

RENEWAL DETERMINATION

DETERMINATION NO: IASC/DET/9811
PUBLIC REGISTER FILES: IASC/APP/97026
IASC/COM/92005
RENEWAL OF: DETERMINATION IASC/DET/9320
THE ROUTE: VANUATU
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)

1 The application for renewal

1.1 On 25 November 1993, the Commission issued Determination IASC/DET/9320 (the Determination) which allocated 150 seats per week on the Vanuatu route to Qantas Airways Limited (Qantas). The Determination expires on 24 November 1998.

1.2 Qantas wrote to the Commission seeking a renewal of the Determination. The Commission published a notice inviting other applications for an allocation of all or part of the capacity subject to renewal and submissions from any interested person about the renewal of the Determination. No other applications or submissions were received.

2 Commission's consideration of the renewal of the determination

2.1 Under section 11 of the *International Air Services Commission Act 1992* (the Act), the Minister may make Policy Statements setting out matters relevant to the Commission's performance of its functions. Under the Policy Statement (No. 3), issued by the Minister on 23 April 1997, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 The Commission therefore concludes that the renewal of Determination IASC/DET/9320 would be of benefit to the public.

2.4 The wording of the new determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

3 Determination for renewal of Determination IASC/DET/9320 allocating capacity on the Vanuatu route to Qantas (IASC/DET/9811)

3.1 The Commission finds that a renewal of Determination IASC/DET/9320 allocating 150 seats per week on the Australia - Vanuatu route to Qantas would be of benefit to the public.

3.2 The Commission makes a new determination in favour of Qantas, allocating 150 seats per week in each direction between Australia and Vanuatu under the Australia - Vanuatu air services arrangements.

3.3 The determination is for five years from 25 November 1998 and is subject to the following conditions:

- Qantas is required to fully utilise the allocated from 25 November 1998;
- only Qantas is permitted to utilise the capacity;
- Qantas may use the capacity to provide services jointly with Air Vanuatu in accordance with:
 - the Capacity Purchase/Sale Agreement between Air Vanuatu (Operations) Limited and Qantas dated 16 September 1993 as extended from time to time in accordance with its terms; or
 - any new joint services arrangement between Air Vanuatu and Qantas for operations on the Australia – Vanuatu route, whether or not it replaces the existing Agreement, with the prior approval of the Commission;

and in any case, in accordance with this Determination,

- to the extent that the capacity is used to provide services jointly with Air Vanuatu Qantas must:
 - price and sell its services on the route independently;
 - not pool revenues with Air Vanuatu; and
 - take all reasonable steps to ensure passengers are informed, at the time of ticket reservation, of the carrier operating the flight;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia-Vanuatu Air Services Agreement being withdrawn; or

- has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Qantas or be in a position to exercise effective control of Qantas, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Qantas are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia-Vanuatu Air Services Agreement.

Dated: 18 May 1998

James K Bain
Chairman

Russell V Miller
Member

Michael L Lawriwsky
Member