



# Procedures - Consolidation of determinations

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## Purpose

The Commission's preference is that, wherever possible, a carrier's determinations on a route be consolidated into a single determination that reflects the total amount of capacity and all relevant conditions concerning its use. The Commission believes this provides a simpler and more holistic view of a carrier's capacity allocation on a route, which may be useful to a range of interested parties. While Australian carriers are encouraged to seek such consolidations, ultimately it is their decision whether to seek consolidated determinations or to operate under existing determinations. Airlines may, if they wish, apply to consolidate some but not all their determinations on a route.

Where a carrier holds multiple determinations on a particular route, there is no single point of reference to allocated capacity or to conditions applying to that capacity. Consequently, the Commission has developed two sets of procedures for consolidation of determinations, as follows:

- Consolidation of determinations on a route where there is available capacity on that route equal to or greater than that currently allocated to the Australian carrier (Procedure 1); and
- Consolidation of determinations where the total amount of capacity held by the Australian carrier exceeds available capacity on that route (Procedure 2).

For avoidance of doubt, nothing in this document overrides the requirements of the *International Air Services Commission Act 1992* (the Act), the *International Air Services Regulations 2018* (the Regulations), and the *International Air Services Commission Policy Statement 2018* (the Policy Statement).

### Procedure 1: Consolidation of determinations where there is available capacity equal to or greater than that currently allocated to the relevant Australian carrier

1. Where available capacity on a route is equal to or greater than that currently allocated to the relevant Australian carrier, the carrier may apply to the Commission under subsection 12(3) of the Act for an allocation of capacity.

#### Application under subsection 12(3) of the Act

2. A carrier applying under subsection 12(3) of the Act for an allocation of capacity to consolidate determinations must submit an application in accordance with section 14 of the Act. The Commission will invite other applications for capacity on the route as required under subsection 12(1) of the Act.

3. An application to consolidate determinations on a route must specify that the carrier, within 10 business days of being issued a new determination, will apply for revocation of determinations which allocate capacity to it, and request the commencement date of the new allocation be the date of the revocation of the existing determinations.

4. Applications will be considered in accordance with the Policy Statement. If the criteria in paragraph 6.2 of the Policy Statement are satisfied (i.e. where there is only one applicant or where the available capacity is equal to or exceeds the total amount of capacity applied for), the Commission will apply the criteria in section 8 in assessing the public benefit.

5. The Commission will issue the new consolidated determination under section 7 of the Act. The determination will include terms and conditions in accordance with section 15 of the Act.
6. The new consolidated determination and conditions will take effect from the date of the revocation of the specified existing determinations.

#### Two or more applications for consolidation on the same route

7. Where two or more carriers apply for consolidation of capacity on the same route, and there is insufficient capacity available to support the allocation of all the capacity sought by the carriers, the Commission will deal with the applications sequentially. Once a decision is made on the first application, the first applicant carrier will be required to apply for revocation of its other determinations on the route, thus returning the capacity to the register. This will ensure there will be sufficient capacity for allocation to a subsequent carrier applying for new capacity.

#### Procedure 2: Consolidation of determinations where the total capacity held by the relevant Australian carrier exceeds available capacity

8. Where an Australian carrier holds multiple determinations on a route and the capacity held by the carrier exceeds the capacity available for allocation, the following procedure applies:
  - A carrier can apply under section 21 of the Act to vary the determination most recently issued to the carrier on the route and therefore the determination with the latest expiry date to increase the capacity to the total amount the carrier intends to retain. A determination not yet in effect may also be subject to variation under section 21 of the Act.
  - The application should include a request to vary all other determinations on the route to change the expiry dates to the date when the variation to the first determination takes effect.
  - Before conducting a review of the determinations under section 10 of the Act, the Commission will invite submissions in accordance with section 22. If no submission is received opposing the application, or a submission does not contest the application, the Commission will apply the criteria in section 8 of the Policy Statement.
  - If a submission opposing and/or contesting the application is received, the Commission may apply the additional public benefit criteria in section 9 of the Policy Statement. Should the Commission decide to apply the section 9 criteria, it will advise the applicant carrier, and if the carrier decides to proceed with its application, it will be invited to address the section 9 criteria. The Commission will also invite submissions from interested parties.
  - In relation to the capacity to be allocated, the Commission will conduct a review of the determinations under section 10 of the Act and may make a decision under section 24 or section 25. The expiry date of the consolidated determination, which will be the determination most recently issued to the carrier on the route, will remain unchanged.

#### General matters relating to both procedures

##### Full utilisation of capacity

9. Where the determinations sought to be consolidated have been in force and do not include a date for full utilisation of the capacity, the Commission will include a condition in the consolidated determination that the capacity should be utilised from the date the existing determinations expire

or are revoked. This is consistent with the requirement that allocated capacity should be fully utilised by the relevant carrier unless the Commission has approved a particular date from which to fully utilise the capacity.

#### Separate consolidation of various types of capacity

10. On routes on which a carrier has determinations allocating different types of capacity – own-operated, code share, beyond capacity and/or freight – there could be benefits in consolidating the different types of capacity into separate determinations. This would make the revocation process and also future consolidations simpler. The Commission would consider any such cases on their merits, in consultation with the applicant.

#### Consolidation of determinations that have different conditions

11. If all the existing determinations include corresponding conditions, the carrier will need to apply for inclusion of the same conditions in the new determination. The Commission will approve conditions that are consistent with those in the existing determinations.

12. If an application seeks the inclusion of new conditions, the carrier must request a variation. In some circumstances, determinations to be consolidated may have different conditions in relation to code sharing, wet leasing, the ability for allocated capacity to be used by subsidiaries, or for other reasons. In such circumstances, the carrier should apply for the conditions it wishes to be reflected in the consolidated determination, including any new conditions not contained in its existing determinations.

13. The Commission will consider the request against the relevant criteria in the Policy Statement, as specified in section 17. The Commission may subject the application to more detailed assessment using the additional criteria in section 9. If the Commission has concerns in relation to any of the conditions requested, it will advise the carrier before making a final decision.

14. If the carrier does not include in its application a condition or conditions contained in one or more of the determinations sought to be consolidated, the Commission may include in the consolidated determination such condition(s) from existing determinations it considers relevant. The Commission will consult the applicant to ensure only the relevant conditions are retained in the consolidated determination. For avoidance of doubt, the applicant is also advised to indicate in its application (in addition to any new conditions and those conditions it desires to retain) the conditions which it no longer wishes to retain.

#### Withdrawing or changing applications

15. If the Commission forms the view that it would not be of benefit to the public to approve the application, or particular parts of the application, it will advise the carrier and offer it the opportunity to withdraw or change its application. A carrier may, at any time before a final decision is made, withdraw or change its application without prejudice.

#### Allocations of new capacity after consolidation

16. If after having consolidated its determinations on a route, an airline is allocated additional capacity, this capacity will be allocated by a new determination, and not by a variation to its existing (consolidated) determination. Should the airline wish to have its new determination and its existing

determination consolidated, it will need to apply to the Commission in accordance with these procedures.

### Information handling

17. The Commission understands that there may be information provided by applicants that they do not wish to be made public.

18. The Commission accepts that information that is of a commercially-sensitive nature should be treated confidentially. The Commission will not normally publish such information on its website, provided a suitable case for confidential treatment is made. This might include, for example, detailed business plans or joint service agreements between airlines.

19. The Commission requires applicants and submitters to provide a non-confidential version of the application and/or submission for public release. The existence and nature of the confidential information must be referred to in the non-confidential version.

20. The Commission reserves the right to reject claims for confidentiality of information, or to not take the information into account in its deliberations. The Commission might do either of these things if it disagrees with the applicant or submitter that the information is confidential, or where relying on such information in the Commission's deliberations would be unfair to other affected parties, which would not have the opportunity to respond to it.

### Version control

Version	Author	Date	Authorised by	Date
1.0	IASC Secretariat	August 2025	Ms Genevieve Butler Ms Jane McKeon	06/08/2025