



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2023] IASC 134
The Route:	France - Route 1
The Applicant:	Qantas Airways Limited (ABN 16 009 661 901) (Qantas)
Public Register File:	IASC/APP/202367

The Commission makes a determination allocating to Qantas Airways Limited two (2) units of capacity per week in each direction on France-Route 1. The determination is valid for five years from 29 November 2023.

1 The application

1.1 On 3 November 2023, Qantas applied to the International Air Services Commission (the Commission) for an allocation of two (2) units of capacity per week on France - Route 1. Qantas stated in its application that it plans to operate services between Perth and Paris (v.v.) four days per week during the peak European summer, using Boeing 787 Dreamliner aircraft configured with 236 seats, with services moving to three days per week from mid-August 2024.

1.2 Qantas has requested the capacity allocation on the following basis:

- the allocation is requested for a period of five years from the date of the determination; and
- the capacity will be fully utilised by 31 July 2024.

1.3 In accordance with section 12 of the *International Air Services Commission Act 1992* (the Act), on 6 November 2023, the Commission published Qantas' application on the Commission's website inviting other applications for capacity on France-Route 1. No other applications were received.

1.4 All non-confidential material supplied by the applicant is available on the Commission's website (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).

France-Route 1

2.2 Under the Australia-France air services arrangements, the designated airline(s) of Australia may operate three (3) units of capacity per week from Australia to Paris and one additional point in France. According to the Register of Available Capacity there are three (3) units of capacity per week available for allocation to Australian carriers to operate services on France-Route 1.

2.3 Additionally, Australian designated airlines may enter into arrangements with other airlines, including airlines of third countries, to undertake services through code share, blocked space or other joint venture arrangements. The total traffic carried through code share or other joint venture arrangements by the Australian designated airline(s) will not exceed 400 one-way seats daily in each direction averaged over 12 months. Qantas has been allocated 250 one-way code share seats and Virgin Australia has been allocated 150 one-way code share seats on France-Route 1. There are currently no seats available for allocation.

2.4 Under the Australia-France air services arrangements, based on the aircraft substitution formula, aircraft seat capacity between 200-239 seats is counted as 0.5 units of capacity.

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 Qantas has a total allocation of 250 one-way code share seats of capacity per day on France-Route 1, allocated through Renewal Determination [2021] IASC 106. The Determination includes conditions permitting the capacity to be utilised by Qantas to provide code share services with British Airways, Emirates and Air France, subject to certain conditions. Qantas does not currently operate its own services on the route.

3.3 The Commission notes that Virgin Australia has a total capacity allocation of 150 one-way code share seats per day on France-Route 1, including conditions permitting the capacity to be utilised by Virgin Australia to provide code share services with Qatar Airways, subject to certain conditions¹. Virgin Australia does not currently operate its own services on the route.

3.4 Qantas is seeking an allocation of two (2) units of capacity per week in each direction on France-Route 1, to enable the airline to operate services up to four days per

¹ Allocated through Renewal Determination [2019] IASC 124 (as varied) by Decision [2022] IASC 209.

week between Perth and Paris from 12 July 2024, using Boeing 787 Dreamliner aircraft configured with 236 seats. The services would move to three days per week from mid-August 2024, using the same aircraft type.

3.5 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.

3.6 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.

3.7 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.

3.8 The Commission notes that there are no other applicants seeking capacity on the route and no opposition to the application. Section 12 of the Policy Statement provides, in part, that in circumstances where there is only one applicant for allocation of capacity on a route, and there is no opposition to the application, the Commission is to have regard to the 'reasonable capability criterion' in section 8 of the Policy Statement and need not have regard to any other matter.

3.9 Under the reasonable capability criterion in section 8 of the Policy Statement, the Commission is required 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 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.

3.10 The Commission notes that Qantas is an established international carrier currently operating international services and, as such, is reasonably capable of obtaining the necessary approvals to operate on the route and of implementing the proposed services.

3.11 Accordingly, the Commission has concluded that Qantas satisfies the criteria under section 8. The Commission, therefore, has decided to allocate the capacity as requested by Qantas.

3.12 Paragraph 15(2)(a) of the Act requires a determination to specify the period during which it is to be in force. Subsection 15(3) of the Act effectively provides that if the Policy Statement sets out how the period of validity of the determination is to be fixed, then the period of validity is as so fixed. In any other case, an interim determination is to be in force for three years while a determination that is not an interim determination is to be in force for five years.

3.13 Section 20 of the Policy Statement sets out how the Commission is to fix the period during which a determination is to be in force. The Commission considers that this

application is within the scope of subsection 20(4) and has decided that this determination is to be in force for a period of five years.

4 Determination allocating capacity on France Route 1 to Qantas Airways Limited ([2023] IASC 134)


4.1 In accordance with section 7 of the Act, the Commission makes a determination in favour of Qantas Airways Limited, allocating two (2) units of capacity per week to operate passenger services on France-Route 1 in accordance with the Australia – France air services arrangements.

4.2 The determination is valid for five years from 29 November 2023.

4.3 The determination is subject to the following conditions:

- (a) Qantas Airways Limited is required to fully utilise the capacity no later than 31 July 2024 or such other date approved by the Commission.
- (b) Only Qantas Airways Limited is permitted to utilise the capacity.
- (c) Qantas Airways Limited is not permitted to utilise the capacity to provide services jointly with another carrier or any other person unless approved by the Commission.
- (d) Changes in relation to the ownership and control of Qantas Airways Limited are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – France 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 Airways Limited or be in a position to exercise effective control of Qantas Airways Limited, without the prior consent of the Commission.

Dated: 29 November 2023


Genevieve Butler
Chairperson


Jane McKeon
Commissioner