	140 seats
Czech Republic	Nil	Seven services**
Denmark	Nil	2,800 seats
Egypt	Nil	Three B747s
Fiji	2,520 seats	2,480 seats**
Finland	Nil	2,800 seats
France	Route 1 = Three units and 150 code share seats; Route 2 = 2.5 units; Route 3 = 0.75 units	Route 1 = 250 code share seats; Route 2 = two units; Route 3 = 1.75 units (one unit = 400 seats)
Germany	Seven frequencies	18 frequencies
Greece	200 third country code share seats	2,100 seats and 600 third country code share seats
Hong Kong	30 frequencies	40 frequencies**
India	2,100 seats and 300 third party code share seats	3,400 seats and 1,075 third party code share seats
Indonesia	4,410 seats	6,390 seats**
Ireland	Nil	Seven services**
Italy	600 third country code share seats	Seven frequencies and 400 third country code share seats

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Japan	71 units for the Northern Summer Scheduling Period and 73.4 for the Northern Winter Scheduling Period (one unit = one B767–200 equivalent)	Eight units for the Northern Summer Scheduling Period and 5.6 for the Northern Winter Scheduling Period
Jordan	Nil	Three frequencies
Korea	Between the beginning of the last week in December and the end of first week in the following February 1,187 seats and outside this period 500 seats	Between the beginning of the last week in December and the end of first week in the following February 6,313 seats and outside this period 7,000 seats**
Kuwait	Nil	Two frequencies
Lebanon	Nil	Two B767's terminating in Lebanon, or three B767's transiting Lebanon
Luxembourg	Nil	Cargo capacity only
Macau	Nil	Three frequencies
Malaysia	Nil	20,600 seats**
Malta	Nil	Three frequencies
Mauritius	Nil	Three frequencies and 500 third country code share seats**
Mexico	Nil	Four frequencies to certain points, unrestricted to other points
Nauru	One frequency	Two frequencies
Netherlands	400 third party code share seats	2,800 seats and 600 third party code share seats
New Zealand	Unlimited	Unlimited
Niue	Nil	500 seats
Norway	Nil	2,800 seats
Pakistan	Nil	Three services
Palau	Nil	900 seats
Papua New Guinea	1,000 seats	2,200 seats
Philippines	1,366 seats	Route 1 = 1,134 seats, regional development route = 400 seats
Poland	Nil	2,800 seats**
Qatar	Nil	Three frequencies
Russian Federation	Nil	Three frequencies
Samoa	Nil	1,000 seats
Singapore	Unlimited	Unlimited
Solomon Islands	Nil	850 seats

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
South Africa	Five frequencies	Nil
Sri Lanka	Nil	3,500 seats**
Sweden	Nil	2,800 seats
Switzerland	21 third-country code share frequencies	2,800 seats**
Taiwan	Nil	4,000 seats
Thailand	11.2 B747 and 14 third party code share frequencies	23.8 B747s and 14 third party code share frequencies
Tonga	540 seats	60 seats
United Arab Emirates	Nil	53 frequencies**
United Kingdom	28 services	Nil
United States	Capacity on South Pacific route in accordance with air transport arrangements	South Pacific route = minimum of four frequencies, North Pacific route = minimum of three frequencies, Guam & Northern Mariana Islands route = 4 DC10s
Vanuatu	1,020 seats	380 seats
Vietnam	Three frequencies	Four frequencies**
Zimbabwe	Nil	1,600 seats

* The purpose of this table is to provide an overview only of the quantum of passenger capacity allocated and remaining available for allocation as at 30 June 2006. Separately specified cargo capacity entitlements are set out in the second table in this appendix. The table does not purport to provide a detailed or comprehensive statement of rights allocated by the International Air Services Commission, nor of the capacity entitlements or related matters (such as code sharing) described in the Register of Available Capacity. Interested parties should contact the International Air Services Commission or the Department of Transport and Regional Services to obtain full information about any route. The Register of Available Capacity is available for public viewing on the department's Internet site at www.dotars.gov.au/avnapt/downloads/register_available_capacity.pdf

** These routes have a Regional Package in place whereby services to points other than Brisbane, Melbourne, Sydney and Perth have unrestricted capacity entitlements. Refer to the Register of Available Capacity for details.



Freight capacity as at 30 June 2006

ROUTE	FREIGHT CAPACITY ALLOCATED (PER WEEK)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Argentina	Nil	Seven frequencies
Austria	Nil	Unlimited
Bahrain	Nil	Unlimited
Brazil	Nil	Three frequencies
Brunei Darussalam	Nil	Unlimited
Burma	Nil	Not specified †
Canada	Nil	Converted from seats at the rate of 40 seats for each 10 tonnes or part thereof
Chile	Nil	Unlimited
China	Unlimited	Unlimited
Cook Islands	Nil	Unlimited
Czech Republic	Nil	Unlimited
Denmark	Nil	Unlimited
Egypt	Nil	Not specified †
Fiji	Nil	70 tonnes
Finland	Nil	Unlimited
France	Route 1 = Nil; Route 2 = Nil; Route 3 = one B737 freighter	Route 1 = not specified; Route 2 = not specified; Route 3 = Nil
Germany	Unlimited	Unlimited
Greece	Nil	250 tonnes and 100 tonnes third-country code share
Hong Kong	One frequency	One frequency** (note: passenger capacity may be converted to freight capacity and vice versa)
India	Nil	Unlimited
Indonesia	Nil	Three frequencies
Ireland	Nil	Unlimited
Italy	Nil	Not specified †
Japan	Nil	Not specified †
Jordan	Nil	Not specified †
Korea	Nil	Unlimited

ROUTE	FREIGHT CAPACITY ALLOCATED (PER WEEK)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Kuwait	Nil	One frequency
Lebanon	Nil	Not specified †
Luxembourg	Nil	Unlimited
Macao	Nil	Not specified †
Malaysia	Nil	Unlimited
Malta	Nil	Not specified †
Mauritius	Nil	Unlimited
Mexico	Nil	Four frequencies to certain points, unrestricted to other points (capacity may be used for passenger and cargo or dedicated cargo services)
Nauru	Nil	Not specified †
Netherlands	Two frequencies	200 tonnes third-country code share
New Zealand	Unlimited	Unlimited
Niue	Nil	Unlimited
Norway	Nil	Unlimited
Pakistan	Nil	One frequency
Palau	Nil	150 tonnes
Papua New Guinea	60 tonnes	40 tonnes
Philippines	Nil	Not specified †
Poland	Nil	Unlimited
Qatar	Nil	Not specified †
Russian Federation	Nil	Not specified †
Samoa	Nil	Unlimited
Singapore	Unlimited	Unlimited
Solomon Islands	75 tonnes	25 tonnes
South Africa	Nil	One frequency
Sri Lanka	Nil	Unlimited
Sweden	Nil	Unlimited

Switzerland	Nil	Unlimited
Taiwan	Unlimited	Unlimited
Thailand	One frequency	Six frequencies
Tonga	Nil	Unlimited
United Arab Emirates	Nil	Unlimited
United Kingdom	Nil	Three frequencies
United States	Unlimited	Unlimited
Vanuatu	25 tonnes	75 tonnes
Vietnam	Nil	Not specified †
Zimbabwe	Nil	100 tonnes

* The purpose of this table is to provide an overview only of the quantum of freight specific capacity allocated and remaining available for allocation as at 30 June 2006. The table does not purport to provide a detailed or comprehensive statement of rights allocated by the International Air Services Commission, nor of the capacity entitlements or related matters (such as code sharing) described in the Register of Available Capacity. Interested parties should contact the International Air Services Commission or the Department of Transport and Regional Services to obtain full information about any route. The Register of Available Capacity is available for public viewing on the department's Internet site at www.datars.gov.au/avnapt/downloads/register_available_capacity.pdf

** These routes have a Regional Package in place whereby services to points other than Brisbane, Melbourne, Sydney and Perth have unrestricted capacity entitlements. Refer to the Register of Available Capacity for details.

† Freight capacity is not separately specified in the Register of Available Capacity. However, freight capacity may be available. Interested parties should contact the Department of Transport and Regional Services.



Appendix 4 — Other information

Occupational health and safety

As the staff members of the Secretariat are employees of DOTARS, 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 *Freedom of Information Act 1982* (the FOI Act) requires Australian Government agencies to publish a statement setting out their role, structure, functions, documents available for public inspection and access to such documents. Section 8 of the FOI Act requires each agency to publish detailed information on the way it is organised, its powers, decisions made and arrangements for public involvement in the work of the agency. The information contained in this report meets this requirement. Refer to *Appendix 5* for further details.

No Freedom of Information requests were received this financial year.

Advertising and market research

For newspaper advertising of applications for capacity made by Australian airlines to the Commission, the Commission paid \$14,536 to HMA Blaze. The Commission is required by the Act to advertise applications received.

Ecologically sustainable development and environmental performance reporting

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



Appendix 5 — Freedom of Information schedule

Item	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information Act 1982</i> (FOI) might not be required because information or documents may be readily available through the Commission's public register process. Formal requests under the FOI Act must be made in writing to the contact officer listed at the front of this report.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed at the commencement of this report. 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 section 6(4) of the Act to perform its functions. 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 is held by the Chairman. On 5 September 1994, the Chairman authorised the Executive Director to exercise the Chairman's powers and functions under the FOI Act.
Documents available for inspection	<p>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.</p> <p>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 Internet home page. The Commission provides facilities for examining and copying publicly available documents at its office. 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.</p>
Functions of the Commission	<p>The functions of the Commission, as set out in section 6 of the Act, are to:</p> <ul style="list-style-type: none"> (a) make determinations (b) conduct reviews of those determinations (c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.
How the Commission is organised	The organisation of the Commission is described in Part 2 of this report.
Location	The Commission's offices are located at 15 Mort Street, Canberra.

Appendix 6 — 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 Act and with the principles of natural justice. They are intended to give applicants and other interested parties procedural fairness, ensure that the Commission's processes are as open as possible and provide guidance to anyone wishing to apply for, or make submissions about, an allocation of capacity.

The Commission's procedures incorporate the following main steps:

- Create a Register of Public Documents for each route and make available for viewing by any interested person. The Commission requires a public version of all applications, and submissions to be made available. A small amount of information received by the Commission is of a commercial-in-confidence or confidential nature. This material is held on the Commission's confidential register. Electronic distribution of all public documents is the Commission's normal practice.
- Decide the criteria under which applications are to be assessed and, where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.
- Ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- Conduct a hearing 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.
- Publish draft determinations 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 proposed allocation and any proposed terms and conditions prior to the issuing of a final determination. In other cases the Commission proceeds directly to a final determination.
- The Commission updates its procedures from time to time. They are available from the Commission's home page at www.iasc.gov.au, or upon request to the Commission.



Appendix 7 — Minister's policy statement

Policy Statement No 5 dated 19 May 2004.

SECTION 11 POLICY STATEMENT

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 BENEFIT TO 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 pre-eminent 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 unforeseen 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 8 — Service charter 2006–2008

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

About the Commission

The Commission is an independent statutory authority, established under the *International Air Services Commission Act 1992* (the Act). The Commission is comprised of a Chairperson and two members. Our role is to allocate capacity available under Australia's air services arrangements with other countries to existing and prospective Australian international airlines. We do this by making formal determinations. We assess applications against public benefit criteria set out in a policy statement issued to us by the Minister for Transport and Regional Services.

The people and organisations with an interest in what we do

Existing and prospective airlines are the organisations most directly affected by Commission decisions. However, our decisions are relevant to many other people and organisations. 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 Transport and Regional Services;
- Australian and State government departments and agencies; and
- the aviation industry press and analysts.

Assessing applications

If you wish to apply for capacity, procedures for doing so, including the information we require, can be found on our internet site at www.iasc.gov.au. We suggest that first you contact the Commission's Executive Director.

The Commission determines the more complex cases, such as where there are competing applications for capacity, a carrier is new to a route, or there are serious competition concerns about a proposal.

The Act gives us the authority to delegate some of our powers and functions to an officer of the Department of Transport and Regional Services, in certain circumstances. We have delegated the relevant powers and functions to officers in our Secretariat, who are also departmental officers. This gives applicants a single point of contact and should ensure that the administration of Commission and departmental decision making is harmonised, without compromising the Commission's independence. The delegates adopt the standards set out in this charter, so you will receive the same level of service in all cases.

Our commitments 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

- treat you courteously and professionally;
- provide clear, accurate advice and answer your questions promptly;
- respond constructively to your suggestions for improving our service;
- include contact names and phone numbers in our correspondence;
- answer phone calls promptly by name or return any missed calls within 24 hours if you leave a message; and
- reply to your emails within 24 hours.

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 can be sent to you upon request;
- seek only information that we consider is reasonably necessary for us to best carry out our functions;
- be transparent and fair, including keeping confidential information to a minimum, consistent with the legitimate protection of your commercial interests;
- make decisions about uncontested applications within four weeks of receipt and contested applications within 12 weeks, or inform you 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; and
- notify applicants within 24 hours of a decision being made, and other interested parties within three working days.

What we ask of you

We ask you to provide timely, comprehensive and accurate information and to be honest and fair in your dealings with 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 via this means. There are two levels of information provided. The first is simple notification, which advises when applications have been received, and when Commission decisions are made. These notifications include links to our website. More detailed information is provided if you wish to receive copies of all relevant documents. This second service is provided for a small annual fee. Documents are provided in pdf format. Please contact us if you wish to be added to either notification list.



Our internet site at www.iasc.gov.au provides up-to-date information about the Commission's business. It includes summaries of current cases and Commission determinations and decisions. In addition, important documents can be found on the site, including the Act and the Minister's policy statement, as well as the Commission's procedures for handling applications.

If you do not have access to email or our internet site, notifications and copies of documents can be provided to you by facsimile or post, or if you visit our offices.

Monitoring and review

We will monitor our performance against our service commitments. We encourage you to comment on our performance and to suggest ways to improve our service. If you are dissatisfied with any aspect of our service, it is important that you tell us so we can address your concerns. 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 the service standards we have set ourselves. We may invite your comments on our service performance, such as through a brief questionnaire. The results of the assessments will be summarised in our annual report. If you wish to receive a copy of the report, let us know and we will post it to you. Alternatively, the report can be downloaded from our internet site.

We will also review annually the service charter itself, to ensure that it is meeting your requirements. This may include arranging an independent review from time to time.

Contact details

International Air Services Commission

Telephone: (02) 6267 1100

Facsimile: (02) 6267 1111

Email: iasc@dotars.gov.au

Internet: www.iasc.gov.au

Postal address: GPO Box 630,
Canberra ACT 2601

Premises: 1st Floor,
15 Mort Street, Canberra



Appendix 9 — Commission office holders, 1992–2006

The following tables set out the Chairmen and Members of the Commission, and its Executive Directors, over the 14 years since the Commission was founded.

CHAIRS	PERIOD
Stuart Fowler	July 1992 to April 1993
James Bain	July 1993 to June 1998
Russell Miller	July 1998 to January 2000
Michael Lawriwsky and Stephen Lonergan (Members presiding at alternate meetings)	January 2000 to August 2000
Ross Jones	August 2000 to August 2003
John Martin	November 2003 to the present

MEMBERS	PERIOD
Brian Johns	July 1992 to June 1997
Russell Miller	July 1992 to June 1998
Michael Lawriwsky	December 1997 to the present
Stephen Lonergan	August 1998 to August 2004
Vanessa Fanning	November 2004 to the present

EXECUTIVE DIRECTORS	PERIOD
Tony Slatyer	July 1992 to November 1992
Ian Rischbieth	December 1992 to July 1995
Anne Buttsworth	August 1995 to October 1995
Neil Ada (acting)	October 1995 to May 1996
Danny Scorpecci	May 1996 to October 1997
Chris Samuel	October 1997 to February 2001
Michael Bird	February 2001 to the present

Appendix 10 — Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act</i> (1992), 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 <ul style="list-style-type: none"> • conducts, or proposes to conduct, an international airline service to and from Australia; and • 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.
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.
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.
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).
DOTARS	the Department of Transport and Regional Services.
Fifth freedom rights	are traffic rights enabling an airline to pick up and set down passengers and/or cargo between a bilateral partner nation and another nation.
Financial viability test	is a test applied to prospective new airlines by the Commission as part of its responsibility to ensure that capacity is allocated to an Australian carrier only if the carrier can demonstrate that it is reasonably capable of implementing its proposals.
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.
Handback	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
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.
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	in this report, means a member of the Commission.
Minister's policy statement	is a written instrument made by the Minister for Transport and Regional Services 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.
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. DOTARS maintains the Register.
Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may involve 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.
Slots	time-specific landing and take off rights granted to a carrier to operate into and out of a particular airport, usually by the airport owner/operator.
Third/fourth freedom	are traffic rights enabling an airline to pick up and set down passengers and/or cargo in its own territory and that of a bilateral partner nation in either direction.
Use it or lose it	a principle requiring allocated capacity to be used, or else be returned to the Commission for reallocation.
Variation	a decision amending a determination, including conditions attached to it.

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