

# DECISION

<b>DECISION:</b>	<b>IASC/DEC/9832</b>
<b>VARIATION OF:</b>	<b>IASC/DET/9506 AND IASC/DET/9704</b>
<b>THE ROUTE:</b>	<b>ZIMBABWE</b>
<b>THE APPLICANT:</b>	<b>QANTAS AIRWAYS LIMITED (ACN 009 661 901)</b>
<b>PUBLIC REGISTER FILE:</b>	<b>IASC/APP/98032</b>

## 1 The application

1.1 On 1 December 1998, Qantas Airways Limited (Qantas) applied to the Commission to vary Determinations IASC/DET/9506 and IASC/DET/9704. Each determination allocates Qantas one frequency of any aircraft type per week. Qantas is seeking:

- a change in the capacity allocated to reflect the recent change to seats per week as the means of describing capacity under the Australia–Zimbabwe air services arrangements; and
- a minor increase in capacity of approximately 20 seats in each allocation.

1.2 The Commission published a notice inviting submissions from interested parties about the Qantas application. No submissions were received.

## 2 Provisions of relevant Air Services Agreements

2.1 The May 1998 MOU provides for the operation of international air services and designation of multiple Australian carriers. The air services arrangements also provide for the operation of joint services between designated airlines.

2.2 Under the arrangements in place at the time of issuing the relevant determinations to Qantas, capacity entitlements were expressed in terms of frequencies regardless of aircraft type.

2.3 Under the arrangements effective from 5 May 1998, passenger capacity entitlements are now expressed in terms of seats per week. There is separate capacity available for freight-only operations.

2.4 The May 1998 MOU does not contain a conversion formula which would permit the Commission to easily calculate the conversion of frequencies to seats. Qantas currently operates B747 type aircraft on the route. The Commission has decided to apply 400 seats per frequency, as it has done in previous cases.

### **3 Commission's consideration**

3.1 Variations to determinations are made by the Commission in accordance with the *International Air Services Commission Act 1992* (the Act) and the Minister's Policy Statement (no 3 of 23 April 1997) which was issued under section 11 of the Act.

3.2 Under section 24 of the Act, the Commission must either make a decision confirming the determination or varying the determination in a way that gives effect to the variation requested in the application.

3.3 Qantas has sought the approval of the Commission for its determinations IASC/DET/9506 and IASC/DET/9704 to be amended to reflect a capacity allocation of 420 seats per week in each direction.

3.4 The Minister's Policy Statement of 23 April 1997 makes it clear that where an applicant already operating services on a route seeks a minor increase in capacity, the Commission may deal with the application as a variation rather than a new allocation. The Commission notes that the Explanatory Statement to the Policy Statement suggests that up to the equivalent of one B747 unit can be considered a minor adjustment.

3.5 The MOU of May 1998 indicates that 1200 seats per week are available to Australian airlines immediately and a further 400 seats per week from April 1999. A total allocation to Qantas of 840 seats per week would leave 360 seats per week on the shelf and 400 seats per week in prospect.

3.6 There is sufficient capacity available and in prospect to allow the entry of a new carrier onto the route.

3.7 The Commission therefore concludes that it would be appropriate for Determinations IASC/DET/9506 and IASC/DET/9704 to be varied to reflect the manner in which capacity is now expressed under the current Australia – Zimbabwe air services arrangements and to reflect the minor increase in capacity sought by Qantas.

### **4 Decision (IASC/DEC/9832)**

4.1 In accordance with section 24 of the Act, the Commission varies Determination IASC/DET/9506 to give effect to the request by Qantas by:

*replacing* paragraph 8.1 with the following:

“8.1 The Commission makes a determination in favour of Qantas, allocating 420 seats per week in each direction between Australia and Zimbabwe.”;

4.2 In accordance with section 24 of the Act, the Commission varies Determination IASC/DET/9704 to give effect to the request by Qantas by:

*replacing* paragraph 8.2 with the following:

“8.2 The Commission makes a fresh determination in favour of Qantas, allocating 420 seats per week in each direction between Australia and Zimbabwe under the Australia - Zimbabwe Air Services Agreement.”;

Dated: 21 December 1998

Russell V Miller  
Chairman

Michael L Lawriwsky  
Member

Stephen Lonergan  
Member