



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2020] IASC 106  
**The Route:** Korea  
**The Applicant:** Qantas Airways Limited (Qantas)  
(ABN 16 009 661 901)  
**Public Register File:** IASC/APP/202024

**The Commission makes a determination allocating to Qantas unlimited all-cargo capacity on the Korea route. The determination is valid for 99 years from 19 November 2020.**

#### 1 The application

1.1 On 19 October 2020, Qantas applied to the International Air Services Commission (the Commission) for an allocation of unlimited capacity to operate dedicated freight services on the Korea route, using various routings which include China and the United States. Qantas stated in its application that its services will be operated using B747-400F and B747-8F aircraft leased from Atlas Air. Qantas sought the additional capacity on the following basis:

- the allocation is requested for a period of 99 years from the date of the determination;
- the capacity will be utilised from 30 January 2021.

1.2 In accordance with section 12 of the International Air Services Commission Act 1992 (the Act), on 19 October 2020, the Commission published Qantas' application on the Commission's website inviting other applications on the Korea route. No other applications were received.

1.3 All non-confidential material supplied by the applicant is available on the Commission's website ([www.iasc.gov.au](http://www.iasc.gov.au)).

## **2 Air services arrangements**

2.1 Paragraph 7(2)(aa) of the Act provides that the Commission must not allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement(s). Any variation made to an existing allocation of capacity should also not be contrary to any restrictions on capacity contained in a bilateral arrangement (s).

2.2 Under the Australia-Korea air services arrangements, Australian designated airlines may determine the frequency, capacity and aircraft type to be operated on the route for dedicated freight services.

## **3 Commission's consideration**

3.1 Subsection 12(3) of the Act allows any person to apply to the Commission for a determination allocating capacity to enable an Australian carrier to operate international air services.

3.2 Subsection 7(1) of the Act empowers the Commission to make a determination allocating available capacity. Subsection 7(2) requires, in part, that the Commission's determination must not allocate capacity unless the Commission is satisfied that the allocation would be of benefit to the public and would not be contrary to any restrictions on capacity contained in bilateral arrangements, or combination of bilateral arrangements.

3.3 Further, subsection 7(3) of the Act provides that in assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out in the policy statement made by the Minister pursuant to section 11 of the Act.

3.4 Pursuant to section 11 of the Act, the Minister issued the *International Air Services Commission Policy Statement 2018* (the Policy Statement) which came into effect on 28 March 2018. The Policy Statement sets out the criteria which the Commission is required to apply in assessing the benefit to the public of allocations of capacity.

3.5 As indicated above, Qantas is seeking the allocation of unlimited capacity to operate dedicated freight services on the Korea route, using various routings which include China and the United States.

3.6 The Commission notes there are no other applicants seeking capacity on the route and no opposition to the application. Section 11 of the Policy Statement provides, in part, that where available capacity is not limited, the Commission is to have regard to the 'reasonable capability criterion' in section 8 of the 2018 Policy Statement and need not have regard to any other matter.

3.7 Under section 8 of the Policy Statement, the Commission is to assess the extent to which all Australian carriers that are, or would be, permitted to use the capacity allocated under a determination are reasonably capable of: (a) obtaining any licenses,

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

3.8 The Commission notes that Qantas is an established international carrier and, as such, is reasonably capable of obtaining the necessary approvals to operate on the route and of implementing their proposed services. Accordingly, the Commission has concluded that Qantas satisfies the criteria under section 8 and has decided to allocate the capacity requested.

#### **4 Determination allocating capacity on the Korea route to Qantas ([2020] IASC 1066)**

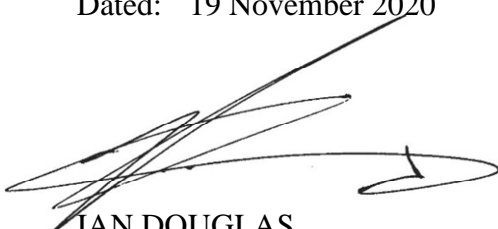
4.1 In accordance with section 7 of the Act, the Commission makes a determination in favour of Qantas, allocating unlimited all-cargo capacity on the Korea route in accordance with the Australia - Korea air services arrangements.

4.2 The determination is valid for 99 years from the date of this determination.

4.3 The determination is subject to the following conditions:

- (a) Qantas is required to utilise the capacity from no later than 30 January 2021 or such other date approved by the Commission;
- (b) neither Qantas nor its wholly-owned subsidiary is permitted to use the capacity to provide services jointly with another Australian carrier or any other person unless approved by the Commission; and
- (c) 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 – Korea air services arrangements 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.

Dated: 19 November 2020



IAN DOUGLAS  
Chairperson



KAREN GOSLING  
Commissioner