

International Air Services Commission

annual report 2001–2002



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INTERNATIONAL AIR SERVICES COMMISSION

The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600

Dear Minister

We are pleased to submit the tenth Annual Report of the International Air Services Commission, for the year ended 30 June 2002.

Our report is submitted to you in accordance with subsection 53(1) of the *International Air Services Commission Act 1992* and is for presentation to each House of the Parliament in accordance with subsection 53(2) of the *International Air Services Commission Act 1992*.

Yours sincerely

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Loneragan
Member

13 September 2002

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Part 1 — Review by Chairman

When concluding my remarks in last year's report, I suggested that the future for the Commission looked to be anything but routine. There was a major crisis in international aviation, as a result of the tragic events of 11 September 2001, and uncertainty about the future of Ansett International.

The past twelve months have proved to be far from straightforward for the Commission. It's activities were conducted against a background of turbulence in world aviation. Internationally, the number of people travelling by air fell sharply in the last quarter of 2001. Months passed before passenger numbers began to recover to pre-September levels. Several major foreign airlines ceased to operate and many others came close to financial collapse, as a result of much reduced revenues. In Australia, Ansett International went into administration, but for reasons unrelated to September 11.

All Ansett companies ceased flying — domestically and internationally — just three days after September 11, following a decision by its Administrators to ground the airline. This decision related to the poor financial state of Ansett, a situation that predated the terrorist acts in the United States. The grounding of Ansett created circumstances in Australia that were probably unique in world aviation at the time.

The coincidence of Ansett's collapse with the downturn in international markets meant that Qantas was able to offset reduced traffic on international routes with greatly increased numbers of passengers in the Australian domestic market. While these events placed tremendous adjustment strains on Qantas, the airline emerged from this difficult period in a sound financial position. Qantas was one of few airlines in the world to achieve a profit in the 2001–02 year.

Ansett's Administrators spent months endeavouring to find a buyer for the Ansett companies, during which time some Ansett services operated domestically but Ansett International remained grounded. In the event, sales of the main domestic and international businesses were unable to be achieved and Ansett ceased operations in March 2002. This meant that there was no prospect of Ansett International ever resuming services.

The demise of Ansett International had a significant impact on the Australian international aviation market. The airline was an established operator on several international routes, most notably Hong Kong and Osaka in Japan. It was also on the point of introducing services to Tokyo. Ansett's departure reduced the degree of competition faced by Qantas and foreign airlines serving Australia, lessening product and price choice for consumers and narrowing the diversity of effort to promote and develop tourism to Australia.

International events and the Ansett collapse in particular had significant implications for the work of the Commission. When Ansett stopped flying in September, the Commission established with the Administrators that they intended to sell the Ansett International assets, with a view to a successor entity resuming services using Ansett International's capacity allocations. The *International Air Services Commission Act 1992* (the Act) provides scope for determinations to be transferred between airlines.

The Commission's dilemma was that Ansett International was in breach of the condition of its determinations requiring that allocated capacity be fully utilised. There appeared to be *prima facie* grounds to review all of Ansett International's determinations, with revocation of

them a possible outcome but this may have prejudiced re-establishment of domestic and/or international operations.

The approach taken was to review only determinations where capacity on a route was constrained and another carrier was seeking more capacity. With uncertainties surrounding the sale process, the Commission did not want to prejudice the re-establishment of services, including on domestic routes. The Commission's initial review applied to Ansett International's Japan determinations. This was because a new runway was due to open at Tokyo's Narita airport, enabling the first expansion of services to Tokyo by Australian carriers for many years. It was important to ensure that Australian capacity was in the hands of carriers that would be in a position to take advantage of this new access to Tokyo. Ansett International's Japan determinations were suspended, but the airline was allowed to retain the capacity pending the outcome of the sales process and a slot allocation process for the new runway at Tokyo's Narita airport.

In March 2002, these considerations were overtaken by the ending of negotiations for the sale of the main domestic business and of Ansett International. With no prospect of Ansett International ever resuming operations, the Commission revoked all of Ansett's determinations. The Commission allocated additional capacity to Qantas for services to Japan, and the airline was able to achieve its required level of access to the new runway at Narita.

Most of Ansett International's other rights were returned to the pool of available capacity, with additional capacity being allocated to Qantas in response to applications from that airline. More details about the handling of the Ansett issue are contained in the body of this report.

Over half of the Commission's cases involve code sharing. Airlines are required by the Act to obtain

Commission approval to code share, except where bilateral arrangements specify that code share capacity is not counted as an exercise of capacity entitlements. In the latter half of the year, a number of Qantas' code sharing applications were reviewed. The Commission approved applications for Qantas to code share on the South Africa route and certain city pairs on the Japan route, despite our concerns about the domination of these markets by Qantas and its code share partners. There was a genuine risk that services would be withdrawn altogether if code sharing was not approved, because of the weak state of the markets concerned. On balance, there were sufficient public benefits involved to justify approving the arrangements. Further information about these cases is set out in this report.

The Commission made a decision in favour of Qantas in March 2002 to enable the entry of Australian Airlines onto several international routes. Australian Airlines is a wholly owned subsidiary of Qantas, established as a low-cost carrier intended to serve routes which Qantas would not fly in its own right. The Commission varied several Qantas determinations to enable Australian Airlines to commence services on routes to Japan, Hong Kong, Singapore and Taiwan. Services are expected to start in late October 2002.

During the year the Commission made substantial efficiency gains, continuing the trend of recent years. Running costs were reduced considerably while the number of final determinations and decisions increased. The Commission has now reduced by about 60 per cent its real average cost per decision relative to two years ago.

In addition to reducing costs, the Commission continues to deal with applications as expeditiously as possible. The timeliness of the decision making was slightly better than the benchmark time frame of an average of six weeks from receipt of application to decision. In the few cases where airlines specifically

sought particularly quick approval, this was delivered. Proposed changes to the Act, currently before the Parliament, provide the basis for making further progress in this regard.

The 30th of June 2002 marked 10 years since the commencement of the Commission. I believe that the Commission has effectively carried out the Parliament's intentions when establishing the Commission. No decisions have been judicially reviewed and decisions and processes have been fairly undertaken. Recent major challenges have been met successfully and the Commission looks forward to the challenges of the future. It is possible that new airlines will enter the Australian market in the near future. The Commission will ensure that it deals promptly and efficiently with applications from prospective new entrants.

In concluding, on behalf of the Commissioners, I thank the small group of officers led by Michael Bird who provided advice and support to us throughout this challenging year.

Ross Jones
Chairman

Part 2 — Commission overview

Role and functions of the Commission

The Commission is an independent statutory authority. Its role is to allocate capacity to Australian international airlines, consistent with entitlements available under Australia's air services arrangements with other nations. Capacity is allocated in accordance with the Act.

The object of the Act is to enhance international air services by fostering:

- greater efficiency in the airline industry and increased competition between Australian carriers
- increased responsiveness by airlines to the needs of consumers, including an increased range of choices and benefits
- Australian tourism and trade
- the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The Commission makes determinations allocating capacity to one or more carriers on particular routes. The determinations set conditions for the use of the capacity. From time to time carriers seek to amend their determinations and, where the Commission agrees to such amendments, it issues decisions to vary determinations accordingly. The Commission is required by the Act to conduct reviews of determinations at five yearly intervals, as determinations are not given in perpetuity.

Section 15 of the Act also provides that Australian carriers cannot use allocated capacity in joint services (such as to code share) without the Commission's approval. This requirement has meant that code sharing approvals have been featured in over half of the Commission's determinations and decisions. There is no role for the Commission in certain cases of code sharing, such as between domestic and

international carriers, or where bilateral arrangements allow carriers to code share without exercising capacity which is subject to allocation by the Commission.

The Commission is guided in its decision-making processes by the Minister's policy statement, a disallowable instrument under section 11 of the Act. The statement is reproduced at *Appendix 6*. The policy statement directs the Commission about the manner in which it is to perform its functions. It sets out criteria to be applied by the Commission in assessing the benefit to the public in relation to allocations of capacity to Australian carriers in a range of circumstances.

The Commission has published procedures it follows in making determinations. These are set out at *Appendix 5*. The procedures are intended to ensure that the objectives of the Act are met and that applicants and interested stakeholders are fairly treated and fully informed in the Commission's decision making processes. There is a wide range of parties with a stake in what the Commission does. These include:

- existing and prospective airlines
- the wider aviation industry, including airport owners and employee associations
- the tourism and freight industries and Australian exporters
- the travelling public
- aviation industry investors
- Australian government departments and agencies including the Department of Transport and Regional Services and the Australian Competition and Consumer Commission (ACCC)
- State governments and their agencies.

The Commission has a particular relationship with the Department of Transport and Regional Services. The department negotiates with other nations, on behalf of the Australian Government, the quantity

of capacity available to Australia's carriers on international routes. The Commission, in turn, allocates the capacity. The department maintains a Register of Available Capacity which details the capacity available (that is, yet to be allocated) on each route. The register is updated to reflect changes in capacity entitlements arising from negotiations, determinations made by the Commission and unused capacity handed back to

the Commission by airlines. The Commission and the department also liaise on matters such as whether carriers are likely to be reasonably capable of obtaining the necessary approvals to operate on a route and of implementing their proposals.

The Commission is also required by the Act to provide advice on any matter referred to it by the Minister concerning international air operations.

Executive profile

The Commission comprises a part-time chairman and two part-time members.



Mr Ross Jones

Mr Ross Jones, Chairman (formally appointed in August 2000 for a three year term ending in August 2003). Mr Jones is a Commissioner with the ACCC where he is responsible for mergers and telecommunications. He also has specific responsibility for aviation, and has undertaken substantial work in the area of airline alliances.



Dr Michael Lawriwsky

Dr Michael Lawriwsky, Member (originally appointed for a three year term which ended December 2000 and reappointed for a further three year term ending December 2003). He is a director of ANZ Investment Bank — Corporate Finance and an Adjunct Professor in the School of Business (and formerly Professor of Commerce) at La Trobe University, where he is also a member of the University Council.



Mr Stephen Lonergan

Mr Stephen Lonergan, Member (originally appointed for a three year term ending July 2001 and reappointed for a further three year term ending July 2004). He is a corporate lawyer based in Sydney. Mr Lonergan has post graduate qualifications in aviation law, has worked with the International Air Transport Association and has particular experience in the airline industry/product distribution system.

Commissioner's attendance at meetings

Commissioner	Number of meetings	Number of meetings attended
Mr Jones	14	14
Dr Lawriwsky	14	14
Mr Lonergan	14	14

Commission office holders, 1992–2002

To record the 10th anniversary of the founding of the Commission on 1 July 1992, the following tables set out the Chairmen and Members of the Commission, and its Executive Directors, over the 10 year period.

Chairs	Period	Members	Period
Stuart Fowler	July 1992 to April 1993	Brian Johns	July 1992 to June 1997
James Bain	July 1993 to June 1998	Russell Miller	July 1992 to June 1998
Russell Miller	July 1998 to January 2000	Michael Lawriwsky	December 1997 to the present
Michael Lawriwsky and Stephen Lonergan (acting Chairman at alternate meetings)	January 2000 to August 2000	Stephen Lonergan	August 1998 to the present
Ross Jones	August 2000 to the present		

Executive Directors	Period
Tony Slatyer	July 1992 to November 1992
Ian Rischbieth	December 1992 to July 1995
Anne Buttsworth (acting)	August 1995 to October 1995
Neil Ada (acting)	October 1995 to May 1996
Danny Scorpecci	May 1996 to October 1997
Chris Samuel	October 1997 to February 2001
Michael Bird	February 2001 to the present

Commission members and secretariat staff

The Commission is supported by a secretariat staffed by officers of the Department of Transport and Regional Services. At 30 June 2002, the secretariat was comprised of an Executive Director, one senior adviser and an office manager.



Those pictured, from left to right are: Mr Ross Jones, Chairman; Mr Roy McAndrew, Senior Adviser; Mr Stephen Lonergan, Member; Mrs Carolyn Sweeney, Office Manager; Dr Michael Lawriwsky, Member; Mr Michael Bird, Executive Director

Part 3 — Report on performance

Overview of Commission performance

The Commission produced one draft and 56 final determinations and decisions, somewhat more than the preceding year (48 final and three draft determinations and decisions).

Over the year, the Commission allocated total new passenger capacity equivalent to approximately 12 B747s, or about 4,800 seats, per week. The more substantial allocations of new capacity were to Qantas on routes to Japan and Hong Kong. In addition, the Commission renewed determinations allocating approximately 114 B747 services per week.

There were eight contested cases and five cases involving submissions opposing or expressing concern about particular proposals. Submissions were also received in response to two reviews the Commission instituted in relation to determinations held by Ansett International (more details about this are provided later in this part of the report). Some complex code share cases were dealt with also and these are outlined in this part of the report. Generally, the more involved cases require more detailed public interest analysis and therefore a longer period in which to reach a decision.

Despite a relatively high number of complex cases, the Commission was able to achieve an average turnaround time for its determinations and decisions of 5.7 weeks, better than its benchmark goal of six weeks.

The Commission considers that all of its decisions were made in accordance with the Act and Minister's policy statement and with the Commission's commitments to stakeholders set out in its service charter. The Commission achieved further substantial efficiencies in its operating costs, continuing the strong trend of recent years.

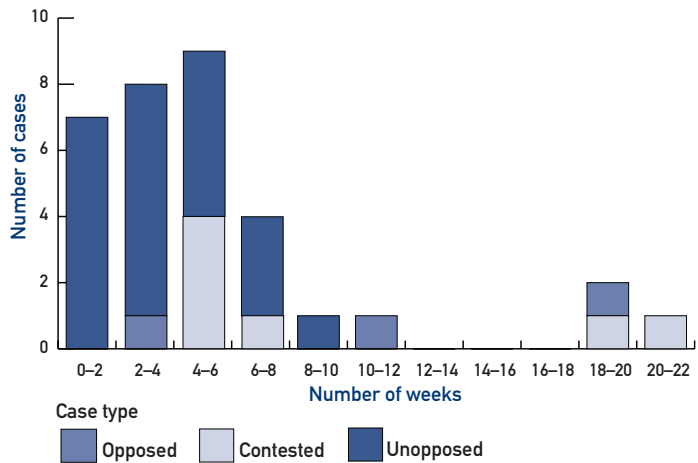
Taken together, these results for output, cost and timeliness show the Commission's commitment to, and achievement of, the objectives of having an effective Commission that minimises the administrative burden for applicants. In relation to efficiency, there is little or no scope to make further financial or staffing level savings.

Results against performance targets

The Commission produces determinations and decisions that allocate capacity to Australian international carriers. These products of the Commission contribute to the delivery of outputs by the Department of Transport and Regional Services set out in its Portfolio Budget Statements 2001–02. Specifically, the Commission contributes to the delivery of outputs under the heading of Regulation and Standards, which in turn are part of **Output Group 1 – Transport systems which are safer, more efficient, internationally competitive, sustainable and accessible**. As indicated above, the Commission's performance met the relevant quality performance indicator in that its determinations and decisions were made in accordance with the Act.

The Commission operates to a timeliness benchmark of an average turn around time for all cases of six weeks from the date of receipt of applications to the date of publication of decisions. This is a challenging benchmark because of the necessity of following proper consultative processes, including advertising applications in the national press and allowing stakeholders time to make submissions about applications. The Commission aims to meet on a frequency which balances the need for timely decision making against the costs of meeting more often.

Distribution of decision times by type of case

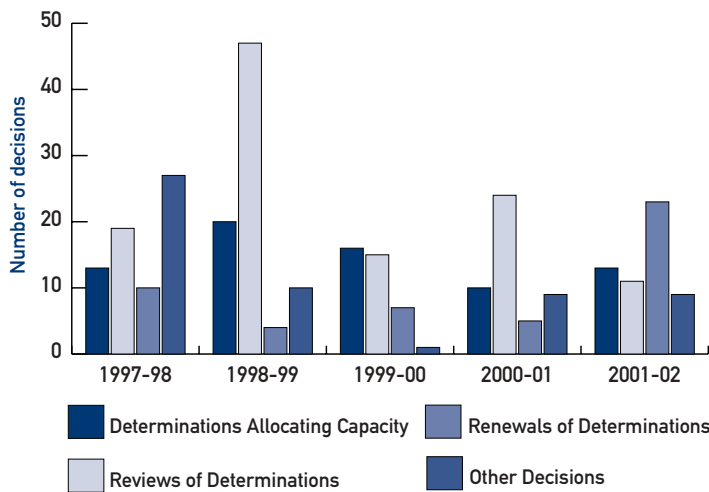


As noted above, this year the Commission averaged 5.7 weeks for all determinations and decisions. This was a good result, in view of the significant number of competing applications and cases where submitters raised concerns about various applications. Obviously such cases require lengthier consideration than do straightforward applications which do not attract submissions nor require lengthy public benefit analysis. This variability in the length of time taken to reach decisions is illustrated in the histogram above.

In previous years, the Commission had adopted a quantity performance target of 25 determinations and a similar number of decisions per annum.

This year it has not done so, taking the view that the level of activity is not something over which the Commission has great control from year to year. Typically, the Commission's role is to respond to applications for capacity from airlines. The number of applications may be driven by a range of factors such as the economic state of the aviation industry. Further, arrangements between Governments are tending to alter air services entitlements in such a way that the role of the Commission is changing. Changes have been foreshadowed to the Act, which may impact on the number of cases considered by the Commission in future.

Historical analysis of determinations and decisions



In addition, the cycle of renewal of existing determinations tends to distort the “baseline” year to year activity picture. In years where many determinations are due for renewal, activity rises, without the amount of capacity allocated changing (unless a carrier chooses not to renew particular determinations). For readers with an interest in the historical level of activity of the Commission, the graph at the bottom of page 10 illustrates the situation over each of the past five years.

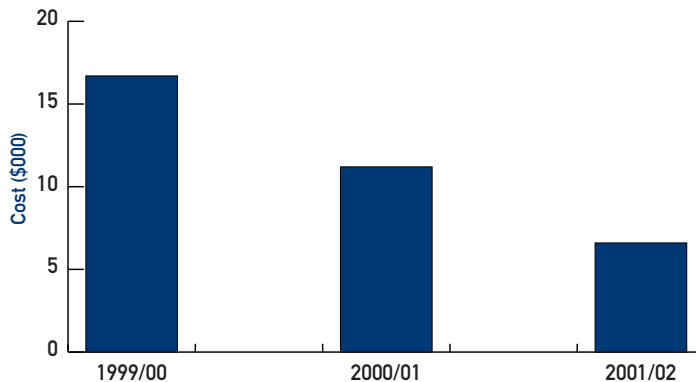
The Commission also prides itself on the efficient use of its resources. It has achieved its outputs with a level of financial and staff resources that has declined substantially over recent years. While the Commission does not set itself performance benchmarks in this area, indicators of its efficiency gains over the past two years are illustrated in the following graphs.

Financial performance

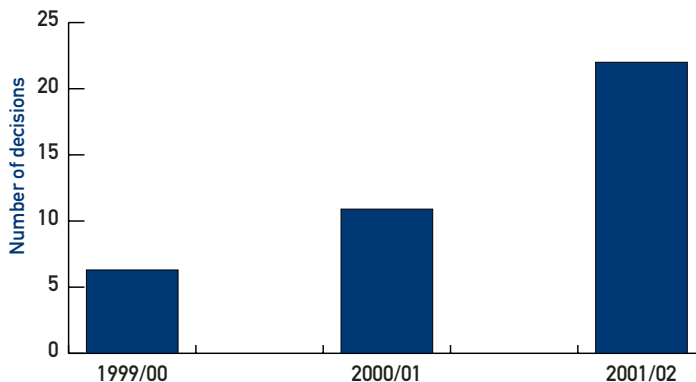
The Commission is funded by an allocation through the Aviation and Airports Policy Division of the Department of Transport and Regional Services. An allocation of \$458,000 for running costs (that is, salary and administrative expenses, exclusive of corporate overheads and property operating expenses) was made to the Commission for the financial year. In November 2001, the Commission’s running costs budget was reviewed and reduced to \$347,000. For the year the Commission’s actual running cost expenditure was \$368,325. When corporate overheads and property operating expenses are added, the total expenditure by the Commission for the year amounted to approximately \$535,000, compared with a total allocation of \$628,000. Corporate overheads and property operating expenditure are attributed to the

Commission efficiency gains, 1999–00 – 2001–02

Average cost per decision (running costs, in June 2002 \$s)



Decisions per staff member



Commission by the department. The Commission continues to be co-located with the department. This considerably reduces costs compared with housing the Commission in other accommodation. The Commission continues to maintain its distinct identity and independence from the department. Part 5 of this report contains the Commission's financial statements.

Case studies

Ansett International and the Commission

Until February 1992, Australia had a single-designation international aviation policy and its move to multiple designation from that time gave other carriers in addition to Qantas the opportunity to enter international markets. The International Air Services Commission began operating on 1 July 1992 with the role of allocating capacity to Australian carriers on public benefits grounds.

Ansett International was an early applicant to the Commission. It received its first allocation of capacity on 15 January 1993 — seven B747 services per week on the Malaysia route. This was followed in February and March 1993 by allocations on the Indonesia and Singapore routes of 4.025 B747 equivalent services and 6.6 B747 equivalent services per week respectively. Ansett International commenced its first services — to Denpasar in Indonesia — on 11 September 1993.

Over the next eight and a half years, Ansett International took on new routes and dropped some others, but generally built its available capacity entitlements. Ansett International had a two-pronged approach to its international expansion. The airline introduced its own services on a number of routes, principally in Asia. It extended its presence into other markets by code sharing with foreign carriers, particularly

on long-haul routes such as to the United States, the United Kingdom and Switzerland.

Ansett International was a significant international operator at the time the Ansett group collapsed, having carried some 560,000 passengers on its own-aircraft operated routes for the year ending August 2001, and additional passengers on code share services. Immediately prior to ceasing flying, the airline was operating services to Hong Kong, Denpasar in Indonesia, Osaka in Japan and to Fiji. It had active code sharing arrangements in place with foreign carriers (principally Singapore Airlines) on the Germany, Italy, Malaysia, New Zealand, Singapore, Switzerland, Thailand, United Kingdom, United States and Vietnam routes.

Ansett International was in the process of expanding, up to the last days of operation. It had recently introduced code share services to Vietnam and Italy. The airline was also just months away from introducing own-aircraft daily B767 services to Tokyo, a major increment to its international presence.

With the grounding of Ansett International by the airline's Administrators in mid-September 2001, the Commission considered what action should be taken in respect of Ansett's capacity allocations. A condition of all Commission determinations is that all capacity be fully exercised.

The Commission exercises discretion in the enforcement of this condition and from time to time allows airlines to leave capacity unused, depending on the particular circumstances. As part of regular reviews of airline capacity utilisation, carriers will typically seek and obtain approval to retain some unused capacity, usually to deal with short term variations in market demand. Clearly, the circumstances of the Ansett International situation were fundamentally different and created a situation not encountered previously by the Commission.

The Administrators for Ansett International made it clear that they wanted to achieve a sale of the business, with a view to a new entity replacing Ansett International. However, the Commission decided it was essential to review quickly Ansett International's determinations on the Japan route. This was because there was a small window of opportunity for Australian carriers to expand capacity at Tokyo by obtaining landing slots for use at Narita's new runway, opening in April 2002. There was no space at the existing runway for new services.

Ansett International already held a capacity allocation from the Commission, planning to operate a daily B767–300 service to Tokyo once the second runway opened. However, in the circumstances of the administration process, the Commission was concerned that Ansett International may be unable to submit a valid timetable and commence services. Qantas was seeking to expand its operations and required additional capacity to do so.

The Commission understood that slots at the new runway would be allocated quickly by the Japanese authorities and that only carriers holding capacity from their Governments would receive slots. With the uncertainty about Ansett International's future, the Commission wanted to be sure that sufficient capacity was in the hands of Australian airlines that would be able to secure slots to operate at the new runway. Only carriers holding capacity and with a definite operational timetable would be able to participate in the November 2001 conference at which slots at the new runway were to be allocated. The objective was to achieve the maximum amount of capacity access possible for Australian carriers.

In November 2001, the Commission found Ansett to be in breach of its Japan determinations but let it keep the capacity for the time being. The Commission did not want to make a decision that may have jeopardised the prospects of

Ansett resuming services, including domestically. The Commission considered that it was likely that Ansett would be able to secure runway slots in the slot allocation process. Ansett was indeed able to obtain slot access.

Several months later, when a sale still had not been concluded, the Commission reviewed all of Ansett's other determinations. When the sale of the Ansett domestic business collapsed, this meant that Ansett International would never resume operations. The Commission revoked all of Ansett's determinations on 19 March 2002. The Commission moved quickly to re-allocate some capacity to Qantas, which had sought it. Most importantly, Qantas was given additional capacity to Japan and in April 2002 began using it to take advantage of its landing slots at the new runway at Narita airport. Qantas' desire to expand capacity at Tokyo was not inhibited and the airline obtained all the capacity that it had sought from the Commission. All of Ansett International's capacity under its various determinations that was not allocated to Qantas was returned to the shelf and remains available for allocation.

Significant code share cases

Background

Australian airlines may not use allocated capacity to code share unless they have the approval of the Commission (except on some routes where code sharing is not viewed as an exercise of capacity under the bilateral arrangements concerned). The Commission is required by the Act to be sure that approval of an application would not lead to a lesser public benefit than if the proposal were not authorised.

Code sharing arrangements are commonplace in international aviation, and Australian carriers participate in code sharing on many routes.

Code sharing is attractive to airlines because it provides them with a means of extending their market reach without the investment necessary to operate services in their own right. From a public benefit viewpoint, code sharing can have benefits such as the establishment or maintenance of services that might not be viable without code sharing. On the other hand, code sharing, by its co-operative nature, can reduce competition between carriers. This can lead to lesser public benefits, particularly in markets where there is little competition for the code share partners from other carriers.

Applications involving code sharing made up over half of all determinations and decisions made by the Commission. Applications ranged from new proposals, through the expansion of existing arrangements, to the continuation of existing code shares as part of the renewal of determinations. There were three code share applications that received detailed scrutiny, as the Commission considered that there were substantial competition concerns associated with the proposals.

The first application of concern related to the South Africa route and the other two to the Japan route. The common theme amongst the proposals was that they involved the only direct operators on the routes, and there was limited competition from third-country airlines. The Commission undertook detailed analysis of the likely impact of each of the proposals on the level of benefits flowing to the public. These cases are summarised below.

South Africa

In November 2001, Qantas sought approval to continue an arrangement with South African Airways (SAA) in which SAA code shares on Qantas flights between Australia and South Africa. Qantas operates on a Sydney–Johannesburg routing, with SAA

flying between Perth and Johannesburg. The Commission had first authorised this arrangement with effect from January 2001.

A condition of the Commission's original approval was that Qantas and SAA maintain at least 10 weekly services between them. Although the condition was met through 2001, by early 2002 Qantas and SAA had each reduced frequency to four B747 services per week, as a result of the downturn in international traffic following the events of September 11. As part of its application, Qantas sought the removal of the minimum frequency requirement.

In assessing the application, the Commission analysed data associated with the operation of services up to the end of January 2002. This enabled a comparison of the actual public benefit outcomes of the code share with the expected results from the time of giving the original approval. The analysis also provided insight into the commercial viability of Qantas' services on the route.

The Commission found that the code share arrangement was probably delivering a level of public benefits consistent with its expectations in approving the code share. However, the events of September 11 confused the picture because they led to a sharp fall in demand in the last quarter of 2001 and into 2002. This in turn affected the amount of capacity in the market and may have resulted in lower levels of airfares for economy passengers than would have prevailed otherwise. However, the Commission was concerned at the high level of prices facing business travellers. Qantas and SAA, as the only direct carriers, have a substantial advantage over indirect carriers because of the much shorter travel times of the direct services. Under these circumstances, indirect carriers can only compete by offering lower fares. The Commission could not judge to what extent the code share had

affected competition on price between Qantas and SAA for the business market, although there was evidence that they were pricing fares differently.

The Commission was satisfied that the reduction in frequency by Qantas and SAA was due to the decline in market demand, rather than solely as a means of reducing costs and driving up load factors. Other indirect operators to South Africa had also reduced capacity in response to lower demand.

While services to Sydney appeared to be commercially successful, it seemed that the Perth services were performing much less well. The weak demand in the wake of September 11 had reduced the profitability of the services. Cost savings arising from service restructuring associated with implementation of the code share had helped to offset this and enabled the airlines to maintain Perth services.

The Commission authorised an extension of code sharing until 30 June 2003, and will again review the situation in advance of expiry of that authorisation. The Commission considered that it was appropriate to reduce the minimum frequency requirements to the combined level of at least eight services per week. However, short-term reductions would be allowed if necessary because of seasonal demand changes or for unforeseen operational reasons. The Commission's intention in maintaining a minimum frequency condition was to try to ensure the continuation of services to both Perth and Sydney. If Perth services were reduced or withdrawn, there would be serious erosion of public benefits.

The full decision in this case [2002] IASC 212] is available on the Commission's website.

Japan

The first code share case on the Japan route was in the context of renewal of a determination

allocating Qantas capacity. The arrangement between the two airlines involves code sharing by Qantas on Japan Airlines' Brisbane–Tokyo services and by Japan Airlines on Qantas' Tokyo–Cairns services. The number of seats that can be exchanged is not to exceed 1,500 per week in each direction. As a result of changes to the air services arrangements between Australia and Japan in December 2000, Qantas no longer needed Commission approval to code share on Japan Airlines' services. However, Qantas still required Commission approval to allow Japan Airlines to code share on Qantas' services.

The Commission's decision to review the code-sharing authorisation was prompted by the changed circumstances on the route with the ending of services by All Nippon and Ansett International in September 2001. This meant reduced competition for Qantas and Japan Airlines, and the situation was likely to continue if a replacement entity for Ansett International, or another Japanese carrier, did not return to the route.

The Commission found that, through the period of the code share, fare levels had not risen and traffic levels had continued to rise. However, it was unclear whether those encouraging results had been achieved despite the code share or because of it. The difficulty in making an accurate assessment was due mainly to the weakness in the Japanese market during much of the code share period, compared with stronger conditions prior to that. The extreme impact of the events of 11 September 2001 had complicated the situation.

The Commission was unable to assess the impact on the route of the loss of Ansett International and All Nippon from the Japan market so soon after their departure, particularly with the effects of September 11 still apparent. However, it thought that the outlook for the route was likely to be influenced by less competition. There was likely to be reduced marketing effort, less

downward pressure on airfares and reduced choice of product and travel time options.

On the other hand, the evidence was that, without code share approval, services to Queensland, particularly Cairns, may be reduced. This would be likely to lead to a reduced level of public benefits. The Commission was particularly conscious of the fact that Qantas was making use of new slots at the new Narita runway B with the introduction of double daily B767–300 services, replacing daily B747 services. Ensuring the retention of these slots at the capacity constrained Narita airport in Tokyo was important from a long-term tourism viewpoint.

After weighing up all of these factors, the Commission decided to authorise a continuation of the code share arrangement. However, the Commission limited the duration of the authorisation to the end of June 2004. The Commission wanted to review the situation further once the effects of September 11 could be seen in a longer-term context, and the impact of the withdrawal of Ansett International and All Nippon was clearer.

In the interim period, the Commission decided to monitor Qantas' yields on its Cairns and Brisbane services and the number of seats sold by Japan Airlines on Qantas' Cairns services. The authorisation would also remain effective only while Qantas maintained at least double daily B767–300 services between Cairns and Tokyo.

Full details of this case are contained in Determination [2002] IASC 108, available on the Commission's website.

The second code share case on the Japan route followed shortly after the Commission's decision in the first. In May 2002, Qantas sought approval for Japan Airlines to code share on new daily Qantas' B767-300 services between Melbourne and Tokyo. The services were due to

commence on 1 July 2002, with code sharing requested to start shortly thereafter. Japan Airlines does not operate services to Melbourne.

The proposal was that the code share seats available to Japan Airlines would comprise a "hard" block of 30 seats per flight, with an optional "soft" block of a further 23 seats per flight. The proportion of seats available to Japan Airlines constitutes about 23 per cent of aircraft capacity. (Hard block seats are purchased in advance by the marketing carrier and it endeavours to maximise its return by selling as many seats as possible. By contrast, with soft block seats, the marketing carrier pays the operating carrier only for seats it actually sells. Carriers therefore have greater incentive to sell hard block seats.)

Qantas noted that the new service was a large increase in capacity in difficult market circumstances. It argued that Japan Airlines' participation in the services would improve the financial position of the flights, which otherwise would make a loss in their initial years. Qantas also argued that the services would boost tourism to Victoria and Melbourne passengers would benefit from reduced travel times. Southern Australian exporters would have improved capacity and frequency of service.

Qantas also argued that Japan Airlines' code share presence would raise awareness of Japanese travel agents and consumers about the services and Japan Airlines would add a competitive sales and marketing presence to the route.

The Commission considered that there was little prospect of Japan Airlines starting services of its own to Melbourne in the absence of the code share. The opportunity had been available for many years and had not been taken up. The weak outlook for the Australia–Japan market suggested that the attractiveness of the route was unlikely to improve, relative to other international routes available to Japan Airlines,

in the foreseeable future. In these circumstances, the introduction of the code share between Qantas and Japan Airlines on the Melbourne and Tokyo route was unlikely to be detrimental to competition. To the extent that there were hard block seats involved, there may be some incentive for the airlines to compete with each other for market share, at least until a commercially viable level of traffic was established.

The Commission considered that the arrangement might be beneficial to Qantas in assisting the establishment and viability of the services. The services should benefit the Australian tourism and export industries. The Commission noted the strong support of the Australian Tourist Commission (ATC) for the arrangement. The ATC indicated that it would back the services through its own promotional efforts.

In terms of possible competition from third-country carriers, the Commission noted that Singapore Airlines operates double daily services between Melbourne and Singapore with connections to Tokyo.

The code share arrangement was not proposed to apply to the Sydney–Tokyo leg of the three weekly Melbourne services that travelled on that routing. Sydney–Tokyo is a major route on which Qantas and Japan Airlines are established direct competitors and it was difficult for the Commission to envisage circumstances where code sharing on this route would be other than anti-competitive with little public benefit.

The Commission indicated its preference that any future expansion by Japan Airlines at Melbourne would be in the form of own-operated services, rather than through an expansion of code sharing. In view of this preference, the Commission would be likely to look critically at any future proposal by Qantas to expand the number of seats involved in the code share arrangement.

The Commission limited the duration of its approval of the arrangement between Qantas and Japan Airlines to June 2004, during which it will monitor Qantas' sales and yield performance. By mid-2004, the Commission should have sufficient information to assess whether or not continued code sharing by Japan Airlines would be necessary for the ongoing viability of the Qantas services and for the development of traffic between Melbourne and Tokyo.

Decision [2002] IASC 218 in this case is available on the Commission's website.

Performance against service charter

The Commission operates in accordance with its service charter, which is reproduced at *Appendix 7*. The Commission understands that its processes impose costs in time and resources for applicants. It therefore seeks to ensure that the mechanics of its processes are as clear, simple and as effective as possible. Related to this, the Commission seeks only information that it believes to be relevant to arriving at decisions on applications. In only a few cases are applicants asked to provide very detailed information in support of their applications. Such cases typically involve competing applications, or raise competition concerns. The Commission seeks additional information in these cases to ensure that it can make fully informed public benefit assessments, consistent with its obligations under the Act and policy statement.

The Commission maintains close communication with its more regular stakeholders. More broadly, there is a wide group of interested parties who receive information electronically about current cases and their outcomes in a very timely manner. The Commission endeavours to ensure that determinations and decisions contain clearly explained reasons for arriving at its conclusions. In all cases, the Commission maintains a high level of transparency in its decision-making processes.

Overall, the Commission considers that it has maintained high standards of service throughout the year and has acted consistently with its commitments in all cases considered. Consistent with this belief, there were no complaints to the Commission about any aspects of its decision making processes throughout the year.

The secretariat will be arranging an external review of the Commission's service charter in the coming year. The Commission will detail the results of that review, and any action it has taken in response to it, in next year's annual report.

Outlook

The Commission recorded in last year's report some significant post 30 June developments. These were the appointment of a voluntary administrator to Ansett International and the presence of a major crisis in international aviation following the tragic events of 11 September 2001. The Commission expressed its confidence that it had the flexibility and capacity to respond to the challenges raised by these events. The Commission can now conclude that it was indeed able to meet those challenges successfully, and now looks forward to different challenges in the year ahead.

In the case of passenger services, there is significant scope for new entrants to commence international services. There is a substantial amount of capacity available for allocation on many routes, should a new entrant seek to take up these opportunities. *Appendix 3* sets out the capacity allocated and available on all routes as at 30 June 2002. Media speculation has focussed on the possibility of Virgin Blue establishing itself on international routes.

Legislation currently before the Parliament would, if passed into law, amend the Act and the Minister may issue a revised policy statement in conjunction with such amendments. If this occurs, the role of the Commission will be altered in certain ways.

Part 4 — Management and accountability

Corporate governance practices

As noted earlier in the report, the Commission is established pursuant to the Act and performs its tasks in accordance with the Act and Minister's policy statement. The Act regulates the way in which meetings are to be conducted, and places a range of requirements and responsibilities upon Commissioners in the performance of their duties.

Commissioners are appointed by the Governor General for a period not exceeding five years. The current Commissioners hold three-year appointments. Appointments to the Commission are recommended by the Minister for Transport and Regional Services and approved by Cabinet. The Remuneration Tribunal determines Commissioners' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

The Commission meets on an as-required basis, this year averaging something less than four weeks between each meeting. Most meetings are face to face in Canberra at the Commission's office. Where less complex matters are to be dealt with, meetings may be conducted by teleconference. Teleconferences reduce costs of conducting of meetings, as Commissioners generally need to travel from interstate for face to face meetings. Determinations and decisions are released to stakeholders only after they are fully agreed between all Commissioners.

An Executive Director, an officer within the Department of Transport and Regional Services, heads the secretariat. The Executive Director is responsible for the day to day management and running of the secretariat and its resources. The Executive Director and his staff are subject to the same accountability and governance arrangements as other members of the department. They are therefore expected to embrace the Australian Public Service Values and

Code of Conduct and in particular to:

- be results oriented
- be accountable and responsive
- ensure that decision making processes are transparent, fair and timely and without unnecessary administrative burden
- be responsive to stakeholders
- adopt effective risk management strategies.

Commissioners review management and resource issues regularly with the secretariat, particularly in relation to financial planning, performance and reporting. Finally, this annual report provides a detailed account of the Commission's activities.

Management of human resources

Secretariat staff members are employees of the Australian Public Service and of the Department of Transport and Regional Services in particular. As such, they are expected to operate in accordance with the department's human resource management policies and practices. For example, all staff members participate in six monthly reviews of their performance against key objectives and discuss personal development activities undertaken and planned for the future. The Commissioners are supportive of the professional development of secretariat staff and encourage their participation in relevant courses and conferences. All staff members are actively involved in Commission meetings through the preparation of agenda papers, participation in Commission discussion, and drafting of determinations and decisions for Commission consideration. Further information about human resource management is contained in the department's annual report.

The demise of Ansett International created uncertainty about the future workload of the

Commission and its secretariat. Two long-serving staff members took up opportunities within the department during the course of the year. A replacement person was brought into the secretariat on a contract basis, pending greater certainty about the future outlook for the work of the Commission. The average staffing level (ASL) for the year was about 2.6 full-time equivalent people. This compared with an ASL of 4.4 and 6.2 for the years 2000–01 and 1999–2000 respectively.

The historically low level of staff numbers in the secretariat has meant that staff members have become increasingly multi-skilled in order to ensure that all of the Commission's analytical, management and support tasks can be performed without compromising quantity or quality of outputs. The Commission's budget for the coming year will provide some flexibility to bring in additional staffing resources if the workload makes that necessary or desirable.

Part 5 — Financial statements

Financial statements as at 30 June 2002

The Commission has prepared these statements with assistance from the Department of Transport and Regional Services, which provided information about corporate overheads and property operating expenses attributable to the Commission.

	(1) 2000–2001 Actual \$'000	(2) 2001–02 Budget \$'000	(3) 2001–02 Actual \$'000	(4) Variation (Column 2-3)	(5) 2002–03 Budget \$'000
Price of IASC Outputs					
Output Group 1.2					
Salaries	402	251	252	(1)	250
SES	18	-	-	-	-
Corporate overheads (staffing)	48	53	30	23	40
Subtotal	468	304	282	22	290
Administrative expenses	102	96	116	(20)	119
Devolved corporate costs	32	35	-	35	-
Corporate overheads (admin)	122	134	75	59	101
Subtotal	256	265	191	74	220
Property operating expenses	57	60	63	(3)	70
Subtotal	57	60	63	(3)	70
TOTAL APPROPRIATIONS	781	629	536	93	580
<i>Section 31 of the Financial Management and Accountability Act 1997</i>					
	-1	-1	-1	-	-1
TOTAL OUTLAYS	780	628	535	93	579
Staff years	4.4	3.6	2.6	1	3.5

Explanatory notes

The Commission's financial statements have been prepared on an accrual budgeting basis. The financial figures are provided by the Department of Transport and Regional Services and may not add exactly, due to rounding. The department's report contains details of those arrangements.

The budgets for salary and for administrative expenses were reduced in November 2001 from the allocated amounts at the commencement of the financial year (\$334,000 and \$124,000 for salaries and administrative expenses respectively).

Devolved corporate costs for information technology outsourcing, office equipment, fringe benefits tax and parking for 2001–2002 are no longer identified separately from other administrative corporate overheads and are therefore included this year in the corporate overheads (admin) costs. The remaining corporate overheads are based on an Average Staffing Level formula and are split between salary overheads and administrative overheads.

Property operating expenses are those attributable to the leased office space used by the Commission. They include the lease rental paid, repair and maintenance, electrical services and cleaning services undertaken during the financial year.

Part 6 — Other information

Occupational health and safety

As secretariat staff are employees of the Department of Transport and Regional Services, they are subject to the same occupational health and safety arrangements as departmental officers. The department's annual report contains details of those arrangements.

Freedom of information

The *Freedom of Information Act 1982* (the FOI Act) requires Commonwealth Government agencies to publish a statement setting out their role, structure, functions, documents available for public inspection and access to such documents. Section 8 of the FOI Act requires each agency to publish detailed information on the way it is organised, its powers, decisions made and arrangements for public involvement in the work of the agency. The information contained in this report meets this requirement. Refer to *Appendix 4* for further details.

No Freedom of Information requests were received this financial year.

Advertising and market research

The Commission paid \$15,199 to Starcom Worldwide (Australia) Pty Limited for advertisement of applications for air route capacity made by Australian airlines to the Commission.

Correction of material errors in previous annual report

There were no material errors identified in the 2000–2001 annual report.

Part 7 — Appendices

Appendix 1 – Determinations and decisions

This table summarises the determinations and decisions issued during the year. A fuller summary is at *Appendix 2* and individual determinations and decisions are available on the Commission's website at www.iasc.gov.au.

Route	Airline	IASC No.	Publication Date	Capacity Allocated (per week)	Comments
Argentina	Qantas	[2001] IASC 110	09/07/01	408 seats	Allocation of capacity and approval to code share with Aerolineas Argentinas
Canada	Qantas	[2001] IASC 222	13/12/01		Revocation of IASC/DET/9626, [2000] IASC 110 and [2000] IASC 111
France	Qantas	[2002] IASC 109	2/04/02	150 one way seats	Renewal of IASC/DET/9723
French Polynesia	Qantas	[2002] IASC 110	2/04/02	1 unit	Renewal of IASC/DET/9721
	Qantas	[2002] IASC 111	2/04/02	0.5 units	Renewal of IASC/DET/9731
Germany	Qantas	[2001] IASC 118	13/12/01	4 frequencies	Renewal of IASC/DET/9705
Hong Kong	Qantas	[2001] IASC 119	13/12/01	4,433 seats and 14 passenger frequencies and 1 cargo frequency	Renewal of IASC/DET/9702
	Qantas	[2002] IASC 105	19/03/02	988 seats and 5 frequencies	Allocation of capacity
India	Qantas	[2002] IASC 214	7/05/02		Revocation of IASC/DET/9801, [2000] IASC 116 and [2001] IASC 103
Indonesia	Qantas	[2002] IASC 113	2/04/02	7.6 B747 equivalent services	Renewal of IASC/DET/9621
Italy	Qantas	[2001] IASC 120	13/12/01	2 frequencies	Renewal of IASC/DET/9624
Japan	Ansett	[2001] IASC 221	12/11/01		Suspension of IASC/DET/9706, IASC/DET/9805 and [2000] IASC 114
	Ansett	[2002] IASC 202	12/02/02		Decision not to renew IASC/DET/9706 which allocated four B767–200 units to Ansett International
	Qantas	[2001] IASC 112	28/08/01	0.2 B767–200	Allocation of capacity

Route	Airline	IASC No.	Publication Date	Capacity Allocated (per week)	Comments
Japan	Qantas	[2001] IASC 220	3/10/01		Varying IASC/DET/9804 and IASC/DET/9910 by removing the condition that capacity may only be used to Kansai
	Qantas	[2001] IASC 116	7/11/01	2.4 B767–200 units	Allocation of capacity
	Qantas	[2002] IASC 104	12/02/02	4.0 B767–200 units	Allocation of capacity
	Qantas	[2002] IASC 207	19/03/02	0.4 B767–200 units	Variation of [2002] IASC 104 increasing the capacity allocated by 0.4 B767–200 units
	Qantas	[2002] IASC 108	22/04/02	45.6 B767–200 units	Renewal of IASC/DET/9701 including code share with Japan Airlines until 30 June 2004
	Qantas	[2002] IASC 116	22/04/02	2.4 B767–200 units	Allocation of capacity
	Qantas	[2002] IASC 211	22/04/02		[2001] IASC 107, [2001] IASC 116 and [2002] IASC 104 are no longer to be treated as interim determinations
	Qantas	[2002] IASC 218	31/05/02		Variation of [2001] IASC 107, [2001] IASC 116, [2002] IASC 104 and [2002] IASC 108 to permit Japan Airlines to code share on Melbourne services
Korea	Qantas	[2002] IASC 201	22/01/02	100 seats	Variation of IASC/DET/9627 increasing the allocation by 100 seats to 500 seats
	Qantas	[2002] IASC 102	22/01/02	500 seats	Renewal of IASC/IASC/DET/9627
Netherlands	Qantas	[2001] IASC 115	28/08/01	1 cargo frequency	Renewal of IASC/DET/9619
New Caledonia	Qantas	[2001] IASC 117	13/12/01	0.25 units	Allocation of capacity
	Qantas	[2002] IASC 112	2/04/02	1 unit	Renewal of IASC/DET/9720
New Zealand	Asian Express Airlines	[2001] IASC 113	28/08/01	Unlimited freight	Renewal of IASC/DET/9606
	Qantas	[2001] IASC 121	13/12/01	Unlimited	Renewal of IASC/DET/9622

Route	Airline	IASC No.	Publication Date	Capacity Allocated (per week)	Comments
Papua New Guinea	Qantas	[2002] IASC 115	2/04/02	1,550 seats	Renewal of IASC/DET/9724
Philippines	Qantas	[2001] IASC 223	13/12/01		Revocation of IASC/DET/9723
	Qantas	[2002] IASC 114	2/04/02	458 seats	Renewal of IASC/DET/9625
Singapore	Qantas	[2001] IASC 122	13/12/01	11,940 seats	Renewal of IASC/DET/9712
	Qantas	[2002] IASC 204	19/03/02		Variation of IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102, [2001] IASC 122 to permit Alitalia to code share on Qantas services
	Qantas	[2002] IASC 205	19/03/02		Variation of IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102, [2001] IASC 122 to permit Gulf Air to code share on Qantas services
	Qantas	[2002] IASC 118	7/05/02		Allocation of unlimited cargo capacity
Solomon Islands	Qantas	[2002] IASC 215	7/05/02		Revocation of IASC/DET/9623
South Africa	Qantas	[2001] IASC 114	28/08/01	2 frequencies	Renewal of IASC/DET/9615
	Qantas	[2002] IASC 212	22/04/02		Variation of IASC/DET/9810, [2000] IASC 107 and [2001] IASC 114 to permit South African Airways to code share on Qantas services until 30 June 2003
	Qantas	[2002] IASC 117	22/04/02	1 frequency	Renewal of IASC/DET/9618
Switzerland	Qantas	[2002] IASC 107	19/03/02	7 third country code share frequencies	
	Qantas	[2002] IASC 209	19/03/02		Revocation of IASC/DET/9823

Route	Airline	IASC No.	Publication Date	Capacity Allocated (per week)	Comments
Thailand	Qantas	[2001] IASC 123	13/12/01	13 B747 weekly services	Renewal of IASC/DET/9709
	Qantas	[2002] IASC 101	23/01/02	3 B747 equivalent units	Allocation of capacity and approval to code share
	Qantas	[2002] IASC 106	19/03/02	7 code share services	
	Qantas	[2002] IASC 208	19/03/02		Revocation of [2000] IASC 101 and [2002] IASC 101
	Qantas	[2002] IASC 119	7/05/02	1 all-cargo service	Allocation of cargo capacity
	Qantas	[2002] IASC 216	7/05/02		Revocation of [2000] IASC 102 and [2000] IASC 119
	Qantas	[2002] IASC 213	7/05/02	7 B747 weekly services (6 B747 services)*	Variation of [2001] IASC 123 to reduce capacity allocated to 7 B747 services
United Kingdom	Qantas	[2001] IASC 124	13/12/01	14 services	Renewal of IASC/DET/9707
	Qantas	[2002] IASC 103	4/02/02	4 services (3 services)	The renewal of IASC/DET/9727 reduced the capacity allocation from 7 services to 4 services per week
United States	Qantas	[2001] IASC 125	13/12/01	Unlimited	Renewal of IASC/DET/9716
Vietnam	Ansett	[2001] IASC 111	9/07/01	7 third country code share services	Third country code share capacity
	Qantas	[2002] IASC 217	7/05/02		Revocation of [2000] IASC 104

*Figures in brackets indicate a reduction in capacity.

Multiple routes

Country Name	Airline	IASC No	Publication Date	Comments
Fiji	Ansett	[2002] IASC 206	19/03/02	Revocation of: IASC/DET/9822 & IASC/DET/9905
Hong Kong				IASC/DET/9808
Indonesia				IASC/DET/9733 & [2001] IASC 105
Italy				[2001] IASC 109
Japan				IASC/DET/9805 & [2000] IASC 114
New Zealand				IASC/DET/9710 & IASC/DET/9816
Singapore				IASC/DET/9820, IASC/DET/9904, IASC/DET/9920 & [2000] IASC 113
Switzerland				IASC/DET/9922
Thailand				IASC/DET/9913 & [2001] IASC 108
United Kingdom				IASC/DET/9903
Vietnam				[2001] IASC 111
Hong Kong	Qantas	[2002] IASC 203	19/03/02	Variation of: IASC/DET/9702, IASC/DET/9807, [2000] IASC 106 & [2001] IASC 119
Japan				IASC/DET/9701, IASC/DET/9804, IASC/DET/9910, [2001] IASC 116 & [2002] IASC 104
Singapore				IASC/DET/9712, IASC/DET/9713, IASC/DET/9914 & [2001] IASC 122
Taiwan				IASC/DET/9912 to enable operation by Australian Airlines

Appendix 2 – Route by route summary of Commission determinations and decisions

This appendix details an alphabetical summary by route of the Commission's determinations and decisions for 2001–02. As noted in *Appendix 1*, full details of each of the items are available through the Commission's website at <http://www.iasc.gov.au>.

Argentina

On 6 June 2001 Qantas applied for an allocation of 408 seats of capacity on the Argentina route. On 9 July 2002 the Commission allocated the capacity for Qantas to code share with Aerolineas Argentinas ([2001] IASC 110).

Canada

On 26 November 2001 Qantas applied to revoke determinations IASC/DET/9626, [2000] IASC 110 and [2000] IASC 111 which had allocated capacity on the Canada route. On 13 December 2001 the Commission revoked the determinations in Decision [2001] IASC 222.

France

On 31 August 2001 Qantas sought renewal of Determination IASC/DET/9723. On 2 April 2002 the Commission issued a new Determination [2002] IASC 109 in favour of Qantas, allocating 150 one way seats on France Route 1 between Australia and France.

French Polynesia

On 31 August 2001 Qantas applied for renewal of IASC/DET/9721 and IASC/DET/9731 which allocated one unit and 0.5 units of capacity per week on the Australia–France (Route 2 – French Polynesia) route respectively. On 2 April 2002 the Commission renewed the Determinations [2002] IASC 110 and [2002] IASC 111 respectively.

Germany

On 31 August 2001 Qantas applied for renewal of IASC/DET/9705 allocating four frequencies of capacity on the Germany route. On 13 December 2001 the Commission issued a new Determination [2001] IASC 118 approving the renewal.

Hong Kong

Qantas applied on 31 August 2001 for a renewal of Determination IASC/DET/9702 allocating 4,433 seats and 14 frequencies per week for passenger services and one frequency per week for cargo services per week capacity on the Hong Kong route. The Commission approved the request on 13 December 2001, issuing a new Determination [2001] IASC 119.

On 8 February 2002 Qantas applied for an allocation of capacity on the Hong Kong route. On 19 March 2002 the Commission allocated 988 seats and five frequencies to Qantas in Determination [2002] IASC 105. Qantas was required to fully utilise four of the five frequencies before 1 April 2002. The fifth frequency was required to be utilised from no later than the start of the Northern Winter 2002 scheduling period.

India

Qantas applied to the Commission on 23 April 2002 to revoke Determinations IASC/DET/9801, [2000] IASC 116 and [2001] IASC 103 which together allocated 2,100 seats per week of capacity on the India route. Qantas withdrew its services to India at the end of March 2002. The revocation Decision ([2002] IASC 214) was issued on 7 May 2002.

Indonesia

Qantas applied on 31 August 2001 for renewal of Determination IASC/DEC/9621 which allocated Qantas 7.6 B747 equivalent services per week in each direction between Australia and Indonesia. On 2 April 2002 the Commission approved the request and issued Determination [2002] IASC 113 allocating the requested level of capacity.

Italy

Qantas applied for renewal of Determination IASC/DET/9624 which allocated two frequencies per week in each direction between Australia and Italy. On 13 December 2001 the Commission made a fresh Determination [2001] IASC 120 allocating the requested level of capacity.

Japan

On 12 November 2001 the Commission decided to suspend the **Ansett International** Determinations IASC/DET/9706, IASC/DET/9805 and [2000] IASC 114 which allocated capacity on the Japan route ([2001] IASC 221).

Ansett International applied on 31 August 2001 to renew Determination IASC/DET/9706.

On 12 February 2002, in Decision [2002] IASC 202, the Commission decided not to renew the determination, deciding that the renewal would not be beneficial to the public, in light of the fact that the airline had ceased to operate. The determination had been suspended on 12 November in Decision [2001] IASC 221. The Commission found that allocation of the capacity to Qantas would be of greater benefit to the public and issued an interim (three-year) determination in favour of Qantas, allocating four B767–200 equivalent units of capacity per week in each direction between Australia and Japan. Qantas had sought the capacity in the event that the Commission did not renew Ansett International's determination.

On 26 July 2001 Qantas applied for an allocation of 0.2 B767–200 units of capacity per week in each direction on the Japan route. On 28 August 2001 the Commission issued a new Determination [2001] IASC 112 in favour of Qantas, allocating 0.2 B767–200 units of capacity per week.

Qantas applied on 24 September 2001 for a variation of Determinations IASC/DET/9804 and IASC/DET/9910, together allocating seven B767–200 units of capacity per week in each direction between Australia and Japan. Qantas requested that conditions limiting the use of the capacity to Kansai only, be removed.

On 3 October 2001 the Commission amended the determinations to remove the condition that the capacity may only be used to Kansai ([2001] IASC 220).

On 6 June 2001 Qantas applied for a capacity allocation of 2.4 B767–200 units per week in each direction between Australia and Japan.

On 7 November 2001, the Commission made an interim (three year) determination allocating this capacity ([2001] IASC 116).

On 28 September 2001, Qantas sought allocation of four B767–200 equivalent units of capacity per week in each direction for five years on the Japan route. Qantas sought the allocation to progress plans to introduce an additional daily B767–300 service from mid-Northern Summer scheduling period (June or July 2002) between Australia and Tokyo.

The Commission issued an interim (three year) Determination [2002] IASC 104 on 12 February 2002 allocating four B767–200 units of capacity per week.

On 4 February 2002, Qantas applied for an allocation of 4.4 weekly units of B767–200 capacity on the Japan route. In Determination [2002] IASC 104, the Commission had allocated four units of capacity to Qantas, being substantially all the Japan capacity available for allocation. On 8 February 2002, Qantas wrote to the Commission seeking the expeditious consideration of its application for the remaining 0.4 units. On 20 February Qantas advised that it would have no objection to Determination [2002] IASC 104 being varied, rather than having a new determination issued.

On 19 March 2002 the Commission made Decision [2002] IASC 207 in favour of Qantas, varying [2002] IASC 104 to allocate 4.4 B767–200 equivalent units of capacity per week in each direction on the Japan route.

On 31 August 2001, Qantas sought renewal of Determination IASC/DET/9701. The determination originally allocated 51 B767 units of capacity per week and had subsequently been varied by Decision IASC/DEC/9914 to 45.6 units of weekly capacity. The Commission issued a new Determination [2002] IASC 108 on 22 April 2002 to Qantas, allocating 45.6 B767–200 units of capacity per week. Qantas was authorised to continue code sharing with Japan Airlines on services to Cairns until 30 June 2004.

On 8 April 2002, Qantas applied for an allocation of 2.4 B767–200 units per week on the Japan route. Qantas proposed that the capacity be used by Australian Airlines to operate two of its planned three new services between Cairns and Fukuoka from November 2002. The remaining 1.2 units required for the new services were to be drawn from capacity currently

held by Qantas. On 22 April 2002 the Commission made Determination [2002] IASC 116 in favour of Qantas, allocating this capacity.

On 27 March 2002, Qantas applied to the Commission to vary Determinations [2001] IASC 107, [2001] IASC 116 and [2002] IASC 104 as varied by [2002] IASC 207 to allocate the capacity for a period of five years rather than for a period of three years. On 22 April 2002 the Commission agreed that these determinations would no longer be treated as interim (three year) determinations ([2002] IASC 211).

On 9 May 2002 Qantas sought approval for Japan Airlines to code share on new daily Qantas' B767–300 services between Melbourne and Tokyo. On 31 May 2002 the Commission issued Determination [2002] IASC 218 approving the variation on the condition that the duration of the arrangements be limited until end June 2004, with any continuation subject to review before that time.

Korea

On 26 November 2002 Qantas requested a renewal of Determination IASC/DET/9627. Qantas also requested an increase in capacity from 400 to 500 seats weekly on flights operated by Asiana Airlines between Sydney and Seoul. On 22 January 2002 the Commission issued Determination [2002] IASC 102 in favour of the renewal and Decision [2002] IASC 201 increasing the allocation from 400 seats to 500 seats per week in each direction between Australia and Korea and enabling all of the capacity to be used to code share on Asiana Airlines' services.

Netherlands

Qantas sought renewal of Determination IASC/DET/9619. On 28 August 2001 the Commission issued a new Determination [2002] IASC 115 in favour of Qantas allocating one all-cargo service per week in each direction between Australia and the Netherlands.

New Caledonia

On 1 November 2001, Qantas applied for an allocation of capacity on the New Caledonia route (France Route 3) of 0.25 units of capacity per week in each direction to enable it to facilitate immediately the upgrade of equipment from B737 to B767 aircraft. The requested change resulted from a rearrangement of aircraft allocations between international and domestic operations following the cessation of services by Ansett. On 13 December 2001 the Commission made a determination in favour of the request ([2001] IASC 117).

Qantas sought renewal of Determination IASC/DET/9720 allocating one unit of capacity per week in each direction on France Route 3 (New Caledonia) route. The Commission issued a new determination in favour of Qantas ([2002] IASC 112) on 2 April 2002.

New Zealand

Asian Express Airlines (AEA) applied on 9 August 2001 for a renewal of IASC/DET/9606 allocating unlimited freight capacity on the New Zealand route. On 28 August 2001 the Commission made a determination in favour of AEA ([2001] IASC 113).

Qantas sought renewal of Determination IASC/DET/9622 allocating capacity on the New Zealand route. The Commission issued a new determination in favour of Qantas ([2001] IASC 121) on 13 December 2001.

Papua New Guinea

Qantas applied for a renewal of Determination IASC/DET/9724. On 2 April 2002 the Commission issued a new Determination [2002] IASC 115 in favour of Qantas, allocating 1,550 seats per week in each direction on the Australia–Papua New Guinea route.

Philippines

Qantas applied to revoke Determination IASC/DET/9703 which would reduce Qantas' capacity allocation on the Philippines route by 55 seats per week. On 13 December 2001 in Decision [2001] IASC 223 the Commission revoked the determination.

Qantas sought renewal of Determination IASC/DET/9625. On 2 April 2002 the Commission issued a new Determination [2002] IASC 114 in favour of Qantas allocating 456 seats per week in each direction on the Philippines route.

Singapore

Qantas sought renewal of Determination IASC/DET/9712 which originally allocated 32.7 B747 equivalent units per week in each direction between Australia and Singapore. This allocation was varied, in accordance with changes in the air services arrangements, to 11,940 seats in Determination IASC/DEC/9901. This determination was also varied by Decisions IASC/DEC/9723, IASC/DEC/9821 and [2000] IASC 205 to permit joint operations with British Airways, Swissair and Finnair respectively.

On 13 December 2001 the Commission issued a fresh Determination [2001] IASC 122 in favour of Qantas allocating 11,940 seats of capacity.

On 11 January 2002, Qantas applied to the Commission to vary Determinations

IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102 and [2001] IASC 122 to permit Alitalia to code share on Qantas services between Singapore and Australia.

On 19 March 2002 the Commission issued the variation Decision **[2002] IASC 204** in favour of Qantas.

Qantas applied on 6 February 2002 for a variation of Determinations IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102 and [2001] IASC 122 to permit Gulf Air to code share on Qantas services between Singapore and Australia.

On 19 March 2002 in Decision **[2002] IASC 205** the Commission agreed to vary the determinations as requested by Qantas.

On 18 April 2002, Qantas applied for an allocation of unlimited capacity and frequency for all-cargo services on the Singapore route. On 7 May 2002 the Commission made the Determination **[2002] IASC 118** in favour of Qantas.

Solomon Islands

Qantas advised the Commission on 23 April 2002 that it no longer required capacity allocated in Determination IASC/DET/9623. On 7 May 2002 the Commission issued Determination **[2002] IASC 215** revoking the allocation of capacity to Qantas on the Solomon Islands route.

South Africa

Qantas applied for renewal of Determination IASC/DET/9615 which allocated two frequencies per week in each direction between Australia

and South Africa. The determination was varied by Decisions [2000] IASC 217 and [2001] IASC 206 permitting passenger and freight code sharing with South African Airways. On 28 August 2001 the Commission made a fresh Determination **[2001] IASC 114** allocating the requested level of capacity.

Qantas applied to the Commission on 3 December 2001 to vary Determinations IASC/DET/9810, [2000] IASC 107 and [2001] IASC 114 to permit South African Airlines to continue code sharing on Qantas operated flights between Australia and South Africa for a further 12 months. The Commission first authorised code sharing pursuant to these determinations in Decision [2000] IASC 217. Qantas also sought the removal of a condition of the code share approval that required Qantas and South African Airways to maintain minimum levels of frequency of operation.

On 22 April 2002 in Decision **[2002] IASC 212** the Commission varied Determinations IASC/DET/9810, [2000] IASC 107 and [2001] IASC 114 as requested, but required that a certain (lesser) level of frequency be maintained.

Qantas applied to the Commission for a renewal of Determination IASC/DET/9618 which allocated one frequency per week in each direction on the South Africa route. On 22 April 2002, the Commission issued Determination **[2002] IASC 117** allocating the requested level of capacity.

Switzerland

On 8 February 2002, Qantas applied for an allocation of capacity on the Switzerland route. The application was in response to the Commission conducting a review of all determinations allocating capacity to Ansett

International Limited, including the Switzerland route. Qantas sought seven third country airline code share frequencies per week in each direction between Australia and Switzerland.

On 19 March 2002 in new Determination **[2002] IASC 107** the Commission granted the requested allocation.

Qantas applied to the Commission on 21 February 2002 to revoke Determination IASC/DET/9823 which allocated capacity on the Switzerland route under the Australia – Switzerland air services arrangements. On 8 February 2002 Qantas had applied for an allocation of other capacity on the Switzerland route stating that it no longer required the 1.5 frequencies of capacity per week under Determination IASC/DET/9823.

The Commission on 19 March 2002 in Decision **[2002] IASC 209** revoked the determination.

Thailand

Qantas applied to renew Determination IASC/DET/9709 allocating 13 B747 equivalent units per week in each direction between Australia and Thailand. On 13 December 2001 the Commission issued Determination **[2001] IASC 123** in favour of the renewal.

On 30 October 2001 Qantas applied for an allocation of three units of capacity per week on the Thailand route. Qantas proposed to code share on three weekly services to be operated by Finnair between Bangkok and Helsinki, bringing the total number of code share services to seven per week.

On 23 January 2002 the Commission issued a new Determination **[2002] IASC 101** approving Qantas' application.

Qantas applied on 8 February 2002 for an allocation of seven weekly round trip code share services for use over the entire route, for code sharing with Finnair pursuant to the Qantas/Finnair code share agreement. The application was in response to the Commission's notification that it was conducting a review of all determinations allocating capacity to Ansett International, including on the Thailand route.

The Commission decided in Decision **[2002] IASC 206** to revoke Ansett International's Determinations IASC/DET/9913 and **[2001] IASC 108** on the Thailand route. This made available for immediate re-allocation 19 services per week inbound and 25 services per week outbound from Australia on the Thailand route.

In Determination **[2002] IASC 106** the Commission allocated Qantas the capacity it sought.

Qantas applied to the Commission on 8 February 2002 to revoke Determinations **[2000] IASC 101** and **[2002] IASC 101** which together allocated a total of seven B747 equivalent services per week of capacity on the Thailand route under the Australia–Thailand air services arrangements, stating that it no longer required the capacity allocations under the two determinations.

On 19 March 2002 the Commission issued Determination **[2002] IASC 208** revoking the capacity as requested by Qantas.

On 18 April 2002, Qantas applied for an allocation of one all-cargo service per week on the Thailand route. On 7 May 2002 the Commission made a Determination **[2002] IASC 119** in favour of Qantas.

Qantas applied to the Commission on 23 April 2002 to revoke Determinations [2000] IASC 102 and [2000] IASC 119 which together allocated four B747 equivalent services per week of capacity on the Thailand route under the Australia–Thailand air services arrangements.

On 7 May 2002, in Decision **[2002] IASC 216**, the Commission revoked the determinations.

On 23 April 2002, Qantas applied to the Commission to reduce the capacity allocated by Determination [2001] IASC 123 on the Thailand route from the equivalent of 13 B747 weekly services in each direction between Australia and Thailand to the equivalent of seven B747 weekly services.

On 7 May 2002 in Decision **[2002] IASC 213** the Commission varied the allocation of capacity as requested by Qantas.

United Kingdom

Qantas sought renewal of Determination IASC/DET/9707. On 13 December 2001 the Commission issued a new Determination **[2001] IASC 124** allocating 14 services per week in each direction between Australia and the United Kingdom.

On 21 August 2001, Qantas applied to the Commission for a renewal of Determination IASC/DET/9727 allocating seven services per week in each direction between Australia and the United Kingdom. On 4 February 2002 the Commission issued a new Determination **[2002] IASC 103**, but allocating four services per week only, as the balance of the capacity was unused.

United States

Qantas applied for renewal of Determination IASC/DET/9716 which allocated unlimited capacity to Qantas on the United States route. The determination was varied by Decisions IASC/DEC/9810 and [2000] IASC 216 which permitted joint operations with United Parcel Service and Air Tahiti Nui respectively.

On 13 December 2001 the Commission issued Determination **[2001] IASC 125** allocating unlimited capacity on the United States (South Pacific) route to Qantas.

Vietnam

On 22 June 2001, Ansett International applied for an allocation of seven round trip frequencies per week of third country code share capacity on the Vietnam route. The Commission on 9 July 2001 issued a new Determination **[2001] IASC 111** in favour of Ansett.

Qantas applied to the Commission on 23 April 2002 for revocation of Determination [2000] IASC 104 which allocated three B767 services per week of capacity on the Vietnam route under the Australia–Vietnam air services arrangements. On 7 May 2002 under Decision **[2002] IASC 217** the Commission revoked the determination as requested by Qantas.

Multiple routes

In Decision **[2002] IASC 206** of 19 March 2002, the Commission revoked all of Ansett International's determinations, following a review process.

In Decision **[2002] IASC 203**, the Commission varied certain Qantas' determinations on the Hong Kong, Japan, Singapore and Taiwan routes, to enable the capacity to be exercised by Australian Airlines.

Appendix 3 – Summary of total capacity allocated and available for all routes

As at 30 June 2002*

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR ALLOCATION (per week)
Argentina	1,200 seats	1,600 seats
Austria	Nil	2,800 seats
Bahrain	Nil	10 B747s
Brunei	Nil	Nine B747s or 18 B767s
Burma	Nil	Two B747s
Canada	Nil	3,000 seats
Chile	Nil	2,000 seats
China	0.75 units (one unit = 200 seats)	19,345 units
Cook Islands	Nil	500 seats
Denmark	Nil	2,800 seats
Egypt	Nil	Three B747s
Fiji	Nil	5,000 seats
Finland	Nil	2,800 seats
France	Route 1 = 150 code share seats and 3 units, route 2 = two units, route 3 = 1.75 units (one unit = 400 seats)	Route 1 = 250 code share seats, route 2 = 2.5 units, route 3 = 0.75 units
Germany	Seven frequencies	11 frequencies
Greece	Nil	2,100 seats
Hong Kong	7,821 seats and 29 frequencies	1,979 seats, but no frequencies
India	Nil	2,100 seats
Indonesia	13.15 B747 equivalents	13.85 B747 equivalents
Italy	Four frequencies	Three frequencies
Japan	63.2 units (one unit = one B767–200 equivalent)	15.8 units
Jordan	Nil	Three frequencies
Korea	500 seats	4,500 seats
Kuwait	Nil	Two frequencies
Lebanon	Nil	Two B767s terminating in Lebanon, or three B767s transiting Lebanon
Luxembourg	Nil	Cargo capacity only
Macau	Nil	Three frequencies
Malaysia	Nil	17,800 seats
Malta	Nil	Three frequencies
Mauritius	Nil	One B747 or two B767s
Nauru	1 B737	Two frequencies
Netherlands	400 seats	2,800 seats
New Zealand	Unlimited	Unlimited
Niue	Nil	500 seats
Norway	Nil	2,800 seats
Pakistan	Nil	Three services

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR ALLOCATION (per week)
Papua New Guinea	1,970 seats	1,230 seats
Philippines	1,145 seats	Route 1 = 1,355 seats, regional development route = 400 seats
Russian Federation	Nil	Three frequencies
Samoa	Nil	1,000 seats
Singapore	21,061 seats	7,039 seats
Solomon Islands	Nil	850 seats
South Africa	Five frequencies	Nil
Sri Lanka	Nil	3,500 seats to Sydney, Melbourne, Brisbane and/or Perth, otherwise unrestricted
Sweden	Nil	2,800 seats
Switzerland	Seven third-country code share frequencies	Seven frequencies
Taiwan	888 seats	2,712 seats
Thailand	Seven B747 and seven third-country code share frequencies	28 B747s and 21 third- country code share frequencies
Tonga	Nil	500 seats
United Arab Emirates	Nil	27 frequencies to Sydney, Melbourne, Brisbane and/or Perth, otherwise unrestricted
United Kingdom	18 services	10 services per week
United States	Capacity on South Pacific route in accordance with air transport arrangements	South Pacific route = minimum of four frequencies, North Pacific route = minimum of three frequencies, Guam & Northern Mariana Islands route = 4 DC10s
Vanuatu	350 seats	1,050 seats
Vietnam	Nil	Four B767s
Zimbabwe	Nil	1,600 seats

*The purpose of this table is to provide an overview only of the quantum of passenger capacity allocated and remaining available for allocation. Separately specified cargo capacity entitlements are not included. The table does not purport to provide a detailed or comprehensive statement of rights allocated by the International Air Services Commission, nor of the capacity entitlements or related matters (such as code sharing) described in the Register of Available Capacity. Interested parties should contact the International Air Services Commission or the Department of Transport and Regional Services to obtain full information about any route. The Register of Available Capacity is available for public viewing on the department's internet site at www.dotars.gov.au/avnapt/downloads/register.pdf.

Appendix 4 – Freedom of information schedule

Item	Information
Access facilities	In many cases, application for information under the Freedom of Information (FOI) Act might not be required because information or documents may be readily available through the Commission's public register process. Formal requests under the FOI Act must be made in writing to the contact officer listed at the front of this report.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed at the commencement of this report. The Commission welcomes views and comments from members of the public and bodies outside the Commonwealth concerning its functions.
Commission powers	The Commission exercises decision-making powers under section 6(4) of the Act to perform its functions. It has the power to do everything necessary or convenient to be done for or in connection with performing those functions. The Commission has a range of specific powers that include convening public hearings and summoning witnesses.
Decision process	The general power to grant or refuse access to Commission documents is held by the Chairman. On 5 September 1994, the Chairman authorised the Executive Director to exercise the Chairman's powers and functions under the FOI Act.
Documents available for inspection	<p>The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.</p> <p>The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines and procedures are available on request or from the Commission's Internet home page. The Commission provides facilities for examining and copying publicly available documents at its office. Documents may also be obtained by facsimile or by email. Operational files are maintained on all the Commission's activities and are stored at the office of the Commission. These files are not open to public access.</p>
Functions of the Commission	<p>The functions of the Commission, as set out in section 6 of the Act, are to:</p> <ul style="list-style-type: none"> (a) make determinations (b) conduct reviews of those determinations (c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.
How the Commission is organised	The organisation of the Commission is described in Part 2 of this report.
Location	The Commission's office is located at 15 Mort Street, Canberra.

Appendix 5 – Commission procedures

The Commission has published procedures for making determinations allocating available capacity. The procedures are designed to be consistent with the requirements of the Act and with the principles of natural justice. They are intended to give applicants and other interested parties procedural fairness, ensure that the Commission's processes are as open as possible and provide guidance to anyone wishing to apply for, or make submissions about, an allocation of route capacity.

The Commission's procedures incorporate the following main steps:

- Create a Register of Public Documents for each route and make available for viewing by any interested person. The Commission requires a public version of all applications for, and submissions about, an allocation of capacity to be made available. A small amount of information received by the Commission is of a commercial-in-confidence or confidential nature. This material is held on the Commission's confidential register. Electronic distribution of all public documents is the Commission's normal practice.
- Decide the criteria under which applications are to be assessed and, where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.
- Ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- Conduct a hearing if further information is needed to establish the nature and extent of a proposal's public benefit and, in the case of two or more competing applications, decide which application would be of the greatest benefit to the public.
- Publish draft determinations in the case of competing applications, or if it is proposed to reject all or part of an application, or where non-standard conditions are being proposed. This provides applicants and other interested parties with an opportunity to comment on the Commission's proposed allocation and any proposed terms and conditions prior to the issuing of a final determination. In other cases the Commission proceeds directly to a final determination.

In September 2000, the Commission adopted revised procedures for assessing the financial viability of airlines to exercise capacity allocated under the Act. These and other procedures covering processes used by the Commission to make decisions, including variations to determinations and reviews of determinations, are available from the Commission's home page at <http://www.iasc.gov.au>.

Appendix 6 – Minister's policy statement

Policy Statement No 3 as amended by
International Air Services Policy Statement No 3
(Amendment) dated 9 March 1999.

COMMONWEALTH OF AUSTRALIA
INTERNATIONAL AIR SERVICES COMMISSION ACT
1992

SECTION 11 POLICY STATEMENT

Pursuant to Section 11 of the International Air Services Commission Act 1992, I, JOHN SHARP, Minister of State for Transport and Regional Development, make the following policy statement about the way in which the International Air Services Commission is to perform its functions.

Dated: 23 April 1997 (as amended on 9 March 1999)

Minister for Transport and Regional Development

1. CITATION

- 1.1 This instrument may be referred to as the International Air Services Policy Statement No 3. This policy statement replaces the policy statement made under section 11 of the International Air Services Commission Act 1992 by instrument dated 27 March 1995.

2. DEFINITIONS

- 2.1 In this policy statement, unless the contrary intention appears:

“the Act” means the International Air Services Commission Act 1992.

“new entrant” means, in relation to a route, an Australian carrier which has not previously been allocated a commercially sustainable level of capacity in relation to that route.

“route” relates to the full set of entitlements available to Australian carriers under a particular bilateral arrangement. All the combinations of origin, destination, intermediate and beyond points available to Australian carriers under the bilateral arrangement constitute a single route.

“start-up phase” means, in relation to any route, the period from 1 July 1992, or from such later date as a particular bilateral arrangement becomes subject to the Act in order that available capacity under that arrangement may be allocated by the Commission, until the date on which a determination has been made under section 7 or 8 of the Act allocating a commercially sustainable level of capacity on the route to a new entrant (see section 7 for further details).

“commercially sustainable level of capacity” means the minimum capacity necessary to allow a level of scheduled international services necessary to permit the development of efficient, commercially sustainable operations on a route.

3. GENERAL

- 3.1 This policy statement sets out matters including criteria to be applied by the Commission in assessing the benefit to the public in performing its functions in relation to allocations of capacity to Australian carriers:
 - In particular types of circumstances where the Commission is not obliged to apply the full range of criteria set out in 4 and 5 below.
 - During the start-up phase on a route.
 - When considering the renewal of determinations including interim determinations.

- When considering the review of determinations including variation and transfer applications.
- 3.2 The Commission should, in any adjudication of applications for capacity allocation, seek to maximise the benefits to be gained from the operation of the capacity, assessed in accordance with the Act and against applicable criteria set out in this statement.
- 3.3 The Commission should accord such weight (if any) as it considers appropriate to each criterion depending on the particular circumstances.
- 3.4 When calling for applications, the Commission should where practicable set out matters it considers particularly important and the weighting it is likely to accord each of those matters.
- 3.5 In allocating capacity between competing applicants, the Commission may specify particular points to be served on the route, when the criteria in 5 below are being applied. In other cases, the Commission is to provide the carrier flexibility to distribute capacity allocated to it among some or all of the combinations available on the route.
- 3.5A In circumstances where, under a particular bilateral arrangement, limitations apply which prevent the same amount of capacity from being operated over the entire route, the Commission is to apply the provisions of 4, 5 and 6 as appropriate to the allocation of that limited capacity.
- 3.6 Subject to 4, 5, 6 and 7 below, in allocating capacity on a route, the Commission will have regard to the objective of providing reasonable growth in entitlements to all Australian carriers operating on that route.

4. GENERAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC

- 4.1 Subject to 6 below, the general criteria against which the benefit to the public is to be assessed by the Commission in considering the circumstances in relation to an allocation of capacity or the renewal or review of a determination allocating capacity to an Australian carrier are as set out below:

Use of Australian carrier entitlements

- (a) Subject to (b), the use of the entitlements of Australian carriers under a bilateral arrangement is of benefit to the public.

Carrier capabilities

- (b) It is not of benefit to the public for the Commission to allocate capacity to Australian carriers unless such carriers:
- (i) Are reasonably capable of obtaining the necessary approvals to operate on the route.
 - (ii) Are reasonably capable of implementing their proposals.

5. ADDITIONAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC

- 5.1 The following additional criteria are applicable in assessing the benefit to the public in all circumstances other than as provided in relation to particular circumstances described in 6 below:

Tourism Benefits

- (a) The extent to which proposals will promote tourism to and within Australia. The Commission should have regard to:
- The level of promotion, market development and investment proposed by each of the applicants.
 - Route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

Consumer Benefits

- (b) The extent to which proposals will maximise benefits to Australian consumers. The Commission should have regard to:
 - The degree of choice (including, for example, choice of airport(s), seat availability, range of product).
 - Efficiencies achieved as reflected in lower tariffs and improved standard of services.
 - The stimulation of innovation on the part of incumbent carriers.
 - Route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

Trade Benefits

- (c) The extent to which proposals will promote international trade. The Commission should have regard to:
 - The availability of frequent, low cost, reliable freight services for Australian exporters and importers.

Competition Benefits

- (d) The extent to which proposals will contribute to the development of a competitive environment for the provision of international air services. The Commission should have regard to:
 - The need to develop strong Australian carriers capable of competing effectively with one another and the airlines of foreign countries.
 - The number of Australian carriers using capacity on a particular route and the existing distribution of capacity.
 - The extent to which applicants are proposing to provide capacity on aircraft they will operate themselves as, in the long term, operation of capacity on own

aircraft is likely to result in more competitive outcomes.

- The provisions of any commercial agreement between an applicant and another airline affecting services on the route but only to the extent of determining comparative competition benefit between competing proposals.
- Any determinations made by the Australian Competition and Consumer Commission or the Australian Competition Tribunal in relation to a carrier operating or proposing to operate on all or part of the route.
- Any decisions on notifications made by the Australian Competition and Consumer Commission in relation to a carrier operating or proposing to operate on all or part of the route.

Industry Structure

- (e) The extent to which proposals will impact positively on the Australian aviation industry.

Other Criteria

- (f) Such other criteria as the Commission considers relevant.

5.2 The Commission is not obliged to apply all the criteria set out in 5.1 if it is satisfied that the important criteria in the circumstances have been met.

6. CRITERIA APPLICABLE IN PARTICULAR CIRCUMSTANCES

Capacity not limited

- 6.1 In circumstances where capacity is not limited under a bilateral arrangement, only the criteria in 4 above are applicable.

One applicant or sufficient available capacity

- 6.2 In circumstances where:

- (a) There is only one applicant (or where more than one application is made but all

applications except one are withdrawn) for allocation of capacity on a route; or

- (b) There is more than one applicant but, subject to 7.4 below, the amount of available capacity is equal to or exceeds the total amount of capacity applied for.

only the criteria in 4 above are applicable.

However, if submissions are received about, or opposing, the allocation of capacity to a particular carrier, the Commission may also apply additional criteria in 5 above.

Variations

- 6.3 Subject to 6.4, when the Commission is required to assess the benefit to the public in circumstances where a carrier requests a variation of a determination to allow it flexibility in operating its capacity,

- including changes in seating or freight-carrying arrangements or configurations, aircraft type or points to be served, which may result in a minor increase in capacity;

the Commission need only satisfy itself that the proposed variation does not adversely affect the application of the criteria in 4 above. However, where submissions are received about, or opposing, the variation requested, the Commission may apply additional criteria in 5 above, whether or not such criteria were previously applied in considering the allocation of the capacity.

- 6.4 In circumstances where a carrier requests a variation of a determination to allow it flexibility in operating capacity allocated to it to include a condition of the type referred to in paragraph 15(2)(ea) of the Act, the criteria set out in 4 above are applicable to any persons of the type referred to in that paragraph.

7. ALLOCATION CRITERIA - START-UP PHASE

- 7.1 Subject to 6.1 above, during the start-up phase in relation to any route on which an Australian carrier is already operating scheduled international services, the pre-eminent consideration is to introduce competition on the route through allocating to an initial new entrant a level of capacity appropriate to the development of efficient, commercially sustainable operations. The Commission should allocate such capacity to an initial new entrant, providing it is satisfied that:

- (a) The level of capacity available and in prospect is sufficient to support a level of services necessary to permit the development of efficient, commercially sustainable operations by both a new entrant and an incumbent Australian carrier.
- (b) The proposed new carrier's tariff and service proposals would enhance competition on the route.
- (c) Approval would not result in a decrease in inbound tourism to Australia, Australian consumer benefits or trade.
- (d) The proposed new carrier is reasonably capable of obtaining the necessary approvals and commencing operations as proposed.

- 7.2 Where a bilateral arrangement provides for dedicated freight capacity in addition to other capacity (whether that other capacity is for passenger services alone or in combination with, or convertible to, freight services however described) the start-up phase criteria will be applied separately in relation to:

- (a) Capacity involving the operation of passenger services (even if freight is also carried on those services).

- (b) Capacity for the operation of dedicated freight services only (irrespective of whether this would involve the use of dedicated freight capacity or the use of dedicated freight capacity in combination with other capacity under a bilateral arrangement)

and the application of the start-up phase criteria in the case of either (a) or (b) above will not end the start-up phase in the case of the other.

- 7.3 An Australian carrier seeking an allocation of capacity, or which may be permitted to use capacity allocated to an incumbent Australian carrier, will not be taken to be a new entrant if it is a subsidiary or a holding company of an incumbent Australian carrier operating on the route or if there is some other substantial connection between the two carriers in relation to ownership and control.
- 7.4 Where there are applications for capacity on a route during the start-up phase by two or more prospective new entrants, the criteria set out in 4 and 5 above are to be applied in selecting one of those applicants as the initial new entrant to be allocated the level of capacity referred to in 7.1.
- 7.5 Where the available capacity on the route exceeds the level of capacity referred to in 7.1, the criteria in 4 and, subject to 6.2, in 5 above are to be applied in considering the allocation of the balance of the capacity.
- 7.6 Where the Commission invites applications for capacity on a route during the start-up phase and none of the applications received are from prospective new entrants, the criteria in 4 and, subject to 6.2, in 5 above are to be applied in considering an allocation.
- 7.7 In considering determinations during the start-up phase, the Commission shall have particular regard to the possible use of

interim determinations to facilitate the introduction of competition on the route without any unnecessary delay in the use of the capacity.

8. RENEWAL OF DETERMINATIONS

- 8.1 Subject to 6.1 above, the criteria for assessing the benefit to the public for the purposes of renewal of determinations, other than interim determinations, are as set out below, reflecting a presumption in favour of the carrier seeking renewal which may be rebutted only by application of the criteria in the circumstances described:

- (a) During the start-up phase on the route:
 - The start-up phase allocation criteria set out in 7 above apply in relation to that part of the capacity which is reasonably necessary for a level of scheduled international services necessary to permit the development of efficient, commercially sustainable operations.
 - The criteria set out in 8.2 below apply to the balance of the capacity.
- (b) After the start-up phase on the route, the criteria set out in 8.2 below apply.
- 8.2 After the start-up phase on the route, the criteria for assessing benefit to the public are:
 - (a) Whether the carrier seeking renewal has failed to service the route effectively.
 - (b) Whether use of the capacity in whole or in part by another Australian carrier which has applied for that capacity would better serve the public having regard to the criteria set out in 4 and 5 above,

and the Commission should allocate the capacity to the carrier seeking renewal unless both of those criteria are met, in which case all or part of the capacity can be reallocated.

Renewal of Interim Determinations

8.3 Subject to 6.1 above, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations are:

- (a) During the start-up phase on the route
 - The criteria set out in 7 above and, in the circumstances set out in 7.4, 7.5 and 7.6, the criteria applicable in those circumstances; or
- (b) After the start-up phase on the route
 - The criteria set out in 4 and, subject to 6.2, in 5 above.

9. USE IT OR LOSE IT PRINCIPLE

9.1 For the purposes of specifying a period within which capacity allocated to an Australian carrier must be fully used, the Commission should specify as short a

period as is reasonable having regard to the steps required to commence operations. Except in exceptional circumstances, the Commission should not specify a period exceeding 3 years.

10. APPROVAL OF TRANSFER APPLICATIONS

10.1 For the purposes of considering transfer applications the Commission should take into account that approvals which encourage speculative activity would not be of benefit to the public. Except in exceptional circumstances, approvals should not be given which would have the effect of allowing a carrier which has never exercised an allocation, or has only exercised it for less than a reasonable period, to transfer that allocation.

10.2 A period of six months would usually represent a reasonable period for the purposes of 10.1 above.

Appendix 7 – Service charter

What the Commission does

The International Air Services Commission was established on 1 July 1992 under the *International Air Services Commission Act 1992* (the Act).

The Commission is an independent statutory authority. It decides on applications from existing and prospective Australian airlines for route capacity entitlements available under Australia's international air services agreements. In allocating capacity, the Commission assesses applications against public benefit criteria set out in policy statements issued by the Minister for Transport and Regional Services.

The Commission's role is to enhance international air services by fostering:

- greater economic efficiency in the airline industry, and increased competition between Australian carriers
- increased responsiveness by airlines to the needs of consumers and exporters, including an increased range of choices and benefits
- Australian tourism and trade
- the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The route capacity which the Commission allocates is negotiated by the Department of Transport and Regional Services. The department also authorises the airlines to operate the capacity which is allocated by the Commission.

The Commission consists of a Chairperson and two Members appointed under the Act by the Governor General. The Commission is supported by a small secretariat headed by an Executive Director.

Our stakeholders

There is a wide range of groups who have a stake in what we do:

- existing and prospective airlines
- the travelling public
- the tourism and freight industries and Australian exporters
- the wider aviation industry, including airport owners and employee associations
- the Australian Competition and Consumer Commission
- the Minister for Transport and Regional Services and relevant federal departments and agencies
- State governments and their agencies.

Our stakeholders were consulted in the development of the service charter, and were invited to comment on this charter at the draft stage.

The service that you can expect from us

We, the Commission and the secretariat, are committed to:

- treating you with courtesy and professionalism
- answering your questions and requests for information promptly and accurately
- ensuring that our decision making process is transparent, fair and timely, without unnecessary administrative burden
- providing clearly explained reasons for decisions
- maintaining effective dialogue with all our stakeholders
- achieving outcomes which are consistent with the objectives of the Act and the policy statements issued by the Minister.

In pursuing these commitments we will:

- within 10 days of receiving an application for capacity, publish a public notice and email interested parties, inviting other applications and submissions

- seek only information which is reasonably necessary for the Commission to carry out its functions
- explain the reasons for any additional information that is sought
- decide on applications as quickly as possible, adopting a “fast track” process for uncontested applications
- with competing applications for capacity, issue draft decisions to allow interested parties to comment
- promptly notify Commission decisions by publishing decisions on the Commission’s website and emailing interested parties
- renew existing determinations as quickly as possible, and in the case of contested renewals at least six months prior to the expiry date
- adhere to the highest standards of integrity in handling confidential information
- maintain a Register of Public Documents open to all interested parties
- monitor and listen to comments about our performance and promptly respond to these comments, including seeking to remedy any identified shortcomings in our processes
- continue to improve our online services, while ensuring that those without internet access are not disadvantaged.

Stakeholder responsibilities

In striving to give effect to these commitments and provide the best service possible, stakeholders can assist us by providing timely, comprehensive and accurate information.

Accessibility

The secretariat can be contacted on telephone (02) 6267 1100, facsimile (02) 6267 1111, or email to iasc@dotars.gov.au.

The Commission’s premises and the Register of Public Documents are located at Level 1, ATSB Building, 15 Mort St, Canberra City. The postal address is GPO Box 630, Canberra ACT 2601.

The secretariat will meet all ad-hoc requests for electronic copies of public register documents and listings. Ongoing requests attract an annual fee which is currently set at \$250. Copies of public register documents or listings by fax or mail attract a small charge.

The Act, the Minister’s policy statement and procedures for applications are available from the Commission’s internet site or from the Commission.

Further information and copies of decisions and determinations are available from the Commission’s internet site at <http://www.iasc.gov.au/index.htm>.

For members of the public who find it hard to come to the Commission, or do not have access to our internet site, copies of documents can be provided by facsimile or post for a small charge.

The Commission publishes an annual report which includes details of all determinations and decisions issued during the financial year. Copies are available on request for a small charge. The annual report is also available from the Commission’s internet site.

Monitoring and review

We will use this charter to monitor our performance against the commitments we have made. We encourage our stakeholders to comment on our performance. All comments should be forwarded by letter, fax or email to the Executive Director at the above address. We will respond to any complaints about performance within 10 working days of receipt.

Each year, we will assess how we have performed against the standards we have set ourselves in our business plan, taking into account your comments. The results of this assessment will be published in our annual report.

We will also arrange for this charter to be independently reviewed every three years.

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