



Australian Government

International Air Services Commission

Ms Anna Pritchard
Executive Manager
Government, Industry and Competition
Qantas Airways Limited
(sent via email)

Subject: APPLICATION FOR VARIATION – INDONESIA ROUTE

Dear Ms Pritchard,

I refer to Qantas Airways Limited (Qantas) application of 20 September 2023, seeking to vary twelve Determinations¹ on the Indonesia route, to permit the use of the capacity for the provision of code share services with PT Garuda Indonesia (Persero) Tbk (Garuda Indonesia). The proposal is for Garuda Indonesia to offer code share services on flights operated by Qantas from 29 October 2023.

Qantas' application is considered a transfer application as defined in section 4 of the *International Air Services Commission Act 1992* (the IASC Act):

transfer application means an application, by an Australian carrier to whom a determination allocates capacity, for one or both of the following: (a) a variation of the determination in a way that allocates, or has the effect of allocating, that capacity, to another Australian carrier; (b) a variation of the determination that varies, or has the effect of varying, one or more conditions of a kind referred to in paragraph 15(2)(d), (e), or (f).

As Qantas' application seeks to vary a condition of a kind referred to in paragraph 15(2)(e)² of the IASC Act, the Commission's decision will be made pursuant to section 25 of the IASC Act.

Public benefit criteria

Subsection 25(2) of the IASC Act provides that the Commission must not make a decision varying a determination in a way that varies, or has the effect of varying, an allocation of capacity if the Commission is satisfied that the allocation, as so varied,

¹ Determinations [2013] IASC 135, [2017] IASC 130, [2018] IASC 120, [2019] IASC 106, [2019] IASC 116, [2020] IASC 101, [2021] IASC 107, [2021] IASC 118, [2022] IASC 110, [2023] IASC 102, [2023] IASC 107, and [2023] IASC 127, Qantas application dated 20 September 2023.

² 15(2)(e) refers to a condition stating the extent (if any) any such carrier may use that capacity by providing joint international air services with another Australian carrier or any other person. As defined in section 4 of the IASC Act, the term 'joint international air services' includes, but is not limited to, the provision of international air services by an Australian carrier involving code sharing, blocked space arrangements, joint pricing, revenue and cost sharing, revenue and cost pooling, or the sale of capacity to another airline.

would not be of benefit to the public. Section 26 of the IASC Act provides that in assessing the benefit to the public, the Commission must apply the criteria set out for that purpose in the International Air Services Commission Policy Statement 2018 (Policy Statement). Paragraph 18 of the Policy Statement provides, in part, that the Commission is to have regard to the paragraph 8 '*reasonable capability criterion*' and may have regard to any of the paragraph 9 '*additional criteria*' that it considers relevant. Paragraph 9 refers to competition, tourism and trade criteria, information from other government agencies and any other matter or consideration that the Commission considers to be relevant.

The Commission invites Qantas to provide an additional submission addressing the competition criteria and the tourism and trade criteria as set out in paragraph 9 of the Policy Statement by **C.O.B 23 October 2023**. As part of its response, Qantas is also requested to provide details on how the proposed code share services with Garuda Indonesia would meet the object of the IASC Act of enhancing the welfare of Australians by promoting economic efficiency through competition in the provision of international air services, resulting in:

- a) increased responsiveness by airlines to the needs of consumers, including an increased range of choices and benefits;
- b) growth in Australian tourism and trade; and
- c) the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

Please note that as per the Commission's long standing practice, Qantas' additional submission will be published on the IASC website, and in accordance with section 22 of the IASC Act, the Commission will invite further submissions about the application.

Submissions received

As you are aware, Virgin Australia and a member of the public provided submissions to the Commission, respectively, in response to Qantas' application. In the interest of due process, the Commission also invites Qantas to respond to the concerns raised by Virgin Australia and a member of the public in their respective letters of 6 October and 28 September 2023, should it wish to do so. It would be appreciated if Qantas could submit any responses to the submissions by **C.O.B 23 October 2023**. Consistent with the Commission's policy of transparency, Qantas' responses on the submissions will be published on the IASC website.

Should you wish to discuss this request, please feel free to contact Ms Jasmina Ackar on (02) 6267 1106 or by email at jasmina.ackar@infrastructure.gov.au.

Yours sincerely



GENEVIEVE BUTLER
Chairperson
10 October 2023