



Australian Government

International Air Services Commission



ANNUAL REPORT | 2018-19

INTERNATIONAL AIR SERVICES COMMISSION



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A low-angle, aerial view of an airport tarmac. The underside of a large white aircraft is the central focus, with its main landing gear visible. To the right, another aircraft's wing and engine are partially visible. Ground service equipment, including a mobile staircases and other vehicles, are positioned around the aircraft. The tarmac is paved with asphalt and has a yellow diagonal line. The sky is blue with some clouds. A large blue diagonal graphic element is on the left side of the image.

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INTERNATIONAL AIR SERVICES COMMISSION

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

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International Air Services Commission

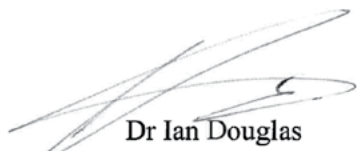
The Hon Michael McCormack MP
Minister for Infrastructure and Transport
Parliament House
The Hon Michael McCormack MP
Deputy Prime Minister and
Minister for Infrastructure, Transport and Regional Development
Parliament House
CANBERRA ACT 2600

Dear Deputy Prime Minister

We are pleased to submit the twenty-seventh Annual Report of the International Air Services Commission, for the year ended 30 June 2019.

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

Yours sincerely



Dr Ian Douglas
Chairperson



Jan Harris
Commissioner



Karen Gosling
Commissioner

16 August 2019

The background of the page is a blue-tinted photograph of an airport tarmac. In the center, the tail and rear section of a large commercial aircraft are visible. To the right of the aircraft, there is a ground support vehicle, possibly a belt loader or a similar service vehicle, with a long conveyor belt extending from it. The tarmac surface is visible in the foreground. The overall image has a professional, corporate feel with a monochromatic blue color scheme.

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, Transport 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-seventh 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 Commission remained busy dealing with a total of 75 applications resulting in 32 decisions varying a range of determinations, 26 renewals of capacity allocations, 12 determinations allocating new capacity, three resolutions and one revocation of a determination (at the request of the carrier concerned). While most applications were straightforward, the application by Qantas to code share with Cathay Pacific on the Hong Kong route was more complex and contentious. Several submissions were received, requiring significantly more detailed work by the Commission. At the writing, the Commission was awaiting a further response by Qantas to the consideration of the draft decision.

The Commission held a total of 20 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.

This financial year saw a full year's implementation of the new Policy Statement made by the Minister in March 2018. The Policy Statement sets out the criteria which the Commission is required to apply in assessing the benefit to the public of applications by Australian airlines for allocation of capacity.

International passenger traffic for the year ended April 2019 increased by 4% to 41.9 million passengers. While growth has been constant, March 2019 showed the first year-on-year decrease in international passenger traffic since March 2011. Airline seats operated increased by 2.9% in the year to April 2019, with load factors up by 0.3 percentage points to 79.8%.¹

¹ Information sourced from the Bureau of Infrastructure, Transport and Regional Economics (BITRE)

Looking at calendar year 2018, 63 international scheduled airlines operated to and from Australia, with additional airlines represented through code share arrangements. Of the 63, five operated dedicated freight services. The capacity offered (seats operated) by the international scheduled airlines in 2018 totalled 53.9 million seats, on which 41.6 million passengers were carried.²

Australian designated airlines increased their share of the traffic from 31.5% in 2017 to 32.2% in 2018. Qantas Airways had the largest share of the market in 2018 with 17.1% followed by Jetstar Airways with 8.9%, Singapore Airlines with 8.0%, Emirates with 7.7%, Air New Zealand with 6.6%, and Virgin Australia with 6.2%.³

In financial year 2018–19, the Commission issued 12 determinations allocating new capacity (up from 9 new allocations the previous year) and 26 determinations renewing capacity allocations. Qantas applied for and was issued additional capacity for services to Chile, Cook Islands, Fiji, Indonesia, New Caledonia, Philippines and South Korea. Qantas sought renewal of its capacity allocations on Japan, Indonesia and Singapore in relation to passenger capacity and on China, Singapore and Thailand for all-cargo capacity. Virgin Australia sought the renewal of capacity allocations for operations of scheduled passenger air services to Cook Islands, Fiji, Indonesia, Papua New Guinea, Solomon Islands, South Korea, Tonga, Vanuatu; and for all cargo services, on the New Zealand and USA routes.

The Commission conducted 33 reviews of determinations at the request of the airlines, with 32 reviews resulting in decisions granting the requested variations. An application by Qantas to permit Cathay Pacific to code share on selected flights operated by Qantas on the Australia-Hong Kong route is still under consideration.

The participation of Australian carriers on international air routes out of Australia varies significantly. The China route is largely served by Chinese carriers, and over the last 10 years, the route has seen constant growth. In the 2009 northern summer scheduling period three Chinese carriers (Air China, China Eastern and China Southern) operated on the route. A fourth carrier commenced operations between Chengdu and Melbourne in 2013. In 2019, nine Chinese carriers serve the route, operating from various Chinese cities to various points in Australia, while Qantas continues operations to Shanghai and Beijing. Virgin Australia has been granted capacity by the Commission to operate on the China route, but is yet to commence operations.

Other routes with limited service by Australian carriers include Malaysia, India, Canada, and Korea. In these cases code share agreements, or connectivity at intermediate points support the market presence of Australian carriers.

² Bureau of Infrastructure, Transport and Regional Economics (BITRE) Statistical Report, Aviation International airline activity 2018

³ Bureau of Infrastructure, Transport and Regional Economics (BITRE) Statistical Report, Aviation International airline activity 2018

Appointment matters

On 4 May 2019, I completed my first term as Chair of the Commission and I am pleased to report that the Governor-General extended my appointment for a further period of 12 months.

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 valuable advice and assistance in ensuring that the Commission functions smoothly and efficiently.

I would also like to thank my fellow Commissioners, Ms Jan Harris and Ms Karen Gosling. Their skill and experience were essential to the work of the Commission in this busy year.

A handwritten signature in black ink, appearing to read 'Ian Douglas', with a stylized flourish at the end.

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. All applications are assessed against the 'reasonable capability criterion' which means the Commission assesses 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 obtaining any licences and other regulatory approvals required to operate on the relevant route and of using the capacity allocated under the determination. 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 to the application. 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.⁴

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.⁵ 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.⁶

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, an airline may request to transfer a capacity allocation to another airline entity within the same airline group or seek authorisation for a wholly-owned subsidiary to utilise the capacity. However, the most common application for variation is seeking authorisation to enable an airline 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.⁷ In relation to an application for variation other than a transfer application⁸ (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

4 Section 20, International Air Services Commission Policy Statement 2018

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

6 Section 14, International Air Services Commission Policy Statement 2018

7 Section 22, *International Air Services Commission Act 1992*

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

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.⁹

As earlier mentioned, 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.¹⁰ If the Commission finds that a transfer application would not be of benefit to the public the Commission must not vary the determination as requested¹¹.

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.¹² 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) any other matter that the Commission considers to be relevant.¹³

Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.¹⁴

9 Section 17, International Air Services Commission Policy Statement 2018

10 Section 18, International Air Services Commission Policy Statement 2018

11 Section 25, International Air Services Commission Act 1992

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

13 Section 24, International Air Services Commission Policy Statement 201

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

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.

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:

- ▶ obtaining any licences, permits or other approvals required to operate on and service the route to which the determination relates; and
- ▶ 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(l) 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 2019 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. The Governor-General has extended his appointment for a further period of 12 months until 4 May 2020.

Dr Douglas has been a Member of the Commission since November 2012. He was Acting Chairperson from October 2015 to May 2016.

From July 2007 to August 2019, Dr Douglas was 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, Hainan Airlines, Asian Wings Airways and HNA Airports. He has spoken recently at several international forums, including the European Aviation Conference, the Air Transport Research Society, and the ICAO International Air Transport Symposium. Dr. Douglas is also a regular contributor to the Civil Aviation Management Program hosted by the Civil Aviation Authority of Singapore.

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 2018–2019

Commissioner	Number of meetings possible	Number of meetings attended
Dr Ian Douglas	20	19 ¹⁵
Ms Jan Harris	20	20
Ms Karen Gosling	20	19 ¹⁶



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

15 Dr Douglas sent his apologies for the 21 June 2019 meeting.
16 Ms Gosling was on official leave of absence on 16 August 2018.

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.

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 22–23.

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

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.



Photo © Tasman Cargo

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, 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

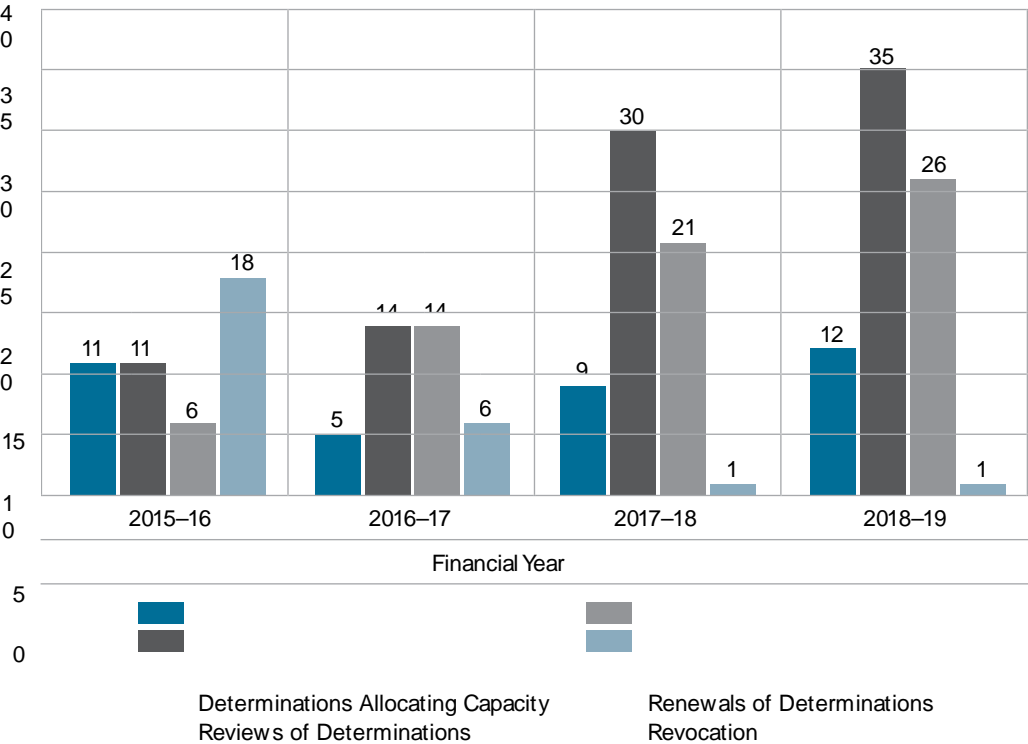
The object of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services. Under the Act, the Commission's functions are to make determinations; review determinations; and provide advice to the Minister about any 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, and the Commission's work is dictated by the number of applications made by airlines. The allocation of new capacity is similarly directly related to the response of Australian carriers to the demand for air services. In the financial year 2018–19, the

Commission issued 12 determinations allocating new capacity; 26 renewal of capacity allocations; 35 decisions varying various determinations including a couple of resolutions extending the date of utilisation of the capacity; and one revocation of capacity allocation.

The graph below shows a comparative data of the current reporting period (2018–19) with the three preceding years.

Historical numbers of determinations and decisions



In 2018–19, Qantas sought and was issued a new capacity allocation of 576 seats per week on the Cook Islands route. This will enable its wholly-owned subsidiary Jetstar to add two additional weekly services between Australia and Rarotonga from July 2019. Jetstar currently operates services from the Gold Coast and Sydney to Rarotonga via Auckland.

Qantas also applied for and was issued 337 seats per week on the Chile route and was permitted to utilise the capacity to code share with LATAM airlines under a hard block arrangement.¹⁷ Currently, Qantas operates 3 to 4 weekly services in each direction between Sydney and Santiago while LATAM operates daily services between Santiago and Sydney via Auckland and 4 to 5 weekly services in each direction between Santiago and Melbourne. The airlines code share on each other’s services under a hard block arrangement.

In December 2018 Qantas was issued an additional 696 seats per week to operate services between Sydney and Nadi. The flights were planned to operate from 31 March 2019.

17 Qantas and LATAM have two types of code share arrangements: a hard-block arrangement for code sharing between Australia/New Zealand and Chile and a free-sale arrangement for all other routes.

In June 2019, Qantas sought and was issued an additional 528 weekly seats of capacity on the Fiji route to operate 3 additional services per week between Australia and Fiji commencing in October 2019. Both Qantas and Virgin Australia have a significant presence on the Fiji route.

In October 2018, Qantas was allocated 1,250 weekly seats of capacity on the Indonesia route. A further 284 weekly seats were allocated in March 2019. These additional capacity allocations bring Qantas' total capacity allocation on the Indonesia route to 18,662 weekly seats in each direction. Qantas currently operates up to 20 weekly services in each direction between the Melbourne/Sydney-Denpasar and Sydney-Jakarta city pairs. Jetstar operates up to 70 weekly services in each direction between various points in Australia and Denpasar. Virgin Australia operates up to 21 weekly services in each direction between Brisbane/Port Hedland/ Sydney and Denpasar. Utilisation of capacity on the route is impacted by demand seasonality.

Qantas sought and was issued an additional 152 weekly seats on the Sydney-Manila route. The additional capacity enabled Qantas to increase its weekly services from 6 to 7 per week in each direction.

Qantas also sought and was granted an additional capacity of 400 weekly seats on the Korea route with permission to use the capacity to code share on flights operated by Cathay Pacific and Cathay Dragon between Hong Kong and Korea. Currently, Qantas does not operate to Korea but uses its capacity allocation on the route to code share with Asiana Airlines between Incheon and Sydney and with Cathay Pacific and Cathay Dragon between Hong Kong and Korea (2019 Northern Summer IATA scheduling period, 31 March – 26 October 2019).

Virgin Australia sought and was granted renewal of its capacity allocations on the following routes: Cook Islands, Fiji, Indonesia, Korea, New Zealand, Papua New Guinea, Solomon Islands, Thailand, Tonga, United States of America and Vanuatu.

Qantas was granted renewal of its capacity allocations on the Japan (Haneda) route, all-cargo capacity on China and Thailand routes, and 14,468 seats for the exercise of third and fourth freedom rights and 2,148 seats for beyond traffic rights (with 12 frequencies per-week) on the Indonesia route; and unlimited capacity on the Singapore route.

Virgin Australia sought and was granted variation of various determinations to transfer the capacity allocation from Virgin Australia Airlines (SE Asia) Pty Ltd (VAASEA) to Virgin Australia International Airlines Pty Ltd (VAIA) on the following routes: Cook Islands, New Zealand, Solomon Islands, Tonga and Vanuatu. Virgin Australia also requested and was granted authorisation for VAIA's wholly-owned subsidiary, Tiger International Number1 Pty Ltd to use the capacity allocations on the Cook Islands, New Zealand, Solomon Islands, Tonga and Vanuatu routes.

Codeshare applications remained a significant part of the Commission's work. During the year, the Commission permitted Qantas to utilise its capacity allocations on the Japan

and New Zealand routes for code shares between Jetstar and Finnair, Qantas was also authorised to code share with KLM, LATAM Airlines and Fiji Airways on the Japan route, and with Alaska Airlines and WestJet on the Canada and USA routes.

The Commission regularly monitors the utilisation of allocated capacity by Australian airlines. During the reporting period, the airlines have utilised most of the capacity allocated. On some routes seasonal markets see the airlines not fully utilising the allocated capacity. In these cases flexibility was provided to allow the mounting of additional services inline with market demand on the route.

In addition to the Qantas and Virgin Australia groups, Pacific Air Express and Tasman Cargo Airlines continue to hold capacity allocations. Tasman Cargo has an unlimited freight capacity allocation on the New Zealand route, and operates 5 services per week in each direction between Sydney and Auckland using a Boeing 767-300 freighter aircraft. Pacific Air Express has unlimited freight capacity on the China route, 17.5 tonnes per week in each direction on the Vanuatu route; one B747-equivalent service per week in each direction on the Nauru route; and 52.5 tonnes per week in each direction on the Papua New Guinea (PNG) route. Pacific Air Express is yet to commence freight services on the China route but has used its capacity allocations to operate freight services to Vanuatu, Nauru and PNG.

A brief summary of all determinations and decisions for 2018–2019 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 – Capacity utilisation

Introduction

In its annual report each year, the Commission includes a discussion of a more complex or sensitive element of its work. Often, the case study deals with one of the Commission's more complex cases, and aims to provide an insight into the assessment of more complex contested applications. This year, the Commission has decided to discuss the 'use-it or lose-it principle'. This principle is common in aviation, and is applied in a range of areas including airport slots as well as allocations of capacity. For the Commission, guidance is taken the *International Air Services Commission Act 1992* (the Act), the *International Air Services Commission Regulations 2018* (the Regulations) and the *International Air Services Commission Policy Statement 2018* (the Policy Statement) made by the Minister for Infrastructure, Transport and Regional Development, which came into effect on 28 March 2018.

Capacity has to be fully used: legal basis

The Act requires that a determination made by the Commission must include a condition that the capacity be fully used, with very few exceptions.¹⁸ Every determination issued by the Commission therefore includes a condition requiring airlines to fully use the capacity allocated. In setting the use it or lose it condition, the Commission understands that some operational or administrative requirements may have to be completed before an airline can commence services on a route. For this reason, the Commission allows flexibility during an introduction period, and specifies in the determination a date by which the carrier is required to commence using the capacity. Determinations generally permit carriers to seek an extension of the utilisation date. In that case the Commission would generally grant such a request when the carrier justifies the delayed start and is able to assure the Commission of its firm plans to use the capacity.

Some bilateral arrangements include unrestricted capacity. These bilateral arrangements include China, Singapore, Switzerland, United Kingdom and United States of America.

Section 9 of the Regulations provides an exception to the general rule for these unrestricted routes. Under the Regulations, a determination is not required to include a condition that the capacity allocated be fully used where the capacity entitlements on the route in question are not restricted by the relevant bilateral arrangement (or combination of arrangements).

The Policy Statement provides that, when an airline applies for capacity on an unrestricted route, the Commission will issue the determination for a period of 99 years.

18 See paragraph 15(2)(c) of the Act

The Regulations provide that a determination allocating unrestricted capacity will no longer include a condition requiring the capacity to be fully used.

Monitoring of capacity utilisation

The Commission monitors the carriers' utilisation of capacity allocations on a regular basis. At the start of every International Air Transport Association (IATA) scheduling period, the Commission asks all Australian carriers that hold Commission determinations to report on their utilisation of allocated capacity for each route. On routes where capacity is partly utilised, or not used at all, carriers may seek to retain the unused capacity. In this case, the carrier is asked to explain the reason(s) for the delayed utilisation, and to set out firm plans and a timeframe for the full use of the capacity. The Commission treats the airlines' half yearly capacity utilisation reports on a confidential basis and does not release them to other aviation stakeholders without permission.

New routes do not always start as planned. Where an airline has not been able to commence services on a new route as originally planned, the airline will generally seek an extension of the time to fully utilise capacity. As with other delays, applications to extend the date of utilisation of capacity should provide reasons for the delay, and give a realistic time frame for the full use of the capacity.

Changing market conditions and increased competition may lead an airline to reduce capacity or exit a route. Where a capacity allocation is no longer required, the carrier concerned should seek a revocation of the relevant determination. Where flying on a route has been scaled down, the carrier is expected to apply for a variation of the relevant determination to reduce the capacity allocated.

Review of a determination

Where a capacity allocation is no longer required, the carrier should apply to the Commission for a revocation of the determination under section 27AA of the Act. The Commission is required to make a decision revoking a determination when an application is received. The Commission is also required to make copies of the revocation decision available to the public and to publish a notice outlining the decision and advising where copies of the decision may be obtained.

Even where only a portion of the capacity is unused, the carrier is advised to apply for a reduction in capacity by applying for a variation of the determination, under section 21 of the Act. Section 10 of the Act requires the Commission to conduct a review in this case. Section 22 of the Act provides that the Commission is not required to notify the public or invite submissions about the review if there application is to reduce capacity.

The Commission informs the Department of every determination and decision, including the revocation of a determination that is issued. On the basis of the information provided, the Department updates the Register of Available Capacity which is published on the Department's website. The Register of Available Capacity provides a list of capacity entitlements for each route which are available for allocation to Australian carriers. The Register is published and updated by the Department as soon as there are changes to capacity entitlements under the relevant bilateral arrangements.

Section 10 of the Act also empowers the Commission to initiate a review of an existing determination. A Commission-initiated review may only be conducted if the Commission is satisfied that:

- a) a term or condition of the determination has been breached; or
- b) due to a change of circumstances, it is inevitable that a breach of such a term or condition will occur; or
- c) where the Australian carrier no longer intends to fully use the capacity as required under paragraph 15(2)(c) of the Act.

Before the Commission conducts a review of a determination, it informs the carrier of the matters of concern to the Commission and invites the carrier to 'show cause' as to why a review should not be carried out. Airlines are generally given 10 working days to respond. After considering the carrier's response, the Commission will then decide whether to proceed with a review and will notify the carrier accordingly. If the Commission has decided to conduct a review, it will publish its intention on its website, and invite submissions from interested parties.

Section 24 of the Policy Statement sets out the criteria that the Commission may have regard to in a review process where an Australian carrier has failed to fully utilise allocated capacity. The Commission may confirm, vary, suspend or revoke the determination, and can consider the following criteria:

- a) whether another Australian carrier has applied for capacity on a route and the unused capacity (allocated under the determination being reviewed) prevents the making of a determination in favour of the competing applicant carrier; 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 (for example, the inability to obtain commercially available slots in the foreign country); and
- d) any other matter that the Commission considers to be relevant.

The Commission understands that some markets have pronounced seasonal peaks. As a general rule, capacity may be retained by a carrier where it was used during peak periods in the last two or three IATA scheduling periods. The Commission would also generally permit the retention unused capacity where the carrier seeks future flexibility

in its international operations and is able to demonstrate that it plans to increase its operated capacity at certain peak period(s) of the year.

Operational decisions by the Secretary

Section 9 of the Act mandates that the Secretary (or the delegate) must not make an operational decision in relation to capacity that is inconsistent with a determination issued by the Commission relating to that capacity, except when:

- ▶ the capacity relates to a non-scheduled flight within the meaning of the *Air Navigation Act 1920*,¹⁹
- ▶ the Secretary's decision is made in other circumstances prescribed by the regulations.

An operational decision includes the approval of a carrier's timetable schedule or a variation of such schedule. It also includes the approval of the type of aircraft to be used to operate a service or a variation of such type of aircraft, and the number of seats or frequencies to be operated.

There are limited circumstances when the Secretary (or delegate) may make an operational decision in relation to a carrier even if such decision may be inconsistent with a determination issued by the Commission. These circumstances are:

- ▶ When the capacity is to be used by a carrier to operate a non-scheduled flight. Non-scheduled flights do not require the use of capacity allocated under a determination issued by the Commission.
- ▶ When the Secretary (under section 6 of the regulations) makes temporary and minor operational decisions under the *Air Navigation Act 1920* and the *Air Navigation Regulations 2016*. Such operational decisions may be made in a manner inconsistent with the capacity allocation issued by the Commission in the following situation:
 - (1) there is an existing operational decision and the subsequent operational decision has the effect of making a temporary and minor change to the existing operational decision to enable the carrier to meet seasonal, temporary or unusual demand; and
 - (2) there is available capacity on the route;
 - (3) the relevant bilateral arrangement (or combination thereof) permits the use by the Australian carrier of the capacity.

A practical implementation of section 6 of the Regulations is illustrated in the following example:

19 Non-scheduled international air services do not require the issue of a determination by the Commission although such flights require an operational decision by the Secretary under the *Air Navigation Act 1920*.

An Australian carrier may need to increase its services on a route to respond to a short term increase in demand. The carrier may apply to the Secretary to vary the amount of capacity it may operate and such application may be approved if all of the following elements are present:

- (1) There is an existing determination issued by the Commission, which allocates capacity to the carrier; and
- (2) The Secretary has already issued an operational decision to the carrier (which is consistent with the determination issued by the Commission) — e.g., the carrier has been given a timetable approval to operate 28 frequencies per week in each direction consistent with the existing determination; and
- (3) The additional capacity requested is a minor amount — e.g., one more frequency per week; and
- (4) The additional capacity will be used to meet temporary and seasonal demand — e.g., to be used for only two months, from January to February to accommodate an increase in demand due to the skiing festival in a particular country; and
- (5) There is capacity available to accommodate the request; and
- (6) The relevant bilateral air services arrangement permits the use by the carrier of the additional capacity.

Using the example above, if the carrier plans to operate an additional frequency on a regular basis, (for example every winter season for the next five years), the Secretary will not make the variation to the existing operational decision unless the Commission has issued a determination allocating the capacity. In this situation, the use of the additional capacity will not be temporary, even if it is seasonal. The carrier must apply to the Commission for the allocation of the additional capacity.

If the situation involved 15 additional weekly frequencies rather than one or two to be used for a temporary period of two months, it is also likely that the Secretary would not make the variation to the existing operational decision as the proposed capacity variation is not minor.

The term 'minor' is not defined in the Act and the Regulations. It is therefore advisable for a carrier to first seek advice from the Department and the Commission whether its proposed increase of capacity would be considered 'minor, temporary and seasonal'.

In general, the Commission's intention is to see that allocated capacity is fully utilised.

Serving applicants and interested parties

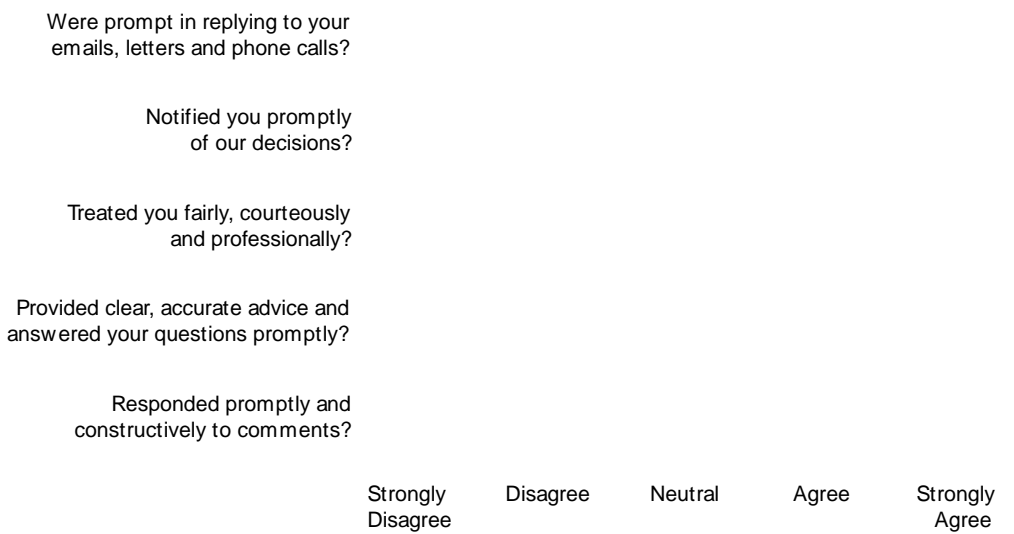
The Commission uses the detailed commitments set out in its service charter as the framework for assessing its service performance. The specific undertakings in the service charter encompass both the ways in which the Commission engages with interested parties and how it makes its decisions. This framework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

As in prior years, stakeholders were invited to assess the Commission's performance by completing an online questionnaire that allows respondents to evaluate how well the Commission performed against each undertaking in the charter. Questionnaire responses may be made anonymously, although some of those responding chose to disclose their identity. The Commission appreciates the detailed responses, offering views on the Commission's performance.

Respondent scores against each criterion are aggregated and averaged. For 2018–19, 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:

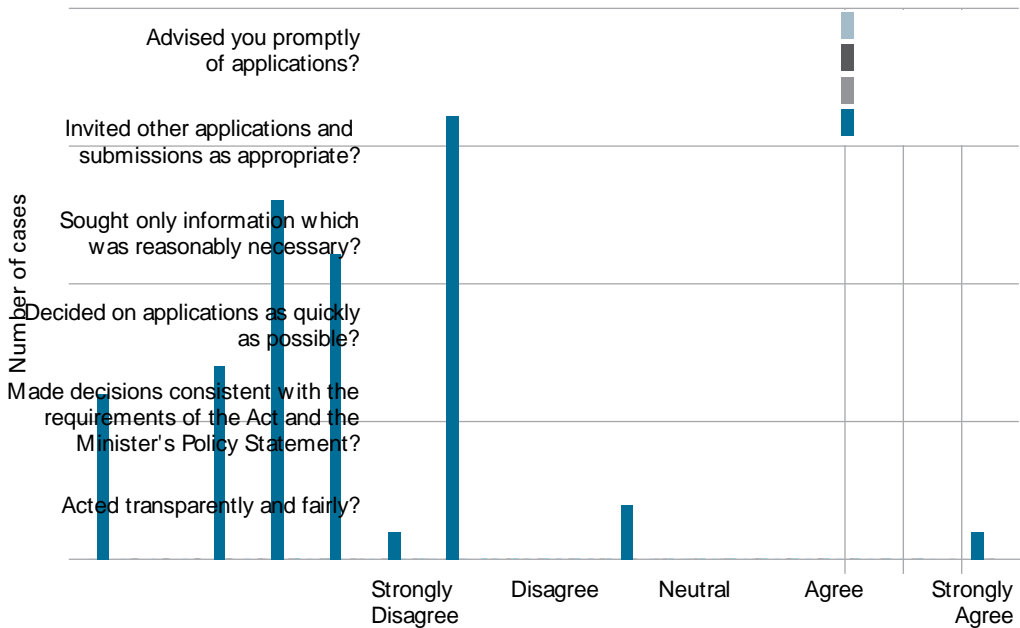


Photo © Qantas Airways Limited

Decision times

The Commission records the time taken to make each of its decisions, and considers timeliness to be an important performance benchmark. The service charter indicates that the Commission will endeavour to make decisions about uncontested and unopposed applications within four weeks of receipt, and on contested or opposed applications within 12 weeks.

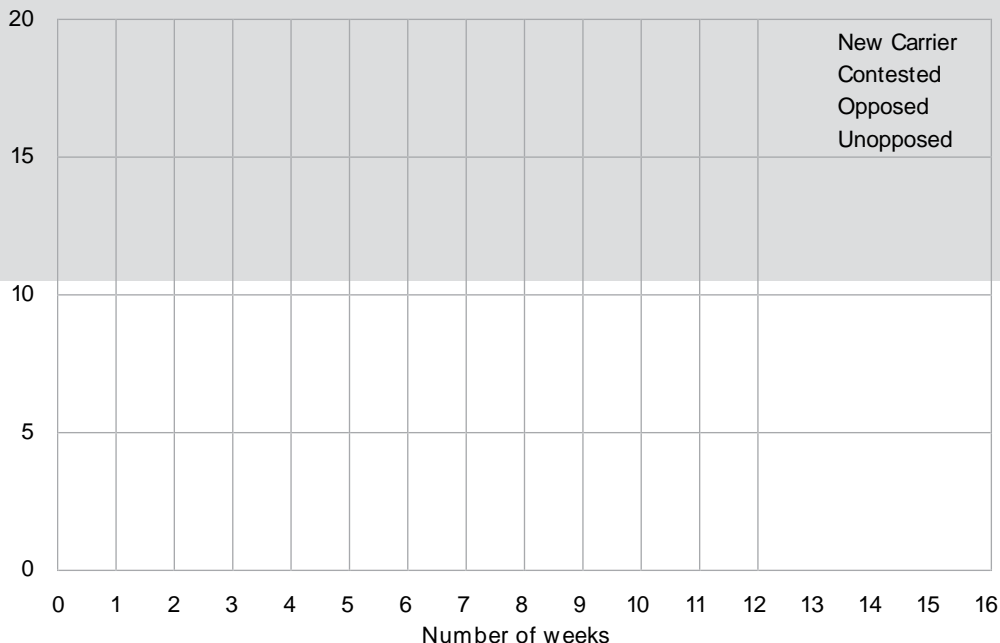
Three uncontested applications (Qantas on the Chile route; Virgin Australia on the New Zealand and PNG routes) took more than the usual four weeks to complete as the Commission was awaiting necessary information and documentation to complete a fully informed decision. Delay in the provision of the details of codeshare arrangements is a common cause of longer decision times.

This year, only the Qantas proposal to code share with Cathay Pacific²⁰ on selected flights between Australia and Hong Kong was contested.

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

20 The proposal is for Cathay Pacific to market and place its code on specified flights operated by Qantas between points in Australia and Hong Kong when such service is part of a through journey connecting to an Australian domestic destination and/or an international destination behind or beyond Hong Kong.

Distribution of decision times by type of case



Efficiency of financial resources

The Commission's budget for the year was \$444,000. 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 2018–19 was \$455,500. The Commission's small overspend met superannuation benefits not originally included in salary projections and slightly higher travel arrangements for interstate Commissioners to attend meetings in Canberra.

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.

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

PART 4

Management and accountability

Corporate governance practices

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

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

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

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

Part 5 of the Act deals with the membership of the Commission. The Chairperson and members are appointed by the Governor-General. A member may be appointed on a full-time or part-time basis and the Minister may determine the terms and conditions of appointment on matters not provided under the Act. The Act also provides that a Commissioner may be appointed for a period not exceeding five years. All Commissioners have been appointed as part-time and for a period of three years. When the Chairperson completed his three-year term in May 2019, the Governor-General reappointed him for a further 12 months. 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, Transport, Cities and Regional Development (the Department). Secretariat staff members are officers of the Department and are subject to the same responsibilities and obligations applying to all departmental staff. The Commission's Executive Director is responsible for the day to day management of the Secretariat, in accordance with these obligations and responsibilities.

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) review²¹.

Management of human resources

As at 30 June 2019, 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).

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.

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

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.

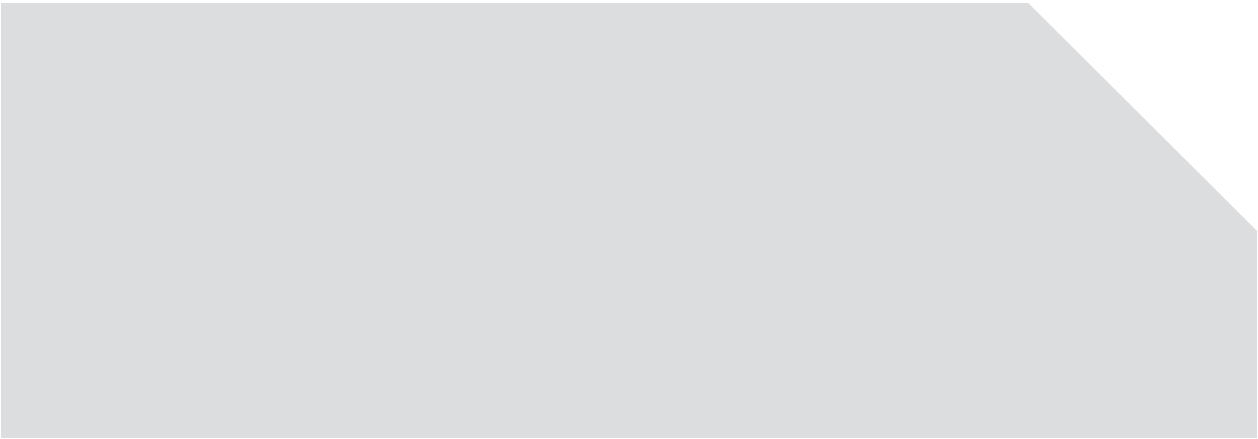
Purchasing

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 2019

	(1)	(2)	(3)	(4)
	2018–19	2018–19	Variation	2019–20
	Budget	Actual	(Column 2–1)	Budget
			\$'000	\$'000
Salaries / Commissioners' fees	397	397	0	397
Revenue	0	0	0	0
Supplier expenses	43	27.2	8.2	43
TOTAL	440	455.5	11.5*	440
Holders of public office	3	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, Transport, Cities and Regional Development. The Commission's offices are in a departmental building.

In financial year 2018–19, the Commission's small overspend met superannuation benefits not originally included in the salary projections and slightly higher travel arrangements for interstate Commissioners to attend meetings in Canberra.

APPENDIX 1

Determinations and Decisions

This table summarises briefly the determinations and decisions issued in 2018–19. A full summary is at Appendix 2. Individual determinations and decisions may be viewed on the Commission's website at <www.iasc.gov.au>.

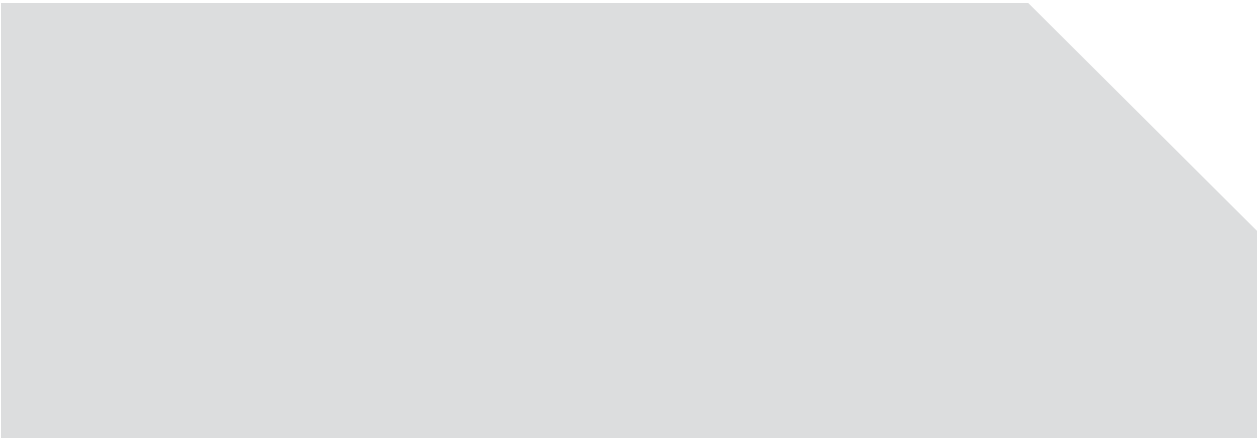
Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Canada	Qantas	[2018] IASC 238*	12 Nov 18		Variation of [2014] IASC 113 to permit code share services between Qantas and WestJet
Canada	Qantas	[2018] IASC 121	10 Dec 18	1,092 seats	Renewal of [2014] IASC 113
Canada	Qantas	[2018] IASC 240	10 Dec 18		Variation of [2014] IASC 113 to permit code share between QF and Alaska Airlines
Chile	Qantas	[2019] IASC 109	14 Jun 19	337 seats	New capacity allocation
Cook Islands	Qantas	[2018] IASC 115*	17 Aug 18	204 seats	New capacity allocation
Cook Islands	Qantas	[2019] IASC 107*	02 Apr 19	372 seats	New capacity allocation
Cook Islands	Virgin Australia	[2018] IASC 220	21 Sep 18		Variation of [2013] IASC 137 to transfer capacity to VA/A
Cook Islands	Virgin Australia	[2018] IASC 221	21 Sep 18		Variation to transfer capacity allocation in Determination [2014] IASC 107 to VA/A
Cook Islands	Virgin Australia	[2018] IASC 222	21 Sep 18		Variation to transfer capacity allocation in Determination [2014] IASC 114 to VA/A

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Cook Islands	Virgin Australia	[2018] IASC 223	21 Sep 18		Variation to transfer capacity allocation in Determination [2017] IASC 125 to VAIA
Cook Islands	Virgin Australia	[2018] IASC 224	21 Sep 18		Variation to transfer capacity allocation in Determination [2018] IASC 103 to VAIA
Cook Islands	Virgin Australia	[2018] IASC 119	12 Oct 18	180 seats	Renewal of [2013] IASC 137
Cook Islands	Virgin Australia	[2019] IASC 110	14 May 19	360 seats	Renewal of [2014] IASC 107
Fiji	Qantas	[2018] IASC 122	14 Dec 18	696 seats	New capacity allocation
Fiji	Qantas	[2019] IASC 112	11 Jun 19	528 seats	New capacity allocation
Fiji	Virgin Australia	[2018] IASC 117	12 Oct 18	Unlimited passenger capacity	Renewal of [2013] IASC 132
Fiji	Virgin Australia	[2018] IASC 118	12 Oct 18	1,260 seats	Renewal of [2013] IASC 138
Indonesia	Qantas	[2018] IASC 120	15 Oct 18	1,250 seats	New capacity allocation
Indonesia	Qantas	[2019] IASC 106*	25 Mar 19	284 seats	New capacity allocation
Indonesia	Virgin Australia	[2018] IASC 218	27 Jul 18	(720 seats)	Revocation of [2013] IASC 134
Indonesia	Virgin Australia	[2018] IASC 219	27 Jul 18	Reduced capacity by 160 seats, leaving 120 seats	Variation of [2015] IASC 110 to reduce capacity allocated to 120 seats per week in each direction
Japan	Qantas	[2018] IASC 235*	01 Nov 18		Variation of [2012] IASC 102 to permit code share between Qantas and LATAM Airlines Group S.A.
Japan	Qantas	[2018] IASC 236*	01 Nov 18		Variation of [2014] IASC 120 to permit code share between Qantas and LATAM Airlines Group S.A.
Japan	Qantas	[2018] IASC 237*	15 Nov 18		Variation of [2012] IASC 102 to permit code share between Qantas and Fiji Airways
Japan	Qantas	[2019] IASC 102	15 Jan 19	7 frequencies to serve Haneda Airport	Renewal of [2014] IASC 120
Japan	Qantas	[2019] IASC 202	05 Mar 19		Variation of [2012] IASC 102 to permit code share between Jetstar and Finnair

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Korea	Qantas	[2019] IASC 103	05 Feb 19	400 seats	New capacity allocation and permit code share with Cathay Pacific and Cathay Dragon on the Hong Kong–Korea route
Korea	Qantas	[2019] IASC 111	11 Jun 19	Unlimited passenger capacity	New capacity allocation and permit code share between Jetstar and Jeju Air
New Caledonia	Qantas	[2018] IASC 113	02 Aug 18	100 seats	New capacity allocation
New Caledonia	Qantas	[2019] IASC 101	15 Jan 19	156 seats	New capacity allocation
New Zealand	Qantas	[2019] IASC 201	05 Mar 19		Variation of [2014] IASC 102 to permit code share between Jetstar and Finnair
New Zealand	Virgin Australia	[2018] IASC 225	21 Sep 18		Variation to transfer capacity allocation in Determination [2017] IASC 113 to VAIA
New Zealand	Virgin Australia	[2018] IASC 242	30 Nov 18		Variation of [2017] IASC 113 transferring capacity to VAIA and retaining all relevant conditions
New Zealand	Virgin Australia	[2019] IASC 203	18 Mar 19		Variation of [2017] IASC 113 to permit code share with Hawaiian Airlines
Papua New Guinea	Pacific Air Express	[2019] IASC 104	05 Mar 19	17.5 tonnes	Renewal of [2014] IASC 106
Papua New Guinea	Qantas	[2019] IASC 108	01 May 19	888 seats	Renewal of [2014] IASC 105
Papua New Guinea	Virgin Australia	[2018] IASC 114	04 Sep 18	900 seats	Renewal of [2013] IASC 112
Papua New Guinea	Virgin Australia	[2019] IASC 105	18 Mar 19	172 seats	Renewal of [2015] IASC 102
Philippines	Qantas	[2018] IASC 112	02 Aug 18	152 seats	New capacity allocation
Singapore	Qantas	[2018] IASC 233*	26 Oct 18		Variation of [2007] IASC 116 to permit code share between Qantas and KLM
Singapore	Qantas	[2018] IASC 234*	26 Oct 18		Variation of [2017] IASC 131 to permit code share between Qantas and KLM

Route	Airline	IASC Number	Date	Capacity Allocated (per week in each direction)	Comment
Solomon Islands	Virgin Australia	[2018] IASC 226	21 Sep 18		Variation to transfer capacity allocation in Determination [2016] IASC 114 to VAIA
Solomon Islands	Virgin Australia	[2018] IASC 116	21 Sep 18	180 seats	Renewal of [2013] IASC 133 and transfer capacity allocations to VAIA - Solomon Islands
Solomon Islands	Virgin Australia	[2018] IASC 231	21 Sep 18		Variation to transfer capacity allocation in Determination [2013] IASC 133 to VAIA
Solomon Islands	Virgin Australia	[2018] IASC 243	30 Nov 18		Variation of [2016] IASC 114 transferring capacity to VAIA and retaining all relevant conditions
Tonga	Virgin Australia	[2018] IASC 227	21 Sep 18		Variation to transfer capacity allocation in Determination [2014] IASC 112 to VAIA
Tonga	Virgin Australia	[2018] IASC 228	21 Sep 18		Variation to transfer capacity allocation in Determination [2017] IASC 127 to VAIA
Tonga	Virgin Australia	[2018] IASC 244	30 Nov 18		Variation of [2014] IASC 112 transferring capacity to VAIA and retaining all relevant conditions
Tonga	Virgin Australia	[2018] IASC 245	30 Nov 18		Variation of [2017] IASC 127 transferring capacity to VAIA and retaining all relevant conditions
United States	Qantas	[2018] IASC 239*	12 Nov 18		Variation of [2017] IASC 110 to permit code share between Qantas and WestJet Airlines
United States	Qantas	[2018] IASC 241	10 Dec 18		Variation of [2017] IASC 110 to permit code share between Qantas and Alaska Airlines
Vanuatu	Virgin Australia	[2018] IASC 229	21 Sep 18		Variation to transfer capacity allocation in Determination [2017] IASC 117 to VAIA
Vanuatu	Virgin Australia	[2018] IASC 230	21 Sep 18		Variation to transfer capacity allocation in Determination [2017] IASC 121 to VAIA

This appendix provides a summary of the Commission's determinations and decisions for 2018–19. The full text of 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 2018–19

This appendix provides a summary of the Commission's determinations and decisions for 2018–19. Full determinations and decisions can be viewed on the Commission's website at <www.iasc.gov.au>.

Canada

Upon the application of Qantas, the delegate of the Commission issued, on 12 November 2018, **Decision [2018] IASC 238**, which varies [2014] IASC 113 to permit the use of the capacity on the Canada route for code sharing between Qantas and WestJet Airlines. The permission is valid for the duration of the determination commencing from 12 November 2018.

Upon the application of Qantas, the Commission issued, on 10 December 2018, **Renewal Determination [2018] IASC 121**, which renewed [2014] IASC 113, allocating 1,092 seats of capacity per week in each direction on the Canada route. Qantas and its wholly-owned subsidiary Jetstar are permitted to utilise the capacity. The capacity may be used for code sharing between Qantas and American Airlines, WestJet Airlines and Alaska Airlines. The determination is valid for five years from 25 September 2019.

Upon the application of Qantas, the Commission issued, on 10 December 2018, **Decision [2018] IASC 240**, which varies [2014] IASC 113 to permit the use of the capacity on the Canada route for code sharing between Qantas and Alaska Airlines. The permission is valid for the duration of the determination commencing from 10 December 2018.



Chile

Upon the application of Qantas, the Commission issued, on 14 June 2019 **Determination [2019] IASC 109**, allocating 337 seats per week in each direction of passenger capacity on the Chile route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited and for the provision of code share services between Qantas and LATAM under a blocked space arrangement. The determination is valid for five years from 14 June 2019.



Cook Islands

Upon the application of Qantas, the delegate of the Commission issued, on 17 August 2018, **Determination [2018] IASC 115**, allocating 204 seats per week in each direction of passenger capacity on the Cook Islands route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited. The determination is valid for five years from 17 August 2018.

Upon the application of Qantas, the delegate of the Commission issued, on 2 April 2019, **Determination [2019] IASC 107**, allocating 372 seats per week in each direction of passenger capacity on the Cook Islands route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited. The determination is valid for five years from 2 April 2019.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 220**, varying Determination [2013] IASC 137 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 221**, varying Determination [2014] IASC 107 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 222**, varying Determination [2014] IASC 114 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 223**, varying Determination [2017] IASC 125 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 224**, varying Determination [2018] IASC 103 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA)

and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 12 October 2018, **Renewal Determination [2018] IASC 119**, which renewed [2013] IASC 137, allocating 180 seats per week of capacity in each direction on the Cook Islands route. The fresh determination permits the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd and is valid for five years from 20 September 2019.

Upon the application of Virgin Australia, the Commission issued, on 14 May 2019, **Renewal Determination [2019] IASC 110**, which renewed [2014] IASC 107, allocating 360 seats per week of capacity in each direction on the Cook Islands route. The fresh determination permits the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd and is valid for five years from 9 April 2020.



Fiji

Upon the application of Qantas, the Commission issued, on 14 December 2018, **Determination [2018] IASC 122**, allocating 696 seats per week in each direction of passenger capacity on the Fiji route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited. The determination is valid for five years from 14 December 2018.

Upon the application of Qantas, the Commission issued, on 11 June 2019, **Determination [2019] IASC 112**, allocating 528 seats per week in each direction of passenger capacity on the Fiji route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited. The determination is valid for five years from 11 June 2019.

Upon the application of Virgin Australia, the Commission issued, on 12 October 2018, **Renewal Determination [2018] IASC 117**, which renewed [2013] IASC 132, allocating unrestricted capacity in each direction for services between points in Australia other than Sydney, Melbourne, Brisbane and Perth and authorised points in Fiji. The determination is valid for 99 years from 9 July 2019.

Upon the application of Virgin Australia, the Commission issued, on 12 October 2018, **Renewal Determination [2018] IASC 118**, which renewed [2013] IASC 138, allocating 1,260 seats of capacity per week in each direction on the Fiji route. The determination is valid for five years from 20 September 2019.



Indonesia

Upon the application of Qantas, the Commission issued, on 15 October 2018, **Determination [2018] IASC 120**, allocating 1,250 seats per week in each direction of passenger capacity on the Indonesia route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited and for the latter to provide services jointly with Emirates. The determination is valid for five years from 15 October 2018.

Upon the application of Qantas, the delegate of the Commission issued, on 25 March 2019, **Determination [2019] IASC 106**, allocating 284 seats per week of capacity in each direction on the Indonesia route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited, and may be used by Qantas to provide joint services with any wholly-owned subsidiary of the Qantas Group. The determination is valid for five years from 25 March 2019.

Upon the application of Virgin Australia, the Commission issued, on 27 July 2018, **Decision [2018] IASC 218**, which revoked [2013] IASC 134 which allocated 720 seats per week in each direction on the Indonesia route.

Upon the application of Virgin Australia, the Commission issued, on 27 July 2018, **Decision [2018] IASC 219**, varying Determination [2015] IASC 110 to reduce the capacity on the Indonesia route by 160 seats per week in each direction, retaining 120 seats of capacity allocated under the determination. The decision is valid from the date of issue of this decision.



Japan

Upon the application of Qantas, the delegate of the Commission issued, on 1 November 2018, **Decision [2018] IASC 235**, varying Determination [2012] IASC 102 to permit the use of the capacity on the Japan route for code sharing between Qantas and LATAM. The permission is valid for the duration of the varied determination commencing from 1 November 2018.

Upon the application of Qantas, the delegate of the Commission issued, on 1 November 2018, **Decision [2018] IASC 236**, varying Determination [2014] IASC 120 to permit the use of the capacity on the Japan route for code sharing between Qantas and LATAM. The permission is valid for the duration of the varied determination commencing from 1 November 2018.

Upon the application of Qantas, the delegate of the Commission issued, on 15 November 2018, **Decision [2018] IASC 237**, varying Determination [2012] IASC 102 to permit the use of the capacity on the Japan route for code sharing between Qantas and Fiji Airways. The permission is valid for the duration of the determination commencing from 15 November 2018.

Upon the application of Qantas, the Commission issued, on 15 January 2019, **Renewal Determination [2019] IASC 102**, which renewed [2014] IASC 120, allocating seven frequencies per week of capacity in each direction on the Japan route. The fresh determination permits the capacity to be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited, and for Qantas to provide services jointly with LATAM Airlines Group S.A. (LATAM). The determination is valid for five years from 16 December 2019.

Upon the application of Qantas, the Commission issued, on 5 March 2019, **Decision [2019] IASC 202**, varying Determination [2012] IASC 102 to permit the use of the capacity on the Japan route for code sharing between Jetstar and Finnair. The permission is valid for the duration of the determination commencing from the date of issue of this decision.



Korea

Upon the application of Qantas, the Commission issued, on 5 February 2019, **Determination [2019] IASC 103**, allocating 400 seats per week in each direction on the Korea route. The capacity may be used by Qantas and for Qantas to code share on services operated by Cathay Pacific Airways and Hong Kong Dragon (Cathay Dragon) Airlines between Hong Kong and Korea. The determination is valid for five years from 5 February 2019.

Upon the application of Qantas, the Commission issued, on 11 June 2019, **Determination [2019] IASC 111**, allocating unrestricted capacity on the Korea route to operate passenger services between points in Australia (other than Sydney, Melbourne, Brisbane and Perth). The capacity may be used by Qantas and its wholly-owned subsidiary, Jetstar Airways Pty Limited. Jetstar is permitted to provide code share services with Jeju Air subject to certain conditions. The determination is valid for 99 years from 11 June 2019.



New Caledonia

Upon the application of Qantas, the Commission issued, on 2 August 2018, **Determination [2018] IASC 113**, allocating 100 seats per week in each direction of passenger capacity on the New Caledonia route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited and for Qantas to provide code share services with Aircalin. The determination is valid for five years from 2 August 2018.

Upon the application of Qantas, the Commission issued, on 15 January 2019, **Determination [2019] IASC 101**, allocating 156 seats per week in each direction of passenger capacity on the New Caledonia route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited and for Qantas to provide code share services with Aircalin. The determination is valid for five years from 15 January 2019.



New Zealand

Upon the application of Qantas, the Commission issued, on 5 March 2019, **Decision [2019] IASC 201**, varying Determination [2014] IASC 102 to permit the use of the capacity on the New Zealand route for code sharing between Qantas and Finnair. The permission is valid for the duration of the determination commencing from 5 March 2019.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 225**, varying Determination [2017] IASC 113 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 242**, varying Determination [2017] IASC 113 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 18 March 2019, **Decision [2019] IASC 203**, varying Determination [2017] IASC 113 to permit the use of the capacity on the New Zealand route for code sharing between Virgin Australia and Hawaiian Airlines. The permission is valid for the duration of the determination commencing from the date of issue of this decision.



Papua New Guinea

Upon the application of Pacific Air Express, the Commission issued, on 5 March 2019, **Renewal Determination [2019] IASC 104**, which renewed [2014] IASC 106, allocating 17.5 tonnes of freight capacity per week on the PNG route. The determination is valid for five years from 17 December 2019.

Upon the application of Qantas, the Commission issued, on 1 May 2019, **Renewal Determination [2019] IASC 108**, which renewed [2014] IASC 105, allocating 888 seats of capacity per week on the Papua New Guinea route. The determination is valid for five years from 24 March 2020.

Upon the application of Virgin Australia, the Commission issued, on 4 September 2018, **Renewal Determination [2018] IASC 114**, which renewed [2013] IASC 112, allocating 900 seats per week in each direction on the Papua New Guinea route. The capacity may be utilised for the provision of code share services between Virgin Australia and PNG Air. The determination is valid for five years from 12 September 2018.

Upon the application of Virgin Australia, the Commission issued, on 18 March 2019, **Renewal Determination [2019] IASC 105**, which renewed [2015] IASC 102, allocating 172 seats of capacity per week on the PNG route. The determination is valid for five years from 25 February 2020.



Philippines

Upon the application of Qantas, the Commission issued, on 2 August 2018, **Determination [2018] IASC 112**, allocating 152 seats per week in each direction of passenger capacity on the Philippines route. The capacity may be used by either Qantas or its wholly-owned subsidiary, Jetstar Airways Pty Limited. The determination is valid for five years from 2 August 2018.



Singapore

Upon the application of Qantas, the delegate of the Commission issued, on 26 October 2018, **Decision [2018] IASC 233**, varying Determination [2007] IASC 116 to permit the use of the capacity on the Singapore route for code sharing between Qantas and KLM. The permission is valid for the duration of the determination commencing from 26 October 2018.

Upon the application of Qantas, the delegate of the Commission issued, on 26 October 2018, **Decision [2018] IASC 234**, varying Determination [2017] IASC 131 to permit the use of the capacity on the Singapore route for code sharing between Qantas and KLM. The permission is valid for the duration of the determination commencing from 26 October 2018.



Solomon Islands

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 226**, varying Determination [2016] IASC 114 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Renewal Determination [2018] IASC 116**, which renewed [2013] IASC 133, allocating 180 seats per week of capacity in each direction on the Solomon Islands route. The capacity may be also used by VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd, and for the provision of code share services with Singapore Airlines. The determination is valid for five years from 9 July 2019.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 231**, varying Determination [2013] IASC 133 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 243**, varying Determination [2016] IASC 114 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.



Tonga

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 227**, varying Determination [2014] IASC 112 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 228**, varying Determination [2017] IASC 127 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 244**, varying Determination [2014] IASC 112 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 245**, varying Determination [2017] IASC 127 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.



United States

Upon the application of Qantas, the delegate of the Commission issued, on 12 November 2018, **Decision [2018] IASC 239**, varying Determination [2017] IASC 110 to permit the use of the capacity on the USA route for code sharing between Qantas and WestJet Airlines. The permission is valid for the duration of the determination commencing from 12 November 2018.

Upon the application of Qantas, the Commission issued, on 10 December 2018, **Decision [2018] IASC 241**, varying Determination [2017] IASC 110 to permit the use of the capacity on the USA route for code sharing between Qantas and Alaska Airlines. The permission is valid for the duration of the determination commencing from 10 December 2018.



Vanuatu

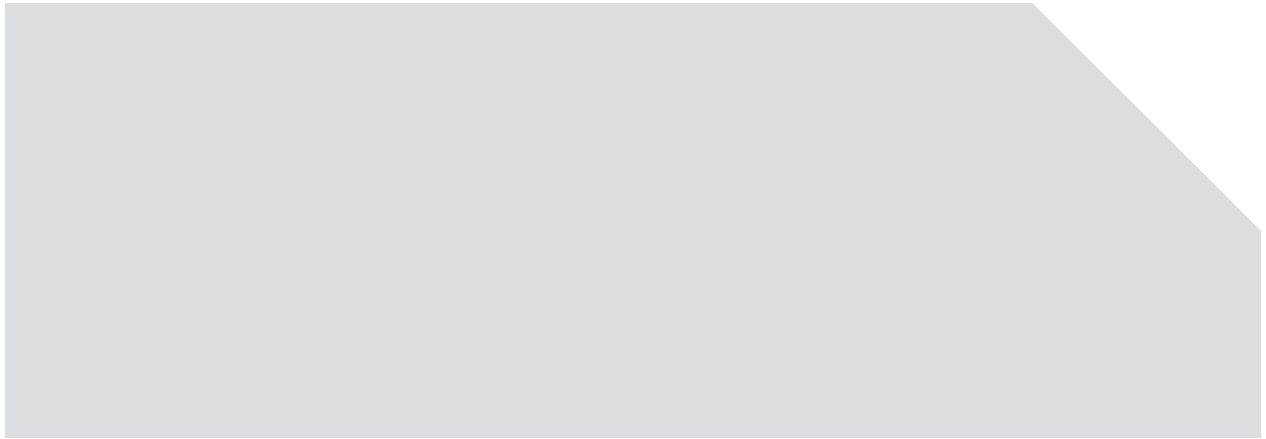
Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 229**, varying Determination [2017] IASC 117 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 21 September 2018, **Decision [2018] IASC 230**, varying Determination [2017] IASC 121 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determinations commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 246**, varying Determination [2017] IASC 117 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.

Upon the application of Virgin Australia, the Commission issued, on 30 November 2018, **Decision [2018] IASC 247**, varying Determination [2017] IASC 121 to transfer the capacity allocated in the determination to Virgin Australia International Airlines Pty Ltd (VAIA) and permit the capacity to be used by either VAIA or its wholly-owned subsidiary, Tiger International Number1 Pty Ltd. The permission is valid for the duration of the determination commencing from 1 December 2018.





APPENDIX 3

Other information

Photo © Daniel Kirby, Virgin Australia



Occupational health and safety

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

Freedom of information

The International Air Services Commission (the Commission) is an agency subject to the *Freedom of Information Act 1982* (the FOI Act). Major reforms of the FOI Act in 2011 required relevant agencies to comply with the Information Publication Scheme (IPS) set out in Part II of the FOI Act. In compliance with the IPS requirements, the Commission has established an Information Publication Plan which is available on its website <<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 2018–19.

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

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



Photo © Qantas Airways Limited

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

Item	Information
Functions of the Commission and how it is organised	<p>The functions of the Commission, as set out in section 6 of the <i>International Air Services Commission Act 1992</i>, 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

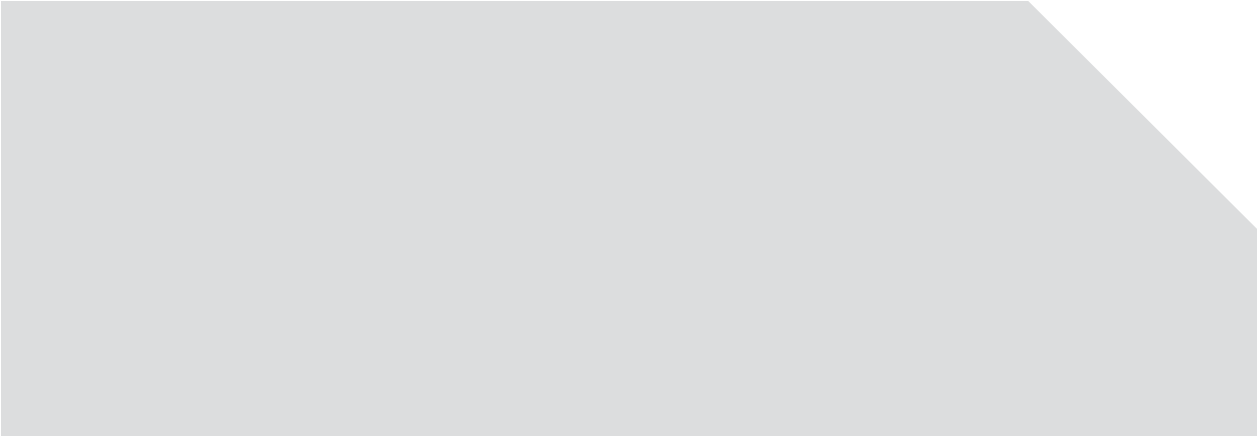
Commission procedures

Photo © Tasman Cargo

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:

- ▶ All public documents are published on the Commission's website and are 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 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.
- ▶ 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, the Commission will 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 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;

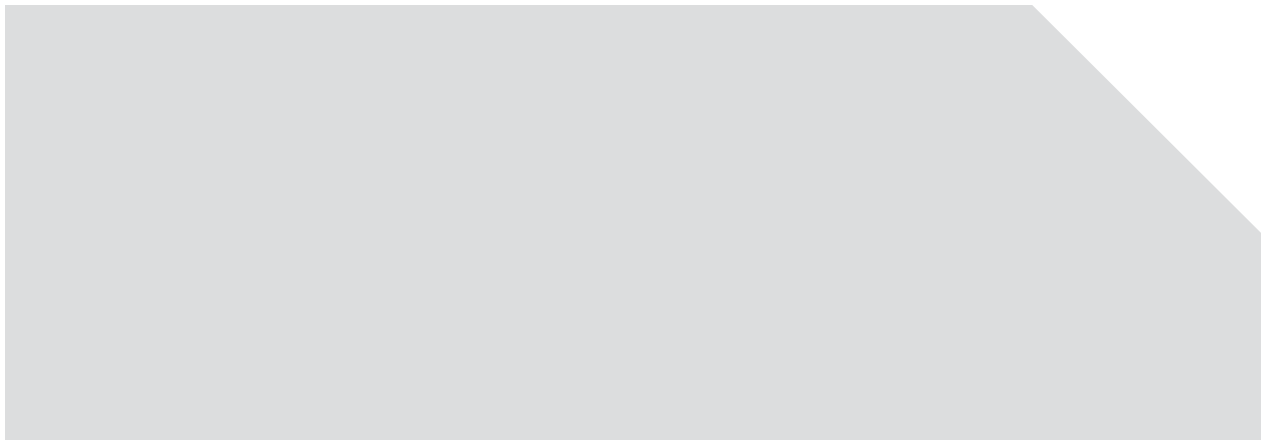
that is received by the Commission before the commencement of this instrument as if that repeal had not happened.

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 and Regional Development. 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 and Regional Development;
- ▶ 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
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

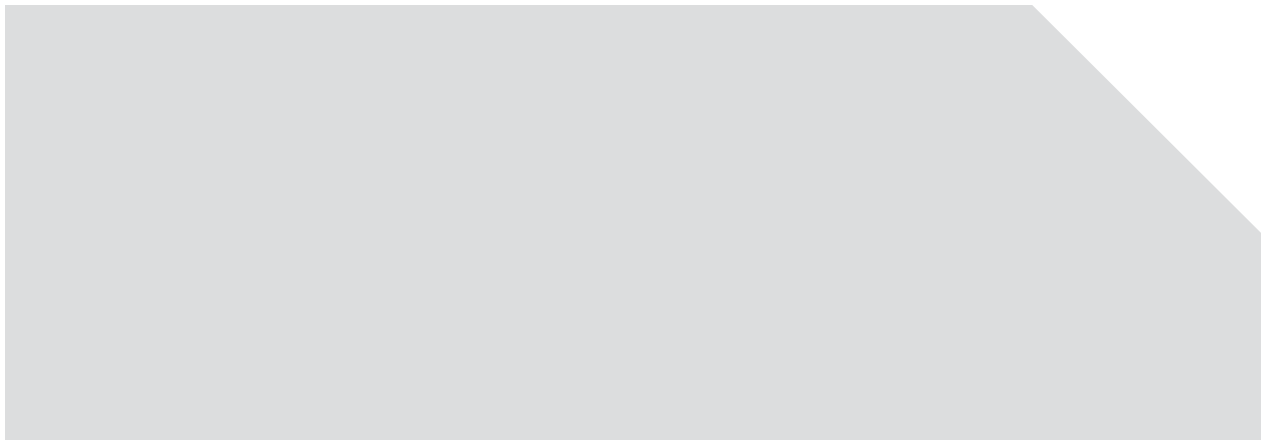
APPENDIX 8

Commission office holders since 1992

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

Chair persons	Period
Stuart Fowler	July 1992 to April 1993
James Bain	July 1993 to June 1998
Russell Miller	July 1998 to January 2000
Michael Law riwsky 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 Law riwsky	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 International Air Services Commission Act 1992, as amended.
Air services arrangement	is a set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier	means a person who conducts, or proposes to conduct, an international airline service to and from Australia; and 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.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. occurs if the Australian carrier to whom the capacity is allocated uses that capacity.
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. affects an existing determination, either by confirming, varying, suspending or revoking it.
Contested application	involves two or more applicants seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Determination	allocates capacity to an Australian carrier, usually for a period of five years, but in some cases for three years (an interim determination), or for ten years (where capacity is not limited under the air services arrangements in question).
Department	means the Department of Infrastructure, Transport, Cities 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 Limited.

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 Limited.

Qantas

means 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	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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