

DECISION

DECISION: IASC/DEC/9813
VARIATION OF: SECTION 54A DETERMINATION
THE ROUTE: TAIWAN
THE APPLICANT: QANTAS LIMITED
(ACN 003 613 465)
PUBLIC REGISTER FILES: IASC/APP/98011

1 The application

1.1 Qantas Airways Limited (Qantas) holds an allocation of 3.4 co-efficients on the Taiwan route. This allocation was made by the Minister under Section 54A of the *International Air Services Commission Act 1992* and varied by IASC/DEC/9715.

1.2 The bilateral arrangements covering air services between Australia and Taiwan were recently revised to express capacity in terms of seats instead on co-efficients (B747SP equivalent units). On 14 July 1998 Qantas applied to the Commission to have its allocation of capacity expressed in terms of seats.

2 Commission's consideration

2.1 If an Australian carrier applies for a variation of a determination it holds, and the only effect of the variation would be to reduce the capacity allocated to the carrier, the Commission is not required to invite submissions (section 22(1A)) and must vary the determination as requested in the application (section 24(3)).

2.2 Qantas currently operates 4 B767-300 services weekly between Australia and Taiwan. These operations fully utilised the 3.4 co-efficients allocated.

2.3 The Register of Available Capacity has been amended to reflect the new capacity units. In updating the register the Department of Transport and Regional Development has converted co-efficients to seats at the rate of 277 seats per co-efficient.

2.4 Qantas' request amounts to a reduction in capacity although there will be no change in the aircraft it operates on the route. Qantas' current allocation is equivalent to 942 seats per week in each direction and it is seeking to have this varied to 916 seats per week in each direction.

3 Decision (IASC/DEC/9813)

3.1 In accordance with section 24(3) of the Act, the Commission makes the following variation, as requested by Qantas, in the section 54A Determination made by the Minister on 2 February 1995 (as varied by IASC/DEC/9715) by;

- *changing* the allocated capacity from 3.4 co-efficients weekly to 916 seats per week in each direction.

The substantive provisions of the Determination, as varied in accordance with this Decision, is set out in Attachment A.

Dated 12 August 1998

Russell V Miller
Chairman

Michael L Lawriwsky
Member

Stephen Lonergan
Member

A. Substantive provisions of Section 54A Determination as amended by Decisions IASC/DEC/9715 and IASC/DEC/9813 and change of name for Australia-Asia Airlines Limited

- (a) that the Act applies (as if immediately after the commencement of that section the Commission had made a determination in the terms of this declaration) to 916 seats per week in each direction of pre-existing capacity, being capacity that is:
 - (i) established in accordance with:
 - (A) the entitlements of Australian carriers that operate air services between Australia and Taiwan under bilateral arrangements; and
 - (B) the co-efficients applying on 25 March 1994 under the bilateral arrangements; and
 - (ii) allocated to Qantas Limited ACN 003 613 465 for the period of 5 years starting on 28 November 1994; and
- (b) that paragraph (a) has effect subject to the following conditions:
 - (i) the capacity must be fully used from the start of the period of the allocation;
 - (ii) the capacity may be used only by:
 - (A) Qantas Limited; or
 - (B) another Australian carrier of which Qantas Limited is a wholly owned subsidiary;

except to the extent that the Commission authorises Qantas Limited or that other carrier, in writing, to use the capacity jointly with another carrier or person for the provision of an international air service;
 - (iii) if there is a change in the ownership or control of Qantas Limited or of another Australian carrier of which Qantas Limited is a wholly-owned subsidiary, the change must not result in:
 - (A) substantial ownership or effective control of Qantas Limited, or of that other carrier, being no longer Australian,; or
 - (B) substantial ownership or effective control of Qantas Limited, or of that other carrier, passing to a third Australian carrier or other person who has substantial ownership or effective control of a third Australian carrier.