



Australian Government

**International Air Services
Commission**

**ANNUAL
REPORT | 2017-18**

INTERNATIONAL AIR SERVICES COMMISSION



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INTERNATIONAL AIR SERVICES COMMISSION

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International Air Services Commission

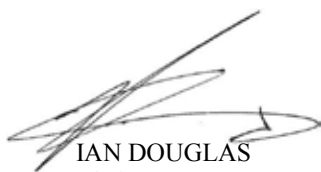
The Hon Michael McCormack MP
Minister for Infrastructure and Transport
Parliament House
CANBERRA ACT 2600

Dear Minister McCormack

We are pleased to submit the twenty-sixth Annual Report of the International Air Services Commission, for the year ended 30 June 2018.

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

Yours sincerely



IAN DOUGLAS
Chairperson




JAN HARRIS
Commissioner




KAREN GOSLING
Commissioner

15 August 2018



The International Air Services Commission is an independent statutory authority, established under the *International Air Services Commission Act 1992*. It allocates capacity available under Australia's air services arrangements with other economies to existing and prospective Australian international airlines by making formal determinations. Applications are assessed against public benefit criteria set out in a policy statement issued to the Commission by the Minister for Infrastructure and Regional Development.



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PART 1

The Year in Review by the Chairperson, Dr Ian Douglas

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

The last financial year was the busiest period for the Commission for some time, and the Commission dealt with 62 applications. The majority of the applications were straightforward, but an application by Qantas to code share with Air Niugini on the Papua New Guinea route (PNG) was more complex and required a substantial amount of detailed work. The larger workload during the 2017–18 year required the Commission to hold a larger number of meetings, with a total of 19 meetings during the year. While some meetings were conducted face-to-face in Canberra, the Commission carried out its work by teleconference or by email wherever possible.

In March this year, the Honourable Michael McCormack MP, issued the International Air Services Commission Policy Statement 2018 (the 2018 Policy Statement), replacing the Policy Statement made in 2004. The 2018 Policy Statement that came into effect on 28 March 2018 sets out the criteria which the Commission is required to apply in assessing the benefit to the public of allocations of capacity. The case study in this year's annual report discusses in further detail the provisions of the new 2018 Policy Statement.

In the year to May 2018, there was a steady growth of international passenger movements into and out of Australia. Passenger traffic increased by 5.1% compared to the year ended May 2017. Airlines increased their capacity in terms of seats made available by 4.7% and load factors increased by 0.2 percentage points to 79.4%.

While the over-all passenger traffic into and out of Australia increased, the share of passenger traffic by Australian designated airlines (Qantas, Jetstar Airways, Virgin Australia and Tigerair Australia) decreased from 32.1% in 2016 to 31.5% in 2017. Qantas continues to have the largest share of passenger traffic with 16.4%, followed by Jetstar with 9.1% while Virgin Australia has 6.0% share. Of the foreign airlines serving Australia, Emirates (8.3%), Singapore Airlines (8.1%) and Air New Zealand (6.6%) are the largest operators.¹

¹ Bureau of Infrastructure, Transport and Regional Economics (BITRE) Statistical Report, Aviation International airline activity 2017, p 8

From 23 March 2018, Qantas commenced non-stop flights from Perth to London, followed two days later with the re-commencement of Qantas' Sydney-Singapore-London services. With this change Qantas ceased their operations to the United Arab Emirates (UAE), and returned its capacity allocation for that route in May 2018. This follows the return of Virgin Australia's UAE capacity allocation in April 2017.

Significant changes for Virgin Australia included the commencement from July 2017 of its own-operated services between Melbourne and Hong Kong. The airline initially operated three services per week, increasing to five, with two additional weekly services operated between March and June. From 2nd July 2018, Virgin Australia introduced daily flights from Sydney to Hong Kong alongside its Melbourne - Hong Kong operations.

In FY 2017–18, the Commission issued nine determinations allocating new capacity and 21 determinations renewing capacity allocations. Virgin Australia applied for and was issued additional capacity entitlements enabling further expansion of services on the following routes: Cook Islands, Fiji, Hong Kong, Italy and Samoa. Qantas applied for and was issued new determinations allocating capacity on the Fiji, Indonesia and Italy routes.

The Commission conducted 32 reviews of determinations at the request of the airlines, with 30 reviews resulting in decisions granting the requested variations to the determinations. Most of the applications for variation sought authorisation to use allocated capacity for code share, either with another Australian carrier or with a foreign carrier. Codeshare allows a carrier to offer a larger network by marketing a flight number on a partner airline. This may be on routes where the airline does not have its own operations, or in markets where joint ventures have been approved. For the operating carrier, code share arrangements often strengthen distribution and deliver increased traffic feed, particularly outside the operating carrier's home market.

Code share arrangements continue to be closely examined by the Commission as in some circumstances the Commission may determine that such arrangements would not be of benefit to the public. The attributes that make code share arrangements attractive to a carrier may, in the Commission's view, result in increased barriers to market entry and reduce competition on some routes. The history of the Commission's consideration of code share arrangements on the Papua New Guinea route illustrates some of these tensions. In its most recent detailed examination of proposals for code sharing between Qantas and Air Niugini on this route, the Commission issued draft determinations outlining that it considered the proposed free-sale code share arrangements would not be of benefit to the public. Qantas subsequently withdrew the application it lodged in February 2018 seeking the Commission's authorisation of the code share arrangements. The Commission will continue to carefully consider all code share proposals on a case by case basis in response to each application.

Over the past few years, the China route has seen a significant capacity growth, with China being both a source of tourism and a travel destination for Australians. In December 2016, the aeronautical authorities of Australia and China agreed to liberalise the air services

arrangements between the two countries to allow for unrestricted capacity entitlements, thus permitting the designated airlines of both countries to determine the frequency, capacity and aircraft type to be operated between Australia and China.

In the year ending December 2017, China was the second highest source of passenger arrivals into Australia, next to New Zealand having displaced the USA, which is now the third largest market.² Additionally, the operated seats by Australian carriers³ on the China route increased by 46% compared to last year.⁴

In June 2016 the Commission issued Virgin Australia capacity of 1,925 seats per week to operate services between Australia and mainland China and awaits Virgin's commencement of services on this route.⁵

Not all markets have seen growth, and while passenger traffic on the China route has grown considerably, capacity operated by Australian carriers to Fiji and Indonesia (Bali), two of the traditional tourist destinations for Australian travellers, decreased by 9.3% and 9.1% respectively.⁶

In June 2017, the relevant authorities of Australia and Italy updated the air services arrangements between the two countries. The number of code share seats which may be offered by designated airlines of Australia under code share arrangements with third country airlines on the Italy route was increased to 1,700 seats per week and the bilateral arrangements permitted the weekly capacity entitlements allocated for code share services to be averaged over 12 months rather than to reflect a weekly maximum utilisation. In light of the increase in third country code share capacity entitlements, Qantas sought and was granted 600 third country code share seats (bringing Qantas' total allocation to 1,000 seats) while Virgin Australia applied for and was issued 300 third country code share seats (bringing Virgin Australia's total allocation to 600 seats).

An important aspect of our work in the Commission is engagement with our stakeholders. During the reporting period, we conducted face-to-face meetings with officers from Qantas, Virgin Australia and the ACCC. In January this year, officials from the Aviation and Regulatory Development areas of the Malaysian Aviation Commission (MAVCom) met with us as part of MAVCom's consultations with foreign agencies performing similar functions. The meeting provided a valuable opportunity to exchange information on best regulatory practices.

2 Arrivals from New Zealand totaled 2,763,760 with 3.3% increase from last year; arrivals from China totaled 2,000,880 growing by 12.9% from last year; USA arrivals totaled 1,852,080 with 3.4% growth from last year (source: Bureau of Infrastructure, Transport and Regional Economics, year ending December 2017)

3 Jetstar, Qantas, Tigerair, Virgin Australia

4 Bureau of Infrastructure, Transport and Regional Economics

5 [2016] IASC 106

6 Bureau of Infrastructure, Transport and Regional Economics.

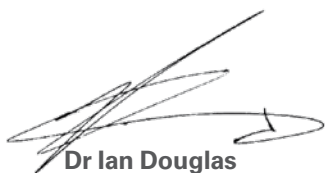


Appointment matters

In 2017, we welcomed Ms Karen Gosling who was appointed by the Governor-General as a part-time Member of the Commission, for a three-year period, with effect from 1 November 2017. Ms Gosling is a former senior executive service officer in the Australian Public Service with extensive experience in the infrastructure, transport and regional development portfolios of government. Ms Gosling's broad experience in government regulatory work is a most valuable addition to the collective expertise within the Commission.

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

I would like to thank my fellow Commissioners, Ms Jan Harris and Ms Gosling, for their valuable expertise and contribution in performing the functions and duties of the Commission in this busy year.



Dr Ian Douglas
Chairperson

PART 2

Overview of the International Air Services Commission

The role and functions of the Commission

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

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

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

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

The Act is complemented by a policy statement from the Minister. The Minister's policy statement sets out criteria to be applied by the Commission in various circumstances. More complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity or there is an opposing submission, in contrast to an uncontested application from a well-established airline. The Minister's policy statement is a legislative instrument under section 11 of the Act. It is reproduced at Appendix 6.

Determinations allocating capacity are usually made for a period of five years for routes where capacity entitlements or route rights are restricted. In cases where capacity entitlements and route rights are unrestricted, the determinations are valid for 99 years under the new policy statement which came into effect on 28 March 2018. In exceptional circumstances, the Commission may issue interim determinations, which are valid for a period of three years. Interim determinations are normally made when capacity is being allocated to a new Australian operator. For routes that have restricted capacity, if an applicant carrier requests that a determination be made for a shorter period, the Commission will fix the period of validity as requested, except that an interim determination should not be valid for more than 3 years and a regular determination where capacity is restricted should not be valid for more than 5 years.⁷

The Commission is required to start reviews of existing determinations at least one year before they expire. The Commission initiates such a review by formally asking the carrier concerned whether they wish to seek a renewal of the determination. Except for interim determinations, there is a presumption in favour of the carrier seeking renewal that the determination will be renewed as sought, unless the Commission is satisfied that the (same) allocation is no longer of benefit to the public.⁸ The allocation is generally no longer of benefit to the public if:

- ▶ the carrier seeking renewal has failed to service the route effectively; and
- ▶ if there are other applications for some or all of the capacity; and
- ▶ the Commission having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.⁹

From time to time, airlines apply to the Commission to vary determinations held by them. There can be a number of reasons for an airline to seek a variation – for example, the airline may be seeking authorisation to use its allocated capacity to code share with another airline. The Commission conducts a review of the determination and as required by the Act, it invites submissions about the application.¹⁰ In relation to an application for variation other than a transfer application¹¹ (as discussed in the paragraph below), if the Commission does not receive any submission opposing the variation requested, then in assessing the application, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter. If the Commission receives a submission opposing the application for variation, the Commission is to have regard to the reasonable capability criterion, and may have regard to any of the additional criteria it considers to be relevant.¹²

7 Section 20, International Air Services Commission Policy Statement 2018

8 Subparagraph 8(2)(a)(i), International Air Services Commission Act 1992

9 Section 14, International Air Services Commission Policy Statement 2018

10 Section 22, International Air Services Commission Act 1992

11 As defined in section 4 of the International Air Services Commission Act 1992

12 Section 17, International Air Services Commission Policy Statement 2018

Most of the applications for variation of existing determinations relate to code sharing with another airline or airlines. This type of variation application is a transfer application as so defined in section 4 of the Act. In assessing whether a transfer application would not be of benefit to the public, the Commission is to have regard to: (a) the reasonable capability criterion; (b) the undesirability of approving a transfer where doing so will, or is reasonably likely to, permit or encourage any form of speculative activity, including trading in capacity allocations for commercial benefit; (c) the undesirability, other than in exceptional cases, of approving a transfer application by a carrier that has never used an allocation, or has only used an allocation for less than six months. The Commission may also have regard to any of the additional criteria it considers relevant, as set out in section 9 of the Policy Statement.¹³ If the Commission finds that a transfer application would not be of benefit to the public the Commission must not vary the determination as requested.¹⁴

The Commission may itself initiate a review of a determination if it is concerned that a carrier might be in breach of a condition of the determination.¹⁵ This can occur, for example, where a carrier has been allocated capacity, but had not used that capacity by the time it was required to do so by the Commission. Where the Commission has commenced a review because an Australian carrier has not complied with a condition that capacity be fully used, the Commission may have regard to the following matters:

- a) whether at the time of the review, there is an application from another Australian carrier for an allocation of capacity on the route, and the unused capacity prevents a competing applicant to be allocated capacity entitlements;
- b) whether there is seasonal variation in demand on the route in question; and
- c) whether the carrier was prevented from fully using the capacity by circumstances that could not reasonably have been foreseen; and
- d) any other matter that the Commission considers to be relevant.¹⁶

Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.¹⁷

Reasonable capability criterion and the additional criteria

There are two sets of criteria that the Commission is to have regard to in assessing whether an application is of benefit to the public: the 'reasonable capability criterion' under section 8 of the 2018 Policy Statement and the 'additional criteria' in section 9. When and how the Commission is to have regard to the criteria is set out in part 3 of the 2018 Policy Statement.

¹³ Section 18, International Air Services Commission Policy Statement 2018

¹⁴ Section 25, International Air Services Commission Act 1992

¹⁵ See subsection 10(1) and section 23, International Air Services Commission Act 1992

¹⁶ Section 24, International Air Services Commission Policy Statement 2018

¹⁷ Subsection 23(1), International Air Services Commission Act 1992

Under the 'reasonable capability criterion', the Commission is to assess the extent to which all Australian carriers that are, or would be, permitted to use the capacity allocated under a determination are reasonably capable of:

- a) obtaining any licences, permits or other approvals required to operate on and service the route to which the determination relates; and
- b) using the capacity allocated under the determination.

Section 9 of the Policy Statement lists the 'additional criteria' which the Commission may have regard to in assessing an application. The additional criteria include competition, tourism and trade, relevant information obtained from other government agencies and authorities. The list is not exhaustive. Subsection 9(1) explicitly provides that the Commission may consider 'any other matter or consideration that the Commission considers to be relevant'.

The Commission has published administrative guidelines to assist applicants in submitting their applications and interested persons in making submissions about applications to the Commission. A summary of these procedures is at Appendix 5. The aim of the procedures is to ensure that applicants and other interested parties understand the requirements for making applications or submissions, are familiar with the Commission's decision-making processes, and are aware of their rights and obligations.

Executive profile

The Act provides for a Chairperson and two Commission members. Currently, the Commission is comprised of a Chairperson, Dr Ian Douglas, and two Members, Ms Jan Harris and Ms Karen Gosling. All were appointed by the Governor-General on a part-time basis for a term of three years.

The membership of the Commission as at 30 June 2018 is as follows:

Dr Ian Douglas



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

Dr Douglas is a Senior Lecturer in Aviation Management in the School of Aviation at the University of New South Wales (UNSW).

He holds a Doctor of Business Administration and a post graduate qualification in Higher Education. His doctoral research addressed the impacts of state ownership and economic freedom on airline financial performance. His ongoing research interests encompass the areas of air transport economics and airline business model convergence. Prior to academia, Dr Douglas had a long career with Qantas Airways, with senior roles in pricing, business

development, route management, strategic planning and the Joint Services Agreement with British Airways. Since leaving Qantas, he has consulted to a range of companies including Malaysia Airlines, Thai Airways International, Bain & Co Singapore, Icebox Advertising, Asian Wings Airways and Tourism Queensland. His teaching areas at UNSW Aviation include fleet and network planning, marketing and distribution strategy and air transport economics.

Ms Jan Harris



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

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

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

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

Ms Karen Gosling



Ms Karen Gosling was appointed by the Governor-General as a part-time Commission Member for a three-year-term commencing on 1 November 2017.

Ms Gosling's Australian Public Service career included leadership roles in the cultural, regional development and transport portfolios. From 2005 to 2012 Ms Gosling was in the Infrastructure, Transport and Regional Development department/s. Her senior executive focus in transport was industry consultation, administering legislation and regulatory reform. In the aviation group, Ms Gosling administered legislation governing leased federal airports and chaired the Sydney Airport Slot Management Committee. As Executive Director of the Surface Transport Policy Division, Ms Gosling advised on maritime, coastal shipping, road transport,

vehicle and road safety standards and national transport regulatory reforms. Prior to 2005, Ms Gosling was in the arts portfolio working with the boards of Australia’s national cultural institutions on funding, governance and risk.

Ms Gosling graduated from the Australian National University with a degree in Arts/Law in 1984 and with a Graduate Diploma in Public Law in 1990. In 2001 Ms Gosling received the Centenary of Federation Medal in recognition of her outstanding contribution to the Centenary of Federation program.

Commissioners’ attendance at meetings in 2017–2018

Commissioner	Number of meetings possible	Number of meetings attended
Dr Ian Douglas	19	19
Ms Jan Harris	19	18 ¹⁸
Ms Karen Gosling	13	13



From left: Marlene Tucker (Executive Director), Karen Gosling (Commission Member), Ian Douglas (Chairperson), Jan Harris (Commission Member), Anita Robinson (Administrative Officer)

The Secretariat

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

18 Ms Harris was on official leave of absence at a meeting in May 2018

Communications with interested parties

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

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

The Commission places great importance on maintaining effective relationships with those stakeholders. The Commission takes into account the views of stakeholders in its decision-making processes, as appropriate to particular cases. Interested members of the public and aviation stakeholders (who have requested to be included in the Commission's notification list) are regularly notified, by email, of applications received and the Commission's determinations and decisions. The Commission's website is likewise updated to inform the public of ongoing applications and determinations and decisions made by the Commission. At the conclusion of each financial year, the Commission invites stakeholders to provide feedback about the Commission's performance throughout the year. The aggregated results of responses to the survey this year are presented in this annual report at pages 21–22.

The role of the Department of Infrastructure, Regional Development and Cities

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

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

An Australian carrier may apply to the Commission for allocation of capacity recorded on the register as available for immediate allocation. The entitlements on the Register of Available Capacity are adjusted as determinations allocating capacity are made by the Commission,



Photo © Justin Smith - Virgin Australia

as airlines hand back unused capacity and when the Department negotiates new or revised capacity entitlements on behalf of the Australian Government. There is regular communication between the Department and the Commission on these matters.

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

PART 3

Report on performance

Overview

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

- ▶ how well the object of the Act has been met by the Commission's decision making;
- ▶ how fair and effective the Commission has been in dealing with applicants and interested parties; and
- ▶ how efficient the Commission has been in the use of financial resources available to it. The Commission's assessment of its performance against each of these criteria is set out below.

Results against performance targets

Serving the object of the Act

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

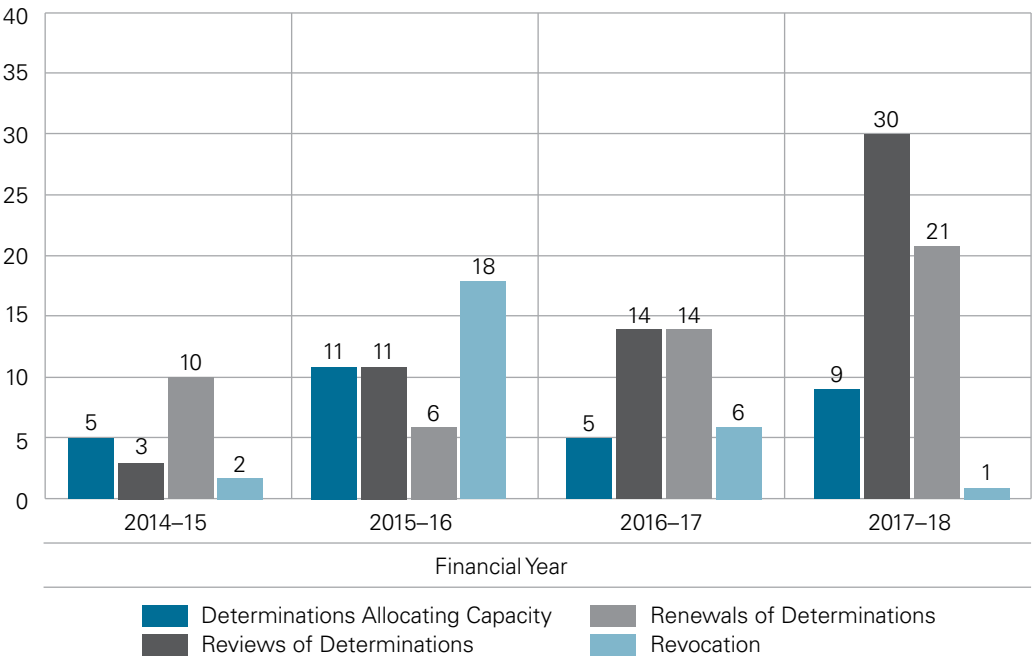
The Commission records annually the number of determinations and decisions (involving reviews and variations of determinations) made for the year. The volume of activity varies from year to year. The dominant factor underlying the Commission's output is the number of applications made by airlines. The demand for new capacity from the Commission is directly related to the level of demand for air services. In turn, international aviation activity

is particularly sensitive to factors such as changes in the strength of the economy and the emergence of security threats, among others.

In the financial year 2017–18, the Commission issued nine determinations allocating new capacity; 21 renewal of capacity allocations; 30 decisions varying various determinations including a couple of resolutions extending the date of utilisation of the capacity; and one revocation of capacity allocation. A contested application for variation of two determinations on the PNG route was subsequently withdrawn by the applicant (Qantas) following the Commission’s release for public consultation of its draft decisions on the matter.

The graph below shows a comparative data of the current reporting period (2017–18) with the three preceding years.

Historical numbers of determinations and decisions



In 2017–18, nine determinations allocating new capacity were made. The allocations reflected the expansion of overseas services by the Australian carriers.

Virgin Australia sought and was issued a new capacity allocation of 156 seats per week on the Cook Islands route which enabled Virgin to operate one additional weekly service during peak periods in 2018. Virgin Australia also applied and was granted a new capacity allocation of seven frequencies on the Hong Kong route enabling Virgin to operate daily services from Sydney to Hong Kong to supplement its existing daily Melbourne–Hong Kong service. Virgin’s Sydney-Hong Kong services commenced from 2 July 2018. Virgin Australia also sought and was issued 300 seats per week for code sharing with third country airlines on the Italy route, bringing its total capacity allocation on the route to 600 seats which it uses to code share with Etihad and Singapore Airlines. Virgin Australia also sought and

was issued an additional capacity of 242 seats on the Fiji route following the Australian government's successful negotiations with the Fijian authorities in May 2017 for additional capacity entitlements on the route. This brings Virgin Australia's total allocation on the Fiji route to 4,389 weekly seats. Finally, Virgin Australia applied for and was issued a new capacity allocation of 880 seats on the Samoa route enabling Virgin to operate services between Australia and Samoa from 14 November 2017.

Qantas, on the other hand, applied for and was issued 258 seats per week on the Fiji route to enable its wholly-owned subsidiary, Jetstar, to operate two additional weekly services on the route from December 2018–January 2019. Qantas also sought and was issued a total capacity allocation of 2,560 seats on the Indonesia route, bringing its total capacity allocation on the route to 17,128 seats for the exercise of third and fourth freedom rights. Qantas also applied for and was granted 300 third country code share seats on the Italy route, bringing its total capacity allocation on the route to 1,000 seats for the provision of code share services with Emirates and British Airways.

During the reporting period, the Commission issued 21 renewal determinations. Qantas renewed its capacity allocations on the following routes:

- ▶ China renewing unrestricted freight capacity;
- ▶ Indonesia renewing 14,468 seats per week for the exercise of third and fourth freedom rights and 2,148 seats for the exercise of beyond traffic rights with 12 frequencies per week, seven of which may be used beyond Indonesia from Denpasar;
- ▶ Italy renewing 300 third country code share seats;
- ▶ Singapore renewing unlimited capacity and frequency for services other than all-cargo services; and
- ▶ Thailand renewing unlimited freight capacity.

Virgin Australia applied for and was issued renewal determinations on the following routes:

- ▶ Cook Islands renewing 180 seats of capacity;
- ▶ Fiji renewing multiple determinations allocating a total capacity of 1,980 seats;
- ▶ Indonesia renewing multiple determinations allocating a total capacity allocation of 5,040 weekly seats to operate services to and from Sydney, Melbourne (including Avalon), Brisbane and Perth but the allocation was subsequently reduced by 1,288 weekly seats, effectively renewing in FY 2017–18 a total capacity allocation of 3,752 weekly seats;
- ▶ Indonesia renewing unrestricted capacity¹⁹ to operate services between points in Australia, other than Sydney, Melbourne (including Avalon), Brisbane and Perth and authorised points in Indonesia;
- ▶ Korea (South) renewing 1,000 seats of capacity;

¹⁹ Renewal Determination [2018] IASC 108 was the first determination issued under the 2018 Policy Statement to be given a period of validity of 99 years. Under the 2018 Policy Statement, where the air services arrangements provide for unrestricted capacity entitlements, the period of validity of the determination is to be fixed at 99 years.

- ▶ New Zealand renewing unlimited passenger and freight capacity;
- ▶ Papua New Guinea renewing 160 seats of capacity;
- ▶ Tonga renewing 180 seats of capacity;
- ▶ United States of America renewing unlimited passenger and freight capacity; and
- ▶ Vanuatu renewing two determinations allocating a total capacity of 900 seats.

Pacific Air Express, which currently holds capacity allocations on the Vanuatu, Papua New Guinea, Nauru and China routes for the operation of all-cargo services on these routes, sought and was granted authorisation to extend the date of its utilisation on the China route to 31 March 2019.

Norfolk Island Airlines, which was issued unlimited passenger capacity on the New Zealand route on 10 February 2017 was not able to commence its planned scheduled services between Norfolk Island and Auckland in FY 2017–18.

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

As in previous reporting periods, an area of significant work for the Commission is assessing applications by the airlines to use their allocated capacity for code sharing with another carrier.

During the reporting period, the Commission authorised Qantas to code share with:

- ▶ Air France on the France route;
- ▶ Air France, El Al and LATAM Airlines on the Hong Kong route;
- ▶ British Airways on the Italy route;
- ▶ China Airlines and SriLankan Airlines on the New Zealand route;
- ▶ Air France and LATAM Airlines on the Singapore route; and
- ▶ El Al Airlines on the South Africa and Thailand routes.

The Commission also authorised Qantas' wholly-owned subsidiary, Jetstar, to code share with Japan Airlines on the Japan route.

In relation to Virgin Australia, the Commission authorised the airline to code share with:

- ▶ Virgin Atlantic on the Hong Kong and the USA routes; and
- ▶ Hainan Airlines on the New Zealand route.

A brief summary of all determinations and decisions for 2017–2018 is at Appendix 1. A detailed description of each case is provided at Appendix 2. The Commission's full determinations in these cases are available from its website, <www.iasc.gov.au>.

Case Study – Minister’s Policy Statement 2018

Introduction

In its annual report each year, the Commission includes a discussion, usually a case study that deals with one of the Commission’s more complex cases to provide an insight into how it assesses contested or more contentious applications. For this year, the Commission has decided to focus on the recently issued International Air Services Commission Policy Statement 2018 made by the Hon. Michael McCormack MP, Deputy Prime Minister and Minister for Infrastructure and Transport, which came into effect on 28 March 2018.

The 2018 Policy Statement

The 2018 policy statement repeals and replaces the policy statement issued and in force since 2004. The new policy statement brings several benefits, including the clarification of certain provisions and a reduction of cross-referencing. These changes are intended to streamline the Commission’s decision-making process and provide greater transparency and certainty to Australian carriers. The new policy statement contains an explanatory outline at the beginning of each part to aid understanding and interpretation.

Object

The new policy statement sets out clearly that the object of the instrument is to provide guidance to the Commission in the performance of its functions. The object makes clear that the Commission is to perform its functions in a way that will achieve the object of the Act. That is, the Commission is directed to promote economic efficiency through competition in the provision of international air services by fostering, encouraging and supporting competition in the provision of international air services by Australian carriers. The statement highlights competition as a pre-eminent consideration in the Commission’s decision-making process.

Criteria for assessing public benefit

The new policy statement again contains the two sets of criteria for assessing the benefit to the public of an application. These are the ‘reasonable capability criterion’ under section 8 and the additional criteria under section 9.

Under the ‘reasonable capability criterion’, the Commission is tasked to assess the extent to which all Australian carriers that are, or would be, permitted to use the capacity allocated are reasonably capable of obtaining any licences, permits or other approvals required to operate on a particular route, and of then using the capacity allocated under the determination.

The new policy statement makes it clear that this criterion applies to all Australian carriers. That is, the criterion applies to both the carrier that is the primary holder of the capacity allocation and is (or would be) permitted to use the capacity, or a wholly-owned subsidiary of that airline. This clarifies under which circumstances, and to which carriers, the 'reasonable capability criterion' would apply.

The new policy statement also makes it clear that the Commission will apply the 'reasonable capacity criterion' in assessing all applications received – whether for allocation of new capacity, variation of an existing determination or the renewal of a determination.

The additional criteria that the Commission may apply in assessing an application include competition benefits, tourism and trade benefits, relevant information obtained from government agencies and any other matter or consideration that the Commission considers to be relevant. These are slightly changed from paragraph 5 of the previous policy statement, and are now found in section 9 of the new document.

As with the 2004 policy statement, the new policy statement identifies the factors that are to be considered by the Commission under the 'competition criteria', with the addition of the following:

- ▶ any determination, decisions or notifications made by a foreign agency performing a comparable function as the Australian Competition and Consumer Commission (ACCC), the Australian Competition Tribunal or by a foreign aeronautical authority in relation to a carrier using entitlements under a bilateral arrangement; and
- ▶ any information that the Commission has obtained from other Australian government agencies or statutory authorities.

The new policy statement retains the preference for capacity to be used by Australian carriers operating their own aircraft, rather than for marketing code shares on flights operated by foreign carriers.²⁰

Clarity of criteria to apply

The Commission considers that a significant improvement in the new policy statement is that it brings greater clarity to the decision on which criteria the Commission is expected to apply in certain circumstances.

Division 2 sets out the criteria to be applied by the Commission in assessing the benefit to the public of a proposed allocation of new capacity under section 7 of the Act.

Division 3 sets out the criteria when the Commission assesses an application for renewal of a determination.

²⁰ See paragraph 3.3 of the 2004 policy statement and subsection 9(d) of the 2018 policy statement

Division 4 provides for the criteria when assessing an application for a variation of an existing determination.

Allocation of new capacity

Where there is unlimited capacity on the route or where there is sufficient available capacity to make the determinations sought by competing applicants on a route that has limited capacity but there is no opposing submission, only the 'reasonable capability criterion' is expected to be applied by the Commission. In all other cases, the Commission may also apply any of the additional criteria it considers to be relevant.

Renewal of determination

In assessing an application for renewal of a determination, the Commission is no longer required to establish in the first instance if the route is in the 'start-up phase'.

In a renewal application, section 14 of the new policy statement affirms the presumption in favour of making the same allocation of capacity to an incumbent carrier as provided under section 8 of the Act. The Commission, however, may refuse to renew an allocation of capacity if it is satisfied that the allocation is no longer of benefit to the public. Where the Commission is considering that the allocation in the original determination is no longer of benefit to the public, the Commission may have regard to a non-exhaustive list, which includes, whether:

- a) the carrier seeking renewal has failed to service the route effectively; and
- b) there are other applications for some or all of the capacity; and
- c) the Commission having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.

Should the Commission be satisfied that allocating the same capacity as the original determination is no longer of benefit to the public, in making a different allocation of capacity, the Commission is expected to apply the reasonable capability criterion in section 8, and any of the additional criteria in section 9 that it considers to be relevant.

Review to vary a determination

The new policy statement clearly distinguishes between the public benefit criteria to be applied for (a) a review due to a transfer application; and (b) a review due to an application other than a transfer application.

If a review stems from an application other than a transfer application, only the 'reasonable capability criterion' will be applied if there are no submissions opposing the variation requested. In all other cases (e.g. a submission is received), the Commission is to have regard to the 'reasonable capability criterion' and may have regard to any of the additional criteria in section 9 that it considers to be relevant.

For all transfer applications²¹, whether or not a submission is received, the Commission is expected to apply the reasonable capability criterion and has the discretion to apply any of the additional criteria in section 9 of the new policy statement that it considers to be relevant.

A majority of the applications for variation of a determination seek the Commission's authorisation to use the allocated capacity for code sharing, joint services or other types of cooperative marketing arrangements with another carrier and as such are transfer applications.

Should the Commission authorise the use of the capacity for joint services (including code sharing), as with paragraph 3.7 of the 2004 policy statement, section 23 of the new policy statement requires the Commission to include a condition requiring the Australian carrier to take reasonable steps to ensure that passengers are informed at the time of booking that one or more other carriers may operate the flight.

If the Commission has initiated a review of a determination on the basis that the carrier has failed to fully utilise the capacity allocation, the Commission may have regard to the criteria in subsection 24(3) which include consideration of whether: (a) there is an application from another carrier for capacity on the route and the unused capacity under review prevents the making of a determination in favour of the competing applicant; (b) there is a seasonal variation in demand on the route in question; (c) the carrier was prevented from fully using the capacity by circumstances not reasonably foreseen; and (d) any other matter that the Commission considers to be relevant.

Schedule 1

Schedule 1 repeals the 2004 policy statement.

Application and transitional provisions

Part 6 of the new policy statement deals with application and transitional provisions.

Any application for allocation of capacity, renewal or variation of a determination received on or after the commencement of the 2018 policy statement on 28 March 2018, will be assessed under the 2018 policy statement.

However, the Commission is to apply the 2004 policy statement when assessing an application received before the commencement of the 2018 Policy Statement (as if the 2004 policy statement had not been repealed).

21 A transfer application is defined in section 4 of the Act as an application for one or both of the following: (a) a variation of the determination in a way that allocates, or has the effect of allocating that capacity to another Australian carrier; (b) a variation of the determination that varies, or has the effect of varying, one or more conditions of a kind referred to in paragraph 15(2)(d), (e) or (f)

In conclusion

The new policy statement gives the Commission a refreshed document with greater clarity. This is particularly valuable in an environment where codeshares, joint ventures, and wholly owned subsidiaries are playing a greater role in the marketing and delivery of airline services to Australians.

Serving applicants and interested parties

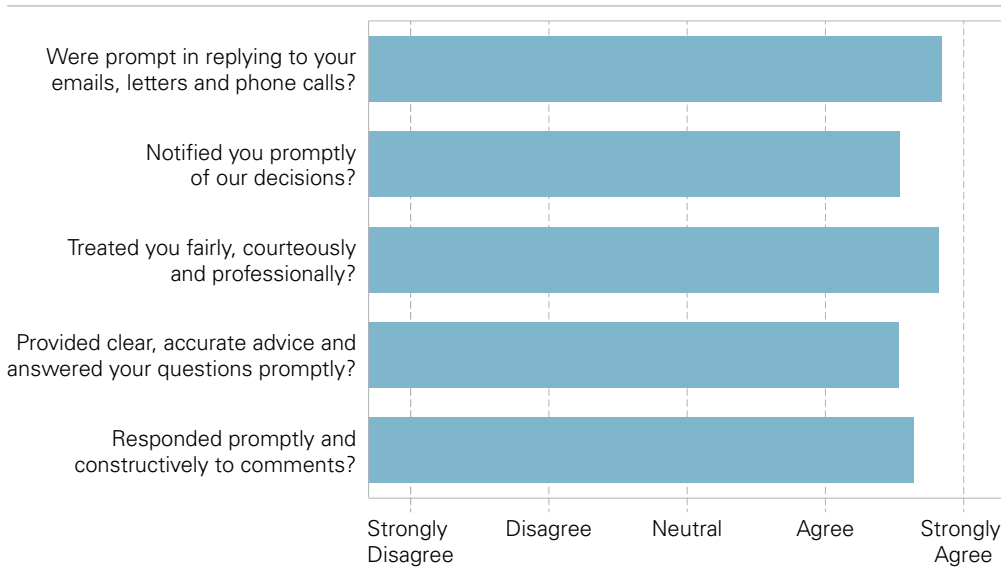
The Commission uses the detailed commitments set out in its service charter as the framework for assessing its service performance. The specific undertakings in the service charter encompass both the ways in which the Commission engages with interested parties and how it makes its decisions. This framework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

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

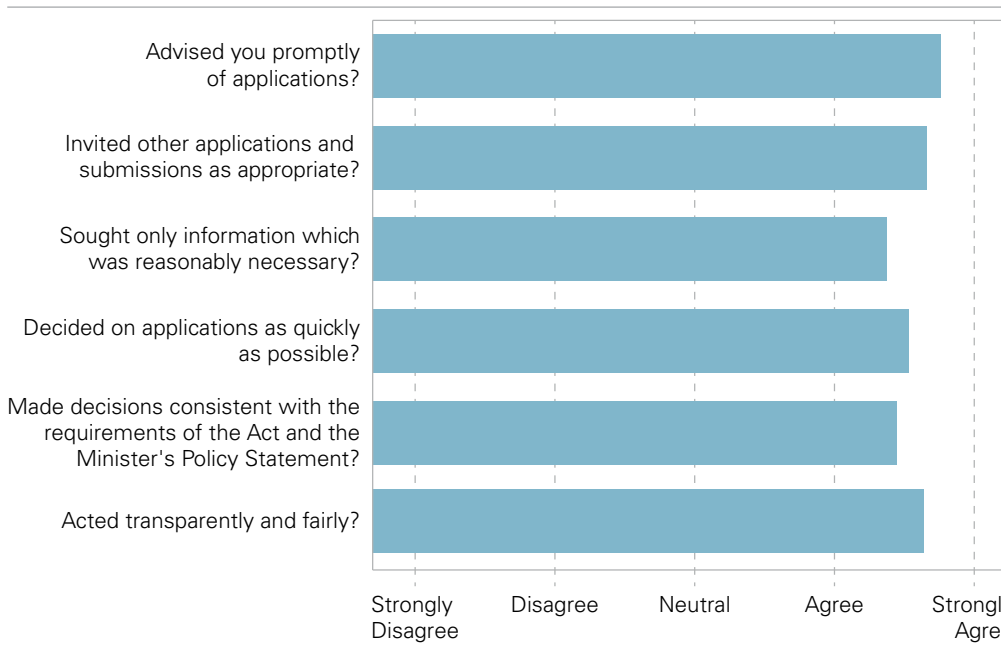
Each year, respondent scores against each criterion are aggregated and averaged. For 2017–18, the Commission's over-all performance was rated above average, which indicates that stakeholders continue to rate the Commission's performance favourably.

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

Dealings with stakeholders - Do you agree that we:



Decision making process - Do you agree that we:



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

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

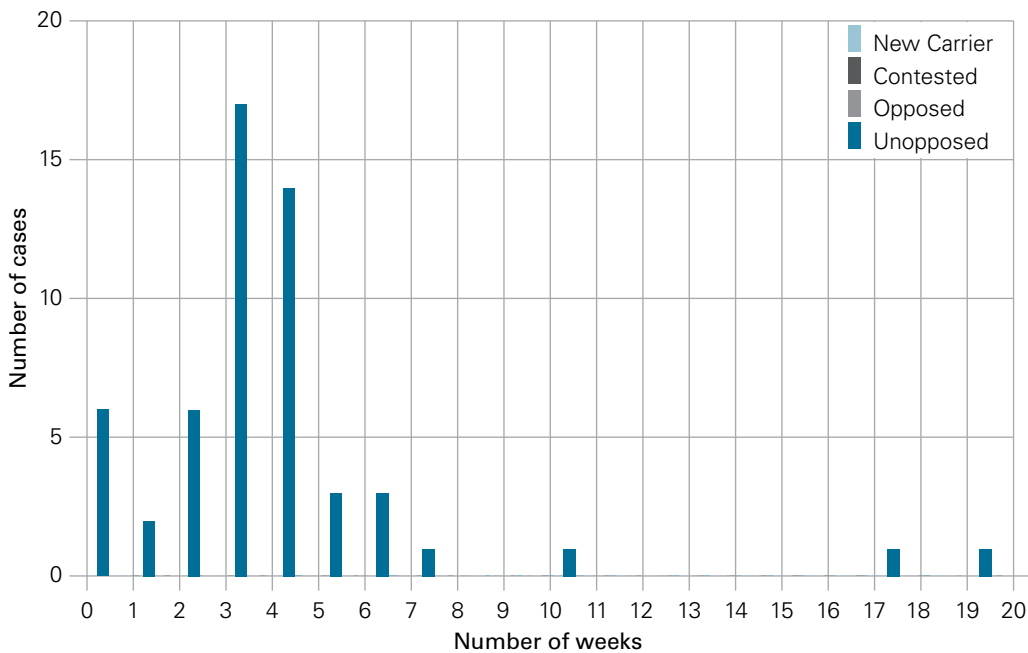
Except for one case concerning code sharing on the Papua New Guinea route, the applications received during the reporting period were uncontested and unopposed. The Commission generally dealt with these straightforward applications within the four-week period. However, decisions on seven applications were delayed to align with the scheduling of Commission meetings.

The Qantas’ application to vary two determinations on the Papua New Guinea route to allow the capacity to be used for code sharing with Air Niugini was opposed by Virgin Australia and generated submissions from various stakeholders. The Commission issued draft decisions for public consultation within the 12-week timeframe for making decisions on opposed matters as set out in the service charter.

Three applications (Qantas on the Fiji and Italy routes; Virgin Australia on the New Zealand route) took between 10 to 19 weeks to complete as the Commission had to await information and documentation from the applicant carriers before decisions could be made.

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

Distribution of decision times by type of case





Efficiency of financial resources

The Commission's budget for the year was \$435,000. These funds were made available from the resources of the Aviation and Airports Division of the Department. The Commission's budget expenditure is mostly attributable to the salaries and superannuation of Secretariat staff and fees paid to Commission members including superannuation. Other expenditures include the Commissioners' expenses in connection with their travel to Canberra to attend meetings and the production of the annual report. Most corporate overheads and property operating expenditures are paid for by the Department, as the Commission is housed in a departmental building.

The Commission's total expenditure for 2017–18 was within the Commission's budget.

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

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

PART 4

Management and accountability

Corporate governance practices

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

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

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

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

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

The Act further provides that the Minister may appoint a person to act as Chairperson or Member of the Commission under certain circumstances.

Section 47 of the Act requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners disclose potential conflict of interests at every Commission meeting.

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

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

External scrutiny

There was no formal external scrutiny of the Commission this year and no determinations or decisions made by it were the subject of judicial (or administrative) review²².

Management of human resources

As at 30 June 2018, the Secretariat was comprised of one full-time Executive Level 2 officer as Executive Director (Ms Marlene Tucker) and one part-time APS 5 officer as Administrative Officer (Ms Anita Robinson). During the reporting period, an external officer (Mr Christopher Samuel) in April-May 2018 acted as Executive Director during Ms Tucker's absence.

22 Decisions made by the Commission are not subject to merits review by the Administrative Appeals Tribunal.

As officers of the Department, Secretariat staff members are subject to the Australian Public Service Values and Code of Conduct and all other relevant public service terms and conditions.

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

Asset management

Asset management is not a prominent aspect of the business of the Commission and is managed in accordance with Departmental policies and procedures.

Purchasing

The Commission made no significant purchases during the year.

Consultants, contractors and competitive tendering

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

PART 5

Financial report as at 30 June 2018

	(1)	(2)	(3)	(4)
	2017–18 Budget \$'000	2017–18 Actual \$'000	Variation (Column 2–1) \$'000	2018–19 Budget \$'000
Salaries / Commissioners' fees	380	405.5	(25.5)	415
Revenue	0	0	0	0
Supplier expenses	55	28.8	26.20	30
TOTAL	435	434.3	(0.7)	435
Holders of public office				3
01/07/2017–31/10/2017	2	2		
01/11/2017–30/06/2018	3	3		
Staff	1.6	1.6		1.6

Explanatory notes

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

The Commission's budget is provided from funds allocated to the Aviation and Airports Division within the Department of Infrastructure, Regional Development and Cities.

The Commission's offices are in a departmental building.

APPENDIX 1

Determinations and Decisions

This table summarises briefly the determinations and decisions issued in 2017–18. A full summary is at Appendix 2. Individual determinations and decisions may be viewed on the Commission's website at <www.iasc.gov.au>.

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
China	Qantas	[2017] IASC 129	07 Dec 17	Unlimited all-cargo frequency and capacity	Renewal of [2007] IASC 110
Cook Islands	Virgin Australia	[2017] IASC 125	17 Oct 17	180 seats	Renewal of [2013] IASC 111
Cook Islands	Virgin Australia	[2018] IASC 103	22 Feb 18	156 seats	New capacity allocation
Fiji	Qantas	[2018] IASC 111	15 Jun 18	258 seats	New capacity allocation
Fiji	Virgin Australia	[2017] IASC 115	10 Aug 17	1,260 seats	Renewal of [2013] IASC 106
Fiji	Virgin Australia	[2017] IASC 116	10 Aug 17	360 seats	Renewal of [2013] IASC 107
Fiji	Virgin Australia	[2017] IASC 126	17 Oct 17	360 seats	Renewal of [2013] IASC 110
Fiji	Virgin Australia	[2018] IASC 102	22 Feb 18	242 seats	New capacity allocation
France	Qantas	[2018] IASC 213	15 Jun 18		Variation of [2016] IASC 108 to permit code share between Qantas and Air France
Hong Kong	Qantas	[2017] IASC 213	31 Aug 17		Variation of [2015] IASC 115 to permit code sharing between Qantas and El Al Airlines
Hong Kong	Qantas	[2017] IASC 218*	09 Nov 17		Variation of [2015] IASC 115 to permit code sharing between Qantas and LATAM Airlines

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

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Hong Kong	Qantas	[2018] IASC 214	15 Jun 18		Variation of [2015] IASC 115 to permit code share between Qantas and Air France
Hong Kong	Virgin Australia	[2018] IASC 205	18 Jan 18		Variation of [2016] IASC 107 to permit code sharing between Virgin Australia and Virgin Atlantic
Hong Kong	Virgin Australia	[2018] IASC 106	16 Mar 18	7 frequencies	New capacity allocation
Indonesia	Qantas	[2017] IASC 122*	22 Sep 17	1,300 seats	New capacity allocation
Indonesia	Qantas	[2017] IASC 130	07 Dec 17	14,468 seats for 3rd and 4th freedom rights and 2,148 seats for beyond traffic rights with 12 frequencies per week, seven of which may be used beyond Indonesia from Denpasar	Renewal of [2013] IASC 115
Indonesia	Qantas	[2018] IASC 104	22 Feb 18	1,260 seats	New capacity allocation
Indonesia	Virgin Australia	[2017] IASC 132	07 Dec 17	1,980 seats	Renewal of [2013] IASC 132
Indonesia	Virgin Australia	[2017] IASC 133	07 Dec 17	1,260 seats	Renewal of [2013] IASC 117
Indonesia	Virgin Australia	[2018] IASC 201	03 Jan 18	Reduced capacity by 1,288 seats per week, leaving 692 seats	Variation of [2013] IASC 116 and [2017] IASC 132 to reduce capacity
Indonesia	Virgin Australia	[2018] IASC 105	16 Mar 18	720 seats	Renewal of [2013] IASC 127
Indonesia	Virgin Australia	[2018] IASC 108	15 Jun 18	unrestricted passenger capacity between points in Australia except Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2013] IASC 131
Indonesia	Virgin Australia	[2018] IASC 110	15 Jun 18	1,080 seats	Renewal of [2013] IASC 130
Italy	Qantas	[2017] IASC 118	31 Aug 17	300 third country code share seats	New capacity allocation
Italy	Qantas	[2018] IASC 202*	18 Jan 18		Variation of [2013] IASC 119 permitting Qantas to code share with British Airways

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

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Italy	Qantas	[2018] IASC 203*	18 Jan 18		Variation of [2014] IASC 109 permitting Qantas to code share with British Airways
Italy	Qantas	[2018] IASC 204*	02 Mar 18		Variation of [2017] IASC 118 permitting Qantas to code share with British Airways
Italy	Qantas	[2018] IASC 101*	02 Mar 18	300 third country code share seats averaged over 12 months	Renewal of [2013] IASC 119
Italy	Virgin Australia	[2017] IASC 119	10 Aug 17	300 third country code share seats	New capacity allocation
Japan	Qantas	[2017] IASC 217	04 Sep 17		Variation of [2012] IASC 102 to permit code sharing between Jetstar and Japan Airlines
Korea	Virgin Australia	[2018] IASC 107*	10 Apr 18	1,000 seats	Renewal of [2014] IASC 104
New Zealand	Qantas	[2017] IASC 220	07 Dec 17		Variation of [2014] IASC 102 to permit code share between Qantas and SriLankan Airlines
New Zealand	Qantas	[2018] IASC 212	08 May 18		Variation of [2014] IASC 102 to permit code share between Qantas and China Airlines
New Zealand	Virgin Australia	[2017] IASC 113	10 Aug 17	Unlimited passenger and freight capacity	Renewal of [2007] IASC 118
New Zealand	Virgin Australia	[2018] IASC 208*	02 Feb 18		Variation of [2007] IASC 118 to permit code share between Virgin Australia and Hainan Airlines
New Zealand	Virgin Australia	[2018] IASC 209*	02 Feb 18		Variation of [2017] IASC 113 to permit code share between Virgin Australia and Hainan Airlines
Papua New Guinea	Virgin Australia	[2018] IASC 109	15 Jun 18	160 seats	Renewal of [2014] IASC 108
Samoa	Virgin Australia	[2017] IASC 120*	10 Aug 17	880 seats	New capacity allocation
Singapore	Qantas	[2017] IASC 219*	09 Nov 17		Variation of [2007] IASC 116 to permit code share between Qantas and LATAM Airlines

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

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Singapore	Qantas	[2017] IASC 131	07 Dec 17	Unlimited passenger capacity and frequency	Renewal of [2007] IASC 116
Singapore	Qantas	[2018] IASC 215	15 Jun 18		Variation of [2007] IASC 116 to permit code share between Qantas and Air France
Singapore	Qantas	[2018] IASC 216	15 Jun 18		Variation of [2017] IASC 131 to permit code share between Qantas and Air France
South Africa	Qantas	[2017] IASC 215	31 Aug 17		Variation of [2012] IASC 106 to permit code sharing between Qantas and El Al Airlines
South Africa	Qantas	[2017] IASC 216	31 Aug 17		Variation of [2017] IASC 102 to permit code sharing between Qantas and El Al Airlines
Thailand	Qantas	[2017] IASC 214	31 Aug 17		Variation of [2017] IASC 108 to permit code sharing between Qantas and El Al Airlines
Thailand	Qantas	[2017] IASC 123	04 Oct 17	Unlimited all-cargo capacity	Renewal of [2008] IASC 119
Tonga	Virgin Australia	[2017] IASC 127	17 Oct 17	180 seats	Renewal of [2013] IASC 113
United Arab Emirates	Qantas	[2018] IASC 217	15 Jun 18	Returned 14 weekly frequencies	Revocation of [2016] IASC 113
United States	Virgin Australia	[2017] IASC 114	10 Aug 17	Unlimited passenger and freight capacity	Renewal of [2008] IASC 110
United States	Virgin Australia	[2018] IASC 206	18 Jan 18		Variation of [2008] IASC 110 to permit code share with Virgin Atlantic
United States	Virgin Australia	[2018] IASC 207	18 Jan 18		Variation of [2017] IASC 114 to permit code share with Virgin Atlantic
Vanuatu	Virgin Australia	[2017] IASC 117	10 Aug 17	720 seats	Renewal of [2013] IASC 108
Vanuatu	Virgin Australia	[2017] IASC 121	10 Aug 17	180 seats	Renewal of [2013] IASC 109

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

This appendix provides a summary of the Commission's determinations and decisions for 2017–18. Full determinations and decisions can be viewed on the Commission's website at <www.iasc.gov.au>.

APPENDIX 2

Route-by-route summary of Commission determinations and decisions in 2017–18

China

Upon the application of Qantas, the Commission issued, on 7 December 2017, **Determination [2017] IASC 129**, which renewed [2007] IASC 110, allocating unlimited frequency, capacity or aircraft type to operate dedicated cargo services on the China route. The determination is valid for 10 years from 24 October 2018.



Cook Islands

Upon the application of Virgin Australia, the Commission issued, on 17 October 2017, **Determination [2017] IASC 125**, which renewed [2013] IASC 111, allocating 180 seats of capacity in each direction on the Cook Islands route. The determination is valid for five years from 12 September 2018.



Upon the application of Virgin Australia, the Commission issued, on 22 February 2018, **Determination [2018] IASC 103**, allocating 156 seats per week in each direction on the Cook Islands route. The determination is valid for five years from 22 February 2018.

Fiji

Upon the application of Qantas, the Commission issued, on 15 June 2018, **Determination [2018] IASC 111**, allocating 258 seats per week in each direction on the Fiji route. The determination is valid for five years from 15 June 2018.



Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 115**, which renewed [2013] IASC 106, allocating 1,260 seats of capacity in each direction on the Fiji route. The determination is valid for five years from 10 July 2018.



Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 116**, which renewed [2013] IASC 107, allocating 360 seats of capacity per week in each direction on the Fiji route. The determination is valid for five years from 1 August 2018.



Upon the application of Virgin Australia, the Commission issued, on 17 October 2017, **Determination [2017] IASC 126**, which renewed [2013] IASC 110, allocating 360 seats of capacity per week in each direction on the Fiji route. The determination is valid for five years from 17 September 2018.



Upon the application of Virgin Australia, the Commission issued, on 22 February 2018, **Determination [2018] IASC 102**, allocating 242 seats per week in each direction on the Fiji route. The determination is valid for five years from 22 February 2018.

France

Upon the application of Qantas, the Commission issued, on 15 June 2018, **Decision [2018] IASC 213**, varying Determination [2016] IASC 108 to permit the use of capacity allocated on the France route for code sharing between Qantas and Air France. The permission is valid for the duration of the determination commencing from 15 June 2018.

Hong Kong

Upon the application of Qantas, the Commission issued, on 31 August 2017, **Decision [2017] IASC 213**, varying Determination [2015] IASC 115 to permit the use of capacity allocated on the Hong Kong route for code sharing between Qantas and El Al Airlines. The permission is valid for the duration of the determination commencing from 31 August 2017.



Upon the application of Qantas, the delegate of the Commission issued, on 9 November 2017, **Decision [2017] IASC 218***, varying Determination [2015] IASC 115 to permit the use of capacity allocated on the Hong Kong route to be used for code sharing between Qantas and LATLAM. The permission is valid for the duration of the determination commencing from 9 November 2017.



Upon the application of Qantas, the Commission issued, on 15 June 2018, **Decision [2018] IASC 214**, varying Determination [2015] IASC 115 to permit the use of capacity allocated on the Hong Kong route for code sharing between Qantas and Air France. The permission is valid for the duration of the determination commencing from 15 June 2018.



Upon the application of Virgin Australia, the Commission issued, on 18 January 2018, **Decision [2018] IASC 205**, varying Determination [2016] IASC 107 to permit the use of capacity allocated on the Hong Kong route for code sharing between Virgin Australia and Virgin Atlantic. The permission is valid for the duration of the determination commencing from 18 January 2018.



Upon the application of Virgin Australia, the Commission issued, on 15 March 2018, **Determination [2018] IASC 106**, allocating seven frequencies per week in each direction on the Hong Kong route. The determination is valid for five years from 15 March 2018.

Indonesia

Upon the application of Qantas, the delegate of the Commission issued, on 22 September 2017, **Determination [2017] IASC 122***, allocating 1,300 seats per week in each direction on the Indonesia route. The determination is valid for five years from 22 September 2017.



Upon the application of Qantas, the Commission issued, on 7 December 2017, **Determination [2017] IASC 130**, which renewed [2013] IASC 115, allocating 14,468 seats per week for the exercise of third and fourth freedom rights on the Indonesia route and 2,148 seats for the exercise of beyond traffic rights with 12 frequencies per week, seven of which may be used beyond Indonesia from Denpasar. The new determination is valid for five years from 25 October 2018.



Upon the application of Qantas, the Commission's delegate issued, on 22 February 2018, **Determination [2017] IASC 122***, allocating 1,260 seats per week in each direction on the Indonesia route. The determination is valid for five years from 22 February 2018.



Upon the application of Virgin Australia, the Commission issued, on 7 December 2017, **Determination [2017] IASC 132**, which renewed [2013] IASC 132, allocating 1,980 seats of capacity per week in each direction on the Indonesia route. The determination is valid for five years from 7 December 2017.



Upon the application of Virgin Australia, the Commission issued, on 7 December 2017, **Determination [2017] IASC 133**, which renewed [2013] IASC 117, allocating 1,260 seats of capacity per week in each direction on the Indonesia route. The determination is valid for five years from 25 October 2018.



Upon the application of Virgin Australia, the Commission issued, on 2 January 2018, **Decision [2018] IASC 201**, varying Determinations [2013] IASC 116 and [2017] IASC 132 to reduce the capacity allocated by 1,288 seats per week, leaving 692 seats per week under the determinations.



Upon the application of Virgin Australia, the Commission issued, on 16 March 2018, **Determination [2018] IASC 105**, which renewed [2013] IASC 127, allocating 720 seats of capacity per week in each direction on the Indonesia route. The determination is valid for five years from 25 February 2019.



Upon the application of Virgin Australia, the Commission issued, on 15 June 2018, **Determination [2018] IASC 108**, which renewed [2013] IASC 131, allocating unrestricted passenger capacity between points in Australia, except Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia. The determination is valid for 99 years from 27 May 2019.



Upon the application of Virgin Australia, the Commission issued, on 15 June 2018, **Determination [2018] IASC 108**, which renewed [2013] IASC 130, allocating 1,080 seats of capacity per week in each direction on the Indonesia route. The determination is valid for five years from 11 May 2019.

Italy

Upon the application of Qantas, the Commission issued, on 31 August 2017, **Determination [2017] IASC 118**, allocating 300 third country code share seats per week in each direction on the Italy route. The determination is valid for five years from 31 August 2017.



Upon the application of Qantas, the Commission's delegate issued, on 2 March 2018, **Decision [2018] IASC 202***, varying Determination [2013] IASC 119 to permit the use of capacity allocated on the Italy route for code sharing between Qantas and British Airways. The permission is valid for the duration of the determination commencing from 2 March 2018.



Upon the application of Qantas, the Commission's delegate issued, on 2 March 2018, **Decision [2018] IASC 203***, varying Determination [2013] IASC 109 to permit the use of capacity allocated on the Italy route for code sharing between Qantas and British Airways. The permission is valid for the duration of the determination commencing from 2 March 2018.



Upon the application of Qantas, the Commission's delegate issued, on 2 March 2018, **Decision [2018] IASC 204***, varying Determination [2017] IASC 118 to permit the use of capacity allocated on the Italy route for code sharing between Qantas and British Airways. The permission is valid for the duration of the determination commencing from 2 March 2018.



Upon the application of Qantas, the Commission's delegate issued, on 2 March 2018, **Determination [2018] IASC 101***, which renewed [2013] IASC 119, allocating 300 third country code share seats per week averaged over 12 months on the Italy route. The determination is valid for five years from 8 August 2018.



Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 119**, allocating 300 third country code share seats per week in each direction on the Italy route. The determination is valid for five years from 10 August 2017.

Japan

Upon the application of Qantas, the Commission issued, on 4 September 2017, **Decision [2017] IASC 217**, varying Determination [2012] IASC 102 to permit the use of capacity allocated on the Japan route for code sharing between Jetstar and Japan Airways. The permission is valid for the duration of the determination commencing from 4 September 2017.

Korea

Upon the application of Virgin Australia, the Commission's delegate issued, on 10 April 2018, **Determination [2018] IASC 107***, which renewed [2014] IASC 104, allocating 1,000 seats per week in each direction on the Korea route. The determination is valid for five years from 14 March 2019.

New Zealand

Upon the application of Qantas, the Commission issued, on 7 December 2017, **Decision [2017] IASC 220**, varying Determination [2014] IASC 102 to permit the use of capacity allocated on the New Zealand route for code sharing between Qantas and

SriLankan Airways. The permission is valid for the duration of the determination commencing from 7 December 2017.



Upon the application of Qantas, the Commission issued, on 8 May 2018, **Decision [2018] IASC 212**, varying Determination [2014] IASC 102 to permit the use of capacity allocated on the New Zealand route for code sharing between Qantas and China Airlines. The permission is valid for the duration of the determination commencing from 8 May 2018.



Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 113**, which renewed [2007] IASC 118, allocating unlimited passenger and freight capacity on the New Zealand route. The determination is valid for 10 years from 10 July 2018.



Upon the application of Virgin Australia, the Commission's delegate issued, on 2 February 2018, **Decision [2018] IASC 208***, varying Determination [2007] IASC 118 to permit the use of capacity allocated on the New Zealand route for code sharing between Virgin Australia and Hainan Airlines. The permission is valid for the duration of the determination commencing from 2 February 2018.



Upon the application of Virgin Australia, the Commission's delegate issued, on 2 February 2018, **Decision [2018] IASC 209***, varying Determination [2017] IASC 113 to permit the use of capacity allocated on the New Zealand route for code sharing between Virgin Australia and Hainan Airlines. The permission is valid for the duration of the determination commencing from 2 February 2018.

Papua New Guinea

Upon the application of Virgin Australia, the Commission issued, on 15 June 2018, **Determination [2018] IASC 109**, which renewed [2014] IASC 108, allocating 160 seats per week in each direction on the Papua New Guinea route. The determination is valid for five years from 20 May 2019.

Samoa

Upon the application of Virgin Australia, the Commission's delegate issued, on 10 August 2017, **Determination [2017] IASC 120***, allocating 880 seats per week in each direction on the Samoa route. The determination is valid for five years from 10 August 2017.

Singapore

Upon the application of Qantas, the Commission's delegate issued, on 9 November 2017, **Decision [2017] IASC 219***, varying Determination [2007] IASC 116 to permit the use of capacity allocated on the Singapore route for code sharing between Qantas and LATAM Airlines. The permission is valid for the duration of the determination commencing from 9 November 2017.



Upon the application of Qantas, the Commission issued, on 7 December 2017, **Determination [2017] IASC 131**, which renewed [2007] IASC 116, allocating unlimited capacity and frequency on the Singapore route. The determination is valid for 10 years from 31 October 2018.



Upon the application of Qantas, the Commission issued, on 15 June 2018, **Decision [2018] IASC 215**, varying Determination [2007] IASC 116 to permit the use of capacity allocated on the Singapore route for code sharing between Qantas and Air France. The permission is valid for the duration of the determination commencing from 15 June 2018.



Upon the application of Qantas, the Commission issued, on 15 June 2018, **Decision [2018] IASC 216**, varying Determination [2017] IASC 131 to permit the use of capacity allocated on the Singapore route for code sharing between Qantas and Air France. The permission is valid for the duration of the determination commencing from 15 June 2018.

South Africa

Upon the application of Qantas, the Commission issued, on 31 August 2017, **Decision [2017] IASC 215**, varying Determination [2012] IASC 106 to permit the use of capacity allocated on the South Africa route for code sharing between Qantas and El Al Airlines. The permission is valid for the duration of the determination commencing from 31 August 2017.



Upon the application of Qantas, the Commission issued, on 31 August 2017, **Decision [2017] IASC 216**, varying Determination [2017] IASC 102 to permit the use of capacity allocated on the South Africa route for code sharing between Qantas and El Al Airlines. The permission is valid for the duration of the determination commencing from 31 August 2017.

Thailand

Upon the application of Qantas, the Commission issued, on 31 August 2017, **Decision [2017] IASC 214**, varying Determination [2017] IASC 108 to permit the use of capacity allocated on the Thailand route for code sharing between Qantas and El Al Airlines. The permission is valid for the duration of the determination commencing from 31 August 2017.



Upon the application of Qantas, the Commission issued, on 4 October 2017, **Determination [2017] IASC 123**, which renewed [2008] IASC 119, allocating unlimited all cargo capacity and frequency on the Thailand route. The determination is valid for 10 years from 28 September 2018.

Tonga

Upon the application of Virgin Australia, the Commission issued, on 17 October 2017, **Determination [2017] IASC 127**, which renewed [2013] IASC 113, allocating 180 seats per week in each direction on the Tonga route. The determination is valid for five years from 17 September 2018.

United Arab Emirates

Upon the application of Qantas, the Commission issued, on 15 June 2018, **Decision [2017] IASC 217**, revoking Determination [2016] IASC 217, which allocated 14 frequencies per week in each direction on the United Arab Emirates route.

United States

Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 114**, which renewed [2008] IASC 110, allocating unlimited passenger and cargo capacity on the United States route. The determination is valid for 10 years from 1 August 2018.



Upon the application of Virgin Australia, the Commission issued, on 18 January 2018, **Decision [2018] IASC 206**, varying Determination [2008] IASC 110 to permit the use of capacity allocated on the United States route for code sharing between Virgin Australia and Virgin Atlantic. The permission is valid for the duration of the determination commencing from 18 January 2018.



Upon the application of Virgin Australia, the Commission issued, on 18 January 2018, **Decision [2018] IASC 207**, varying Determination [2017] IASC 114 to permit the use of capacity allocated on the United States route for code sharing between Virgin Australia and Virgin Atlantic. The permission is valid for the duration of the determination commencing from 18 January 2018.

Vanuatu

Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 117**, which renewed [2013] IASC 108, allocating 720 seats per week in each direction on the Vanuatu route. The determination is valid for 10 years from 10 July 2018.



Upon the application of Virgin Australia, the Commission issued, on 10 August 2017, **Determination [2017] IASC 121**, which renewed [2013] IASC 109, allocating 180 seats per week in each direction on the Vanuatu route. The determination is valid for five years from 1 August 2018.

APPENDIX 3

Other information

Occupational health and safety

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

Freedom of information

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

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

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

The Commission received no requests under the FOI Act in 2017–18.



Advertising and market research

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

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

Ecologically sustainable development and environmental performance reporting

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

APPENDIX 4

Freedom of information schedule

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



Photo © Tasman Cargo

Item	Information
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 website. Documents may also be obtained from the Secretariat of the Commission via 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 and How it is organised	<p>The functions of the Commission, as set out in section 6 of the International Air Services Commission Act 1992, are to:</p> <ul style="list-style-type: none"> a) make determinations; b) conduct reviews of those determinations; and c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations <p>The organisation of the Commission is described in Part 2 of this report.</p>
FOI Contact Officer	<p>The Executive Director, and in his/her absence, the Senior Adviser is the Commission's FOI contact officer. Any request or query on FOI matters may be directed to the:</p> <p>International Air Services Commission GPO Box 630 Canberra ACT 2601 Australia Phone: (612) 6267 1100 Email: iasc@infrastructure.gov.au</p>

APPENDIX 5

Commission procedures

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

The Commission's procedures incorporate the following main steps:

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



- ▶ A hearing may be conducted by the Commission if further information is needed to establish the nature and extent of a proposal's public benefit and, in the case of two or more competing applications, decide which application would be of the greatest benefit to the public.
- ▶ The Commission will publish a draft determination in the case of competing applications or if it is proposed to reject all or part of an application, or where non-standard conditions are being proposed. This provides applicants and other interested parties with an opportunity to comment on the Commission's proposal prior to the issuing of a final determination. In other cases the Commission will proceed directly to a final determination.
- ▶ The Commission regularly updates its procedures. They are available from the Commission's website at <<http://www.iasc.gov.au>>, or upon request to the Commission.

APPENDIX 6

Minister's Policy Statement

NOTE: The following policy statement was issued on 20 March 2018 by the Hon. Michael McCormack, Deputy Prime Minister and Minister for Infrastructure and Transport and it came into force and effect from 28 March 2018.

International Air Services Policy Statement 2018

made pursuant to section 11 of the

International Air Services Commission Act 1992

Part 1—Preliminary

1 Name

This instrument is the International Air Services Commission Policy Statement 2018.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1 The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 11 of the International Air Services Commission Act 1992.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:

- (a) Australian carrier;
- (b) available capacity;
- (c) bilateral arrangement;
- (d) capacity;
- (e) code sharing;
- (f) Commission;
- (g) determination;
- (h) interim determination;
- (i) joint international air services;
- (j) transfer application.

In this instrument:

ACCC means the Australian Competition and Consumer Commission.

Act means the International Air Services Commission Act 1992.

additional criteria: see section 9.

applicant means an Australian carrier that has applied to the Commission for a determination allocating capacity, or for the renewal or review of such a determination.

reasonable capability criterion: see section 8.

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

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Object

- (1) This instrument is a policy statement intended to provide guidance about the way in which the Commission is to perform its functions.
- (2) The Commission is to perform its functions in a way that will achieve the object of the Act (that is, to promote economic efficiency through competition in the provision of international air services) by fostering, encouraging and supporting competition in the provision of international air services by Australian carriers.

Part 2—Criteria for assessing benefit to the public

7 Explanatory outline of this Part

The Act requires the Commission to assess the **benefit to the public** of allocations of capacity when deciding whether to make, renew or vary a determination. This Part sets out criteria that the Commission is to have regard to in assessing the benefit to the public of allocations of capacity in particular circumstances.

There are two main sets of criteria that the Commission is to have regard to in assessing the benefit to the public: the 'reasonable capability criterion' and the 'additional criteria'. When and how the Commission is to have regard to the criteria is set out in Part 3.

In certain circumstances specified in Part 3, the Commission is to have regard to other criteria which are not set out in this Part. These include, for example, the matters referred to in paragraph 18(2)(b) or subsection 16(2) of this instrument.

The criteria set out in this Part apply equally in assessing the benefit to the public of allocations to be exercised through own aircraft operations, code share arrangements and other joint international air services.

8 Reasonable capability criterion

Reasonable capability criterion means the extent to which all Australian carriers that are, or would be, permitted to use the capacity allocated under a determination are reasonably capable of:

- (a) obtaining any licences, permits or other approvals required to operate on and service the route to which the determination relates; and
- (b) using the capacity allocated under the determination.

Note: To avoid doubt, this criterion relates to all carriers that are, or would be, permitted to use the capacity allocated under a determination, including all carriers that would be entitled to use the capacity because of a condition imposed by the Commission pursuant to paragraph 15(2)(ea) of the Act.

9 Additional criteria

Additional criteria means the following criteria:

Competition criteria

- (a) the desirability of fostering an environment in which Australian carriers can effectively compete with each other and with foreign carriers on the route in question;
- (b) the number of carriers operating on the route in question and the existing distribution of capacity among Australian carriers (including through code sharing and other joint international air services);

- (c) the likely impact on consumers of the proposed allocation, including on costs of airfares, customer choice, product differentiation, stimulation of innovation by incumbent carriers, and frequency of service;
- (d) the desirability of fostering own aircraft operations by Australian carriers over code share or other joint international air services involving the marketing, by an Australian carrier, of seats on flights operated by foreign carriers;
- (e) the benefits presented by allocating the capacity to a given applicant over other competing applicants, having regard to any commercial arrangements that may be in place with other carriers;
- (f) any determinations, decisions or notifications made by the ACCC, or any determinations made by the Australian Competition Tribunal, in relation to an Australian carrier using capacity in all or part of the route;
- (g) any determinations, decisions or notifications made by a foreign agency that performs a comparable function to the ACCC or the Australian Competition Tribunal, or by a foreign aeronautical authority, in relation to a carrier using entitlements under a bilateral arrangement on all or part of the route;

Tourism and trade criteria

- (h) the level of promotion, market development and investment proposed by each of the applicants;
- (i) route service possibilities to and from points beyond Australian or foreign gateways;
- (j) the availability of frequent, low cost, reliable air freight movements for Australian importers and exporters;

Relevant information obtained from Government agencies

- (k) any information that the Commission has obtained from Australian Government agencies or statutory authorities that the Commission considers to be relevant;

Any other relevant consideration

- (l) any other matter or consideration that the Commission considers to be relevant.

Part 3—How the Commission is to assess benefit to the public

Division 1—Outline

10 Explanatory outline of this Part

This Part sets out how the Commission is to assess the benefit to the public of allocations of capacity in particular circumstances.

There are broadly 3 types of decision that the Commission can make under the Act:

- ▶ Making a determination allocating available capacity (see section 7 and Division 1 of Part 3 of the Act);
- ▶ Renewing a determination by making a fresh determination (see section 8 and Division 2 of Part 3 of the Act);
- ▶ Varying a determination (see section 10 and Division 3 of Part 3 of the Act).

Depending on which type of decision is being made, and the circumstances of the decision, the Commission is to apply the criteria set out in Part 2, and certain criteria specified in this Part, differently.

Division 2 sets out the criteria applicable where the Commission is proposing to make a determination that allocates available capacity under section 7 of the Act:

- ▶ Where there is unlimited available capacity, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (section 11);
- ▶ Where there is sufficient available capacity for all applications and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 12(2));
- ▶ However, where the Commission receives one or more adverse submissions, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 12(3));
- ▶ In all other cases, the Commission is to have regard to the reasonable capability criterion and to relevant additional criteria (section 13).

Division 3 sets out the criteria applicable where the Commission is considering renewing a determination that allocates capacity under section 8 of the Act:

- ▶ Paragraph 8(2)(a) of the Act provides a presumption in favour of renewing a determination. However, the Commission may decline to do so if it is satisfied that the determination is no longer of benefit to the public. In deciding this, the Commission is to have regard to the matters set out in section 14 of this instrument;
- ▶ If the Commission declines to renew a determination, it may make a different determination. In doing so, it is to have regard to the reasonable capability criterion and to relevant additional criteria (section 15).

Division 4 sets out the criteria applicable where the Commission is considering whether to vary a determination in a way that varies, or has the effect of varying, an allocation of capacity:

- ▶ If the Commission has initiated the review, and the reason for variation relates to the condition that allocated capacity be fully used, the Commission is to have regard to the criteria set out in paragraphs 24(3)(a)-(d) and need not have regard to any other matter (subsection 16(2));
- ▶ If the Commission has initiated the review for any other reason, and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 16(3));
- ▶ In all other cases where the Commission has initiated the review, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 16(4));
- ▶ If the carrier has applied for a variation, and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 17(2));
- ▶ In all other cases where the carrier has applied for a variation, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 17(3));
- ▶ Where a carrier has submitted a transfer application, the Commission is to have regard to the reasonable capability criterion and to the matters set out in paragraph 18(2)(b) (as relevant), and may have regard to relevant additional criteria (section 18).

The provisions in this Part apply equally in assessing the benefit to the public of allocations to be exercised through own aircraft operations, code share arrangements and other joint international air services.

Division 2—Determinations allocating capacity

11 Available capacity not limited

- (1) This section applies where the Commission proposes to make a determination allocating available capacity on a route under section 7 of the Act, and available capacity on the route is not limited under the relevant bilateral arrangement.
- (2) In assessing the benefit to the public of the allocation of available capacity under the proposed determination, the Commission:
 - (a) have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.

12 One or more applicants and sufficient available capacity

- (1) This section applies where:
 - (a) the Commission has received one or more applications for determinations allocating available capacity on a route under section 7 of the Act; and
 - (b) there is sufficient available capacity on the route for the Commission to make the determinations sought in all of the applications; and
 - (c) section 11 of this instrument does not apply.
- (2) If the Commission does not receive any submissions:
 - (a) opposing the allocation of the capacity under any of the determinations sought in the applications; or
 - (b) requesting or opposing the inclusion of a specified condition in any of the determinations;then, in assessing the benefit to the public of an allocation of available capacity under the determinations, the Commission:
 - (c) is to have regard to the reasonable capability criterion; and
 - (d) need not have regard to any other matter.
- (3) In all other cases, in assessing the benefit to the public of an allocation of available capacity under a proposed determination, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

13 All other cases (including two or more applicants and insufficient capacity)

- (1) This section applies where:
 - (a) the Commission proposes to make a determination allocating available capacity on a route under section 7 of the Act; and
 - (b) sections 11 and 12 of this instrument do not apply.

Note: For example, this section will apply where the Commission has received two or more applications for determinations allocating available capacity under section 7 of the Act, and there is insufficient available capacity for the Commission to make the determinations sought in all of the applications.

- (2) In assessing the benefit to the public of an allocation of capacity under a proposed determination, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to any of the additional criteria that it considers to be relevant.

Division 3—Renewal of determinations

14 Presumption in favour of making the same allocation of capacity

- (1) This section applies where:
 - (a) the Commission is proposing, while a determination is in force, to make a fresh determination allocating the capacity to which the original determination relates under section 8 of the Act; and
 - (b) the Commission is considering whether the allocation of capacity in the original determination is no longer of benefit to the public for the purpose of subparagraph 8(2)(a)(i) of the Act.
- (2) Without limiting the matters to which the Commission may have regard, an allocation is generally no longer of benefit to the public if:
 - (a) the carrier seeking renewal has failed to service the route effectively; and
 - (b) there are other applications for some or all of the capacity; and
 - (c) the Commission, having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.

Note: In accordance with paragraph 8(2)(a) of the Act, the Commission must make the same allocation of capacity as the original determination unless it is satisfied that the allocation is no longer of benefit to the public. This operates as a presumption in favour of the incumbent carrier.

15 Making a different allocation of capacity

- (1) This section applies where, in the course of considering the renewal of a determination, the Commission is satisfied, for the purposes of subparagraph 8(2)(a)(i) of the Act, that the allocation of capacity in the original determination is no longer of benefit to the public.
- (2) In assessing whether an allocation of capacity made by a fresh determination is of benefit to the public for the purpose of subsection 8(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to any of the additional criteria that it considers to be relevant.

Division 4—Review of determinations

16 Variations on review for cause

- (1) This section applies where:
 - (a) the Commission has conducted a review for cause in relation to a determination pursuant to section 10 of the Act; and
 - (b) the Commission is considering making a decision to vary the determination under paragraph 23(1)(b) of the Act in a way that varies, or has the effect of varying, an allocation of capacity.
- (2) If the grounds on which the review was initiated relate to a condition imposed under paragraph 15(2)(c) of the Act, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) may have regard to the criteria set out in paragraphs 24(3)(a) to (d) of this instrument; and
 - (b) need not have regard to any other matter.

Note: Paragraph 15(2)(c) of the Act allows for the imposition of a condition that capacity be fully used.

- (3) If the review was initiated on any other grounds, and the Commission does not receive submissions opposing the variation being considered by the Commission, then in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.
- (4) In all other cases, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

17 Variations on application

- (1) This section applies where:
 - (a) the Commission has conducted a review to decide an application (other than a transfer application) for a determination to be varied; and
 - (b) the Commission is considering making a decision to vary the determination under paragraph 24(1)(b) of the Act in a way that varies, or has the effect of varying, an allocation of capacity.

- (2) If the Commission does not receive submissions opposing the variation requested in the application then, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 24(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.
- (3) In all other cases, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 24(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

18 Transfer applications

- (1) This section applies where:
 - (a) the Commission has conducted a review to decide a transfer application; and
 - (b) the Commission is considering making a decision to vary the determination concerned in a way that gives effect to the variation requested in the transfer application; and
 - (c) the Commission's decision to vary the determination would vary, or have the effect of varying, an allocation of capacity.
- (2) In assessing whether the allocation, as so varied, would not be of benefit to the public for the purpose of subsection 25(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to the following matters to the extent that they are relevant to the variation under consideration:
 - (i) the undesirability of approving a transfer where doing so will, or is reasonably likely to, permit or encourage any form of speculative activity, including trading in capacity allocations for commercial benefit;
 - (ii) the undesirability, other than in exceptional cases, of approving a transfer application made by a carrier that has never exercised an allocation, or has only exercised an allocation for a period of less than six months; and
 - (c) may have regard to any of the additional criteria that it considers to be relevant.

Part 4—Duration and types of determinations

19 Explanatory outline of this part

This Part sets out how the Commission is to fix the periods during which determinations are to be in force, and in what circumstances the Commission should make interim determinations.

20 Fixing periods during which determinations to be in force

- (1) This section sets out how the Commission is to fix the period during which a determination is to be in force.
- (2) If a determination would allocate capacity on a route where capacity is not limited under the relevant bilateral arrangement, the period during which the determination is to be in force should be fixed at 99 years.
- (3) If a determination relates to an application in which a carrier has requested that the period during which the determination is to be in force be fixed at:
 - (a) if the determination is an interim determination—less than 3 years; or
 - (b) if the determination is not an interim determination—less than 5 years;the period during which the determination is to be in force should be fixed at the period requested in the carrier's application.
- (4) In all other cases, the period during which a determination is to be in force should be fixed at:
 - (c) if the determination is an interim determination—3 years; or
 - (d) if the determination is not an interim determination—5 years.

21 Interim determinations to be made only in exceptional circumstances

The Commission should make interim determinations only in exceptional circumstances.

Part 5—Inclusion, variation and revocation of conditions in determinations

22 Explanatory outline of this part

This Part sets out matters relating to the inclusion of conditions in determinations, and the variation or revocation of such conditions.

Section 23 deals with additional conditions the Commission should include in a determination if it intends to include a condition that allows joint international air services.

Section 24 deals with how the Commission should impose conditions relating to the full use of capacity, and how the Commission should proceed if it has undertaken a review of a determination on the grounds that an Australian carrier has not complied with such a condition.

23 Conditions relating to joint international air services

If the Commission intends to include a condition in a determination that allows joint international air services pursuant to paragraph 15(2)(e) of the Act, the Commission should also include a condition requiring the Australian carrier to take reasonable steps to ensure that passengers are informed at the time of booking that one or more other carriers may operate the flight.

24 Conditions relating to the full use of capacity

- (1) For the purpose of specifying a period during which capacity need not be fully used pursuant to subparagraph 15(2)(c)(i) of the Act, the Commission:
 - (a) should specify as short a period as is reasonably possible, having regard to the full range of things necessary to be done by the Australian carrier in order to commence operating under the determination; and
 - (b) should not specify a period of more than two years other than in exceptional circumstances.
- (2) Where the Commission has commenced a review process under sections 10 and 23 of the Act because an Australian carrier has not complied with a condition that capacity be fully used, the Commission may have regard to the criteria set out in subsection (3) for the following purposes:
 - (a) deciding whether to confirm, vary, suspend or revoke the determination under subsection 23(1) of the Act;
 - (b) assessing whether the allocation, as varied, is of benefit to the public under subsection 23(3) of the Act, in accordance with subsection 16(2) of this instrument.

- (3) The criteria which the Commission may have regard to for the purposes specified in subsection (2) are:
- (a) whether, at the time of the review, there exists an application from another Australian carrier for an allocation of capacity on the route, and the unused portion of the capacity allocated under the reviewed determination prevents the making of a determination in favour of the competing applicant; and
 - (b) whether there is seasonal variation in demand on the route in question; and
 - (c) whether the carrier was prevented from fully using the capacity by circumstances that could not reasonably have been foreseen; and
 - (d) any other matter that the Commission considers to be relevant.

Part 6—Application and Transitional provisions

25 Explanatory outline of this part

This Part sets out application and transitional provisions.

Section 26 deals with the application of this instrument and sets out transitional provisions relating to applications received by the Commission prior to the commencement of this instrument.

26 Application and transitional provisions

- (1) The Commission is to apply this instrument in deciding:
- (a) an application for a determination allocating capacity; or
 - (b) an application for renewal of a determination; or
 - (c) an application for variation of a determination;

that is received by the Commission on or after the commencement of this instrument.

- (2) Despite the repeal of the International Air Services Policy Statement No.5 by Schedule 1, the Commission is to apply that Policy Statement in deciding

- (a) an application for a determination allocating capacity; or
- (b) an application for renewal of a determination; or
- (c) an application for variation of a determination;

that is received by the Commission before the commencement of this instrument as if that repeal had not happened.

Schedule 1—Repeals

International Air Services Policy Statement No.5

- 1 The whole of the instrument

Repeal the instrument. Appendix 7



APPENDIX 7

Service Charter

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

From the Chairperson

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

Dr Ian Douglas

Chairperson

About the Commission

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

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

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

Making an application

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

Our clients

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

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

Our services to you

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

In our dealings with you, we will

- ▶ act with as little formality as possible;
- ▶ treat you courteously and professionally;
- ▶ provide you with clear and accurate advice;
- ▶ include contact names and phone numbers in our correspondence;
- ▶ answer phone calls promptly by name or return any missed calls within one working day if you leave a message;
- ▶ reply to your emails within two working days;
- ▶ reply to your letters within ten working days; and
- ▶ respond constructively to your suggestions for improving our service.

In our decision-making processes, we will

- ▶ notify you within five working days of receiving an application for capacity;
- ▶ follow our published procedures for handling applications – the procedures are on our website or we will post, email or fax them to you upon request;
- ▶ seek only information that we consider is reasonably necessary for us to best carry out our functions;

- ▶ protect information you provide to us in confidence (although we prefer to keep confidential information to a minimum to ensure transparent decision making);
- ▶ make our decisions consistent with the requirements of the Act and the Minister's policy statement;
- ▶ make decisions about uncontested applications within four weeks of receipt and contested or opposed applications within twelve weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this;
- ▶ finalise the renewal of existing determinations quickly and, in the case of contested renewals, at least six months prior to the expiry date, circumstances permitting; and
- ▶ notify applicants by email within one working day of a decision being made, and other interested parties by email and on our website as soon as practicable thereafter.

What we ask of you

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

Accessibility

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

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

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

Feedback and improving our service

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



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

Making a complaint

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

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

Review

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

Contact details

International Air Services Commission

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

APPENDIX 8

Commission office holders since 1992

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

Chairs	Period
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 November 2009
Philippa Stone and Ian Smith (Members presiding at alternate meetings)	November 2009 to June 2010
Ian Smith and Stephen Bartos (Members presiding at alternate meetings)	July 2010 to February 2011
Jill Walker	9 February 2011 to 11 August 2014
Ian Douglas and John King (Members presiding at alternate meetings)	August 2014 to November 2015
Ian Douglas (Acting)	8 November 2015 to May 2016
Ian Douglas	5 May 2016 to present

Members	Period
Brian Johns	July 1992 to June 1997
Russell Miller	July 1992 to June 1998
Michael Lawriwsky	December 1997 to February 2007
Stephen Lonergan	August 1998 to August 2004
Vanessa Fanning	November 2004 to November 2007
Philippa Stone	July 2007 to July 2010
Ian Smith	November 2007 to February 2011
Stephen Bartos	1 July 2010 to 30 June 2013
Ian Douglas	8 November 2012 to present
John King	1 July 2013 to 31 December 2016
Jan Harris	24 November 2016 to present
Karen Gosling	1 November 2017 to present

APPENDIX 9

Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act 1992</i> , as amended.
Air services arrangement	is a set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier	means a person who 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.
BITRE	means Bureau of Infrastructure, Transport and Regional Economics.

Blocked space	a form of code sharing involving one airline purchasing a “block” of seats on another airline’s services, which it is then able to sell to the travelling public.
Capacity	is an amount of space available on an aircraft for the carriage of passengers and/or freight. It may be expressed within air services arrangements in various ways, such as in number of seats, units of capacity, or frequency of service, usually per week, in each direction on a route.
Code sharing	is a form of joint service between two carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.
Commission	means the International Air Services Commission, established by section 6 of the Act.
Commissioner	means a member of the Commission including the Chairperson.
Consolidation of determinations	means the process of consolidating into one determination the capacity entitlements of an Australian carrier originally issued in separate determinations.
Contested application	involves two or more applicants seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Determination	allocates capacity to an Australian carrier, usually for a period of five years, but in some cases for 99 years (an interim determination), or for 99 years (where capacity is not limited under the air services arrangements in question).
Department	means the Department of Infrastructure and Regional Development.
Free-sale	a form of code sharing involving one airline selling seats on another airline’s services and paying that other airline an agreed amount for the number of seats actually sold.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Gulf carriers	refers to Emirates Airline, Etihad Airways and Qatar Airways
Hand-back	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
IASC	means the International Air Services Commission, established by section 6 of the Act.

IATA	means International Air Transport Association.
Interim determination	is a determination that is in force for three years, rather than the five (or in some cases 10) years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that usually attaches to a standard determination at the renewal stage.
Jetstar	means Jetstar Airways Pty Ltd.
Joint service	an arrangement entered into by an Australian carrier with another carrier to operate services on a joint basis. It may take different forms such as one or more of code sharing, joint pricing, or revenue and/or cost sharing or pooling. Australian carriers must receive approval from the Commission before using allocated capacity in joint services.
Member	means a member of the Commission.
Minister's policy statement	is a written instrument made by the then Minister for Transport and Regional Services on 20 March 2018 under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
Opposed application	a situation in which an interested party makes a submission arguing that an application from a carrier should not be granted by the Commission.
Pacific Air Express	means Pacific Air Express (Australia) Pty Ltd.
Qantas	Qantas Airways Limited
Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Register of available capacity	sets out the amount of capacity under each of Australia's air services arrangements available for allocation, after deducting any allocations already made by the Commission. The Department maintains the Register and is publicly available on its website.
Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may include updated terms and conditions at the Commission's discretion.



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

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