



International Air Services Commission

annual report 2002–2003



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ISSN 1321-0653

ISBN 0-9751062-0-1

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INTERNATIONAL AIR SERVICES COMMISSION

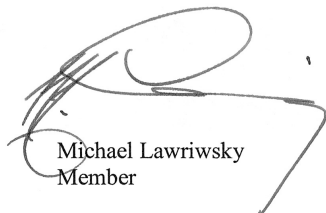
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600

Dear Minister

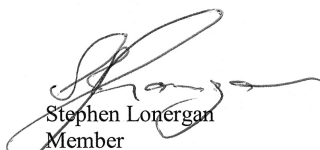
We are pleased to submit the eleventh Annual Report of the International Air Services Commission, for the year ended 30 June 2003.

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



Michael Lawriwsky
Member



Stephen Lonergan
Member

12 September 2003

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Part 1 — Review by Commissioners

The Commission's work was conducted against the background of a serious downturn in the international aviation industry. The Iraq conflict of early 2003, together with the Severe Acute Respiratory Syndrome virus (SARS), had the effect of reducing sharply the number of people travelling by air. Asia-Pacific carriers were hit hardest by SARS, with the International Air Transport Association estimating that carriers in the region experienced a nearly 45% fall in traffic carried during April compared with the previous year.

Carriers worldwide responded by withdrawing flights, many of which had been restored for only a short time after the September 11 terrorist attacks. Australian aviation was not immune from these events. Qantas cut back services on many routes, as well as taking major cost saving initiatives. Towards the end of the financial year there was evidence of recovery in international aviation. However, the generally weak world economy and consumer hesitancy about travel security mean that full recovery may take some time.

In light of these events, it was not surprising that the Commission made fewer determinations allocating new capacity than in some past years. However, the outlook appears brighter and a feature of the year was the number of applications from prospective new airlines. The Commission received applications from four potential carriers, including from Virgin Blue, Australia's second largest domestic airline. As at 30 June, the Commission had not finalised its consideration of Virgin Blue's application. However, the outcome is summarised in this report under significant events post-30 June.

The Commission allocated capacity to Transpac, a potential new airline, for passenger services between Australia and New Caledonia. This was in

addition to earlier allocations to Transpac on other South Pacific routes for cargo operations. As at 30 June, the carrier had not commenced services. The two other new airline applications were from prospective cargo operators. The Commission deferred consideration of a proposal by Pacific Rim Airways to operate on the United States route. An application from HeavyLift Cargo Airlines for capacity on several South Pacific routes was due for consideration early in 2003–04.

Much of the Commission's ongoing work involved assessing applications to vary existing determinations, often to facilitate code sharing between Qantas and other international airlines. The introduction of code sharing between Qantas and its subsidiary, Australian Airlines, was a notable development. The Commission also took a pragmatic view about the withdrawal of services by Qantas on many routes as the airline responded to the downturn in travel demand. Generally carriers are expected to fully use allocated capacity, or return it to the Commission. The Commission recognised that Qantas would resume use of capacity as market circumstances improved. The airline kept the Commission fully informed about changes to its operating patterns.

The Commission updated its procedures in November 2002 to bring together several changes made in the past couple of years. At 30 June, the Commission was well advanced on a further update to accommodate changes to the *International Air Services Commission Act 1992*. These changes provide for many of the Commission's powers and functions to be delegated to an officer of the Department of Transport and Regional Services. The delegation will occur once proposed new regulations have been brought into effect, expected to be early in 2003–04. In practice, the delegate will deal with the more straightforward

applications, with other matters continuing to be handled by the Commission.

Stakeholders were invited to comment on the Commission's service performance over the year. The results were very positive. The Commission also revised and updated its service charter. The new charter will be circulated to interested parties in early 2003–04. The Commission also achieved its results with a record low level of resources, continuing the trend of recent years of greatly improved efficiency.

We believe the Commission continues to deliver sound decisions, and does so in an efficient and cost effective manner. We thank the secretariat for its efforts during the year.

While the Chairman, Mr Ross Jones, held office at 30 June 2003, his term expired on 10 August 2003. At the time of writing, the Chairman's position remained vacant. In concluding, we thank Ross Jones for the excellent contribution he made to the operation of the Commission over the past three years.

Michael Lawriwsky
Member

Stephen Lonergan
Member

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, from entitlements available under Australia's air services arrangements with other nations. Capacity is allocated in accordance with the *International Air Services Act 1992* (the Act) and a policy statement given to the Commission by the Minister for Transport and Regional Services.

The object of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services, resulting in:

- increased responsiveness by airlines to the needs of consumers, including an increased range of choices and benefits; and
- growth in Australian tourism and trade; and
- 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 contain 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 may also initiate a review of a determination if it considers that a carrier is or may become in breach of a condition. Determinations are usually granted for a period of five years. Carriers will normally seek to renew determinations and the Commission is required to start reviews of these determinations at least one year before they expire. There is a rebuttal presumption in favour of the incumbent carrier.

The Act provides that Australian carriers generally cannot use allocated capacity to conduct joint services with another carrier (such as to code share) without the Commission's approval. In some situations though, Commission approval for joint service arrangements is not required. Examples include code sharing, 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. A summary of these procedures is set out at *Appendix 5*. The procedures are intended to ensure that applicants and interested stakeholders have a clear guide to the Act and policy statement, understand the Commission's decision making processes, and are aware of their rights and obligations. The procedures are likely to be revised early in 2003–04.

There is a wide range of parties with a stake in what the Commission does. These include:

- existing and prospective airlines
- the travelling public
- the tourism and freight industries, including Australian exporters
- the wider aviation industry, including airport owners, providers of services to airlines, and employee associations

- industry investors
- the Minister for Transport and Regional Services
- Australian and State Government departments and agencies.

The Commission's role is complementary to that of the Department of Transport and Regional Services (the Department). 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 available capacity. The amount of capacity for allocation is formally recorded in a Register of Available Capacity maintained by the

Department. 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 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. This is a particularly important process in relation to potential new carriers.

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.



Dr Michael Lawriwsky, Member; Mr Ross Jones, Chairman and Mr Stephen Lonergan, Member

Mr Ross Jones

Mr Jones, Chairman, was formally appointed in August 2000 for a three year term. While Chairman at 30 June 2003, Mr Jones' appointment expired on 10 August 2003. Mr Jones has recently been appointed Deputy Chairman of the Australian Prudential Regulation Authority. Prior to this he was a Commissioner with the Australian Competition and Consumer Commission where he was responsible for mergers and telecommunications. He also had 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 in December 2000 and reappointed for a further three year term ending in December 2003). He is a consultant and corporate adviser who was formerly Director - Corporate Finance, at ANZ Investment Bank, and Professor of Commerce at La Trobe University. He is currently a member of the University Council, and is also an Adjunct Professor in the School of Business.

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.

Commissioners' attendance at meetings

Commissioner	Number of meetings	Number of meetings attended
Mr Jones	8	8
Dr Lawriwsky	8	8
Mr Lonergan	8	8

Commission members and secretariat staff

The Commission is supported by a secretariat staffed by officers of the Department. At 30 June 2003, the secretariat was comprised of an Executive Director, a senior adviser and an office manager. The secretariat is responsible to the Commissioners for all matters concerning the operations of the Commission.



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

Part 3 — Report on performance

Overview of Commission performance

The Commission considers that it has met all performance expectations and benchmarks this year. All determinations and decisions were produced in accordance with the Act and Minister's policy statement. The timeliness of decision making was in line with the benchmark standards. There were no complaints about any aspect of the Commission's work. Indeed, the feedback from stakeholders suggests that the Commission is delivering a high standard of service. The Commission also continued to fine tune its procedures, ensuring that they are clear and minimise processes for applicants consistent with proper administration of the Act.

Results against performance targets

The Commission produces determinations that allocate capacity to Australian international carriers. Determinations are also amended from time to time through the issuing of decisions, usually in response to requests from applicants. The airlines use allocated capacity to operate international services between Australia and many destinations.

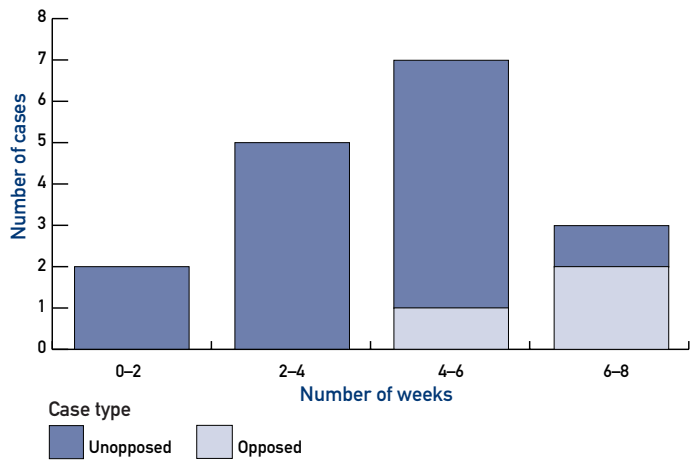
Through this process, the Commission's determinations and decisions contribute to the delivery of outputs by the Department of Transport and Regional Services set out in its Portfolio Budget Statements 2002–03. The Commission's outputs contribute to the delivery of departmental Output 1.1 — Transport Policy Advice. These outputs, and the resulting services put in place by airlines, make an important contribution to the Government's portfolio outcome 1 — *A better transport system for Australia*.

The Commission aims in making all its determinations and decisions to serve the objectives of the Act. In this respect, the Commission's performance was satisfactory. As noted above, all of its determinations and decisions were made in accordance with the Act and policy statement.

The Commission operates to a timeliness benchmark of four weeks for uncontested and unopposed applications, from the date of receipt of applications to the date of publication of determinations or decisions. The Commission aims to publish determinations and decisions for contested or opposed applications within 12 weeks of receipt of applications. Contested and opposed applications tend to involve more complex issues and may bring into consideration wider public benefit criteria than other applications.

The timeliness benchmarks are challenging because of the time consumed in following proper consultative processes, including advertising applications in the national press as required by the Act, and allowing stakeholders time to make submissions about applications. The Commission meets on a frequency which balances the need for timely decision making against the costs of meeting more often. Where straightforward matters are involved, the Commission occasionally conducts meetings through electronic means, either through teleconference or email. Wherever an airline indicates that a delay in obtaining approval from the Commission would cause difficulty for it in implementing its proposals, the Commission endeavours to decide such cases expeditiously. However, generally applicants are expected to allow sufficient time in advance for the Commission to properly consider their proposals as the Act and Minister's policy statement require.

Distribution of decision times by type of case



Note: The chart does not include renewal determinations.

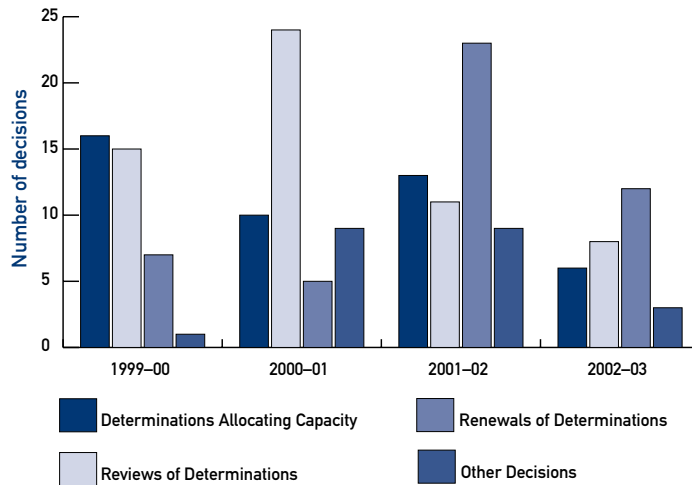
This year, the average time taken to conclude consideration of uncontested and unopposed applications was 4.1 weeks. There were no contested applications, but interested parties opposed several applications. Where opposing submissions are received, the Commission gives applicants an opportunity to respond to matters raised by the party opposing. This process extends the time required to make decisions but is important in ensuring that the Commission takes all factors into account before decisions are made. The average time taken to deal with opposed cases was 6.3 weeks. The Commission averaged 4.5 weeks for all determinations and decisions (leaving aside renewal determinations, which are generally initiated by the Commission on a time frame that suits the airlines' requirements). The chart above illustrates the Commission's timeliness performance in more detail.

The Commission does not have a quantity performance target. Such a target would be arbitrary and not related to the Commission's performance. The Commission has limited control

over the level of activity. Principally, the Commission's role is to respond to applications for capacity from airlines. The number of applications depends on a range of factors. These include the state of aviation demand, which is linked to world economic performance and major events (such as SARS and the Iraq war this year), and opportunities negotiated under bilateral air services arrangements.

In addition, the pattern of renewal of existing determinations affects the year to year activity picture. Where many determinations are due for renewal, activity increases, without the amount of capacity allocated changing (unless a carrier decides not to renew particular determinations). The following chart illustrates the situation over each of the past four years. As expected, in the light of international events, activity was somewhat down in 2002–03 compared with past years. The Commission anticipates that with industry recovery and the expected entry of new Australian carriers onto international routes, the number of determinations and decisions is likely to rise in 2003–04.

Historical analysis of determinations and decisions



Financial performance

The Commission makes 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. Charts contained in the Commission's 2001-02 annual report illustrated the substantial efficiency gains achieved. Further salary and staffing savings were achieved in 2002-03.

For 2002-03, the Commission was funded by an allocation through the Aviation and Airports Policy Division of the Department of Transport and Regional Services. An allocation of \$369,000 for running costs was made to the Commission at the commencement of the financial year. This provided for salary and administrative expenses including Commissioners' fees. As part of a mid-year review of internal departmental budgets conducted by the Department, the Commission's running cost allocation was reduced to \$309,000. For the year the Commission's actual running cost expenditure was \$303,000. This compares with

expenditure of \$368,000 in 2001-02. Although the financial saving is modest in dollar terms (\$65,000), it is a substantial reduction in percentage terms (18%).

The Commission was supported by a secretariat of the equivalent of 2.3 staffing years, down from 2.6 in the previous year, 4.4 in 2000-01 and significantly higher levels in earlier years. The Commission now operates with what it considers to be the minimum sustainable resource level consistent with delivering results to the standards expected.

Corporate overheads and property operating expenditure are paid for by the Department and are not within the Commission's area of financial responsibility. The Commission continues to be co-located with the Department but continues to maintain its distinct identity and independence from the Department. Further details of the Commission's financial performance are provided in Part 5.

Case study — The emergence of prospective new Australian international airlines

Background

This year was the first for nearly a decade in which Australia has had only one major international airline, Qantas, since Australian Airlines is its wholly owned subsidiary. The collapse of the Ansett group in September 2001 left a considerable gap in Australia's representation on overseas routes. The Commission noted in last year's annual report that Ansett's demise created an opportunity for new Australian carriers to emerge, with the capacity entitlements held by Ansett on several important routes becoming available for reallocation.

World events over the past 18 months or so are likely to have deterred new entrant ambitions until recently. The terrorist events of 11 September 2001 (which almost coincided with the end of Ansett's services) depressed demand for international travel for a considerable time. Markets were recovering gradually when the Iraq war occurred. The Bali bombing had also accentuated concerns about the perceived risks of overseas travel. The SARS virus continued the depressive effects on international air travel demand.

By 30 June, however, there were good signs of recovery in most markets, with the SARS affected regions the slowest to begin returning to normality.

Against this difficult background, it was perhaps surprising that the Commission received applications from four prospective new carriers. Two of the applications were from intending passenger carriers — Virgin Blue and Transpac. The other two proposals were from potential all-cargo carriers — Pacific Rim Airways and HeavyLift Cargo Airlines. All applicants focussed their plans on operations in the south-west Pacific region, except for Pacific Rim Airways which sought to operate on the United States route.

Transpac

Transpac applied in September 2002 for an allocation of passenger capacity on the New Caledonia route. Transpac proposed to operate three B737 passenger services per week to Noumea, with services originating in Brisbane (two per week) and Sydney (one per week). Transpac already held allocations of capacity for all-cargo services on the New Caledonia, Solomon Islands, Nauru and Vanuatu routes and planned to use that capacity in conjunction with passenger services to New Caledonia. The carrier also intended to operate domestic services (passenger and freight) between the Australian mainland and Norfolk Island. Transpac indicated an intention to commence services in January 2003.

The Commission held some concerns about Transpac's New Caledonia proposal, because the carrier had not operated on the routes on which it had held capacity since 1999. However, the Commission concluded that reasons beyond the carrier's control had been mainly responsible for the delays. After analysing Transpac's business

plan, the Commission was satisfied that Transpac was reasonably capable of implementing its proposals. Transpac was allocated 0.75 units of capacity per week, as sought, sufficient to enable it to implement its planned services. The Commission gave Transpac until 31 October 2003 to fully utilise its capacity. This was a generous time frame given that the airline planned to start services in January 2003. Transpac was also given additional time in which to exercise the capacity allocated to it previously by the Commission.

As at 30 June, Transpac had not started services on any routes, but advised that it expected to do so by the 31 October deadline. On two of the routes on which Transpac holds capacity (New Caledonia and Nauru), limitations on bilateral entitlements mean that other Australian carriers are precluded from operating new services while Transpac maintains its allocations from the Commission. Other prospective Australian airlines have expressed an interest in operating on both routes if Transpac does not take up its entitlements. Accordingly, the Commission is monitoring closely the airline's progress towards commencement. The Commission has the power to review Transpac's determinations if it considers that Transpac has or will inevitably breach a condition of the determinations, or cannot make a compelling case for an extension of the start date.

Pacific Rim Airways

Pacific Rim Airways (PRA) applied in September 2002 for capacity to enable it to operate all-freight services on the South Pacific routing

under the Australia - United States air services arrangements. PRA planned to commence services in January 2003 with a weekly B747 freighter aircraft, expanding eventually to four services per week. PRA's long term plan was to develop an integrated freight operation connecting Australia, the US, Japan and the UK, with suitable ground handling and surface transport linkages.

At its November 2002 meeting, the Commission decided to defer further consideration of PRA's application, pending the receipt of more substantive financial information and a marketing plan. At 30 June, PRA had not provided the information.

HeavyLift Cargo Airlines

In June 2003, HeavyLift Cargo Airlines (HeavyLift) applied for allocations of capacity on the Papua New Guinea, Solomon Islands and Vanuatu routes — 60, 50 and 25 tonnes per week respectively. HeavyLift planned to operate services from Brisbane, principally using a B727 freighter aircraft with a capacity of 32 tonnes. As at 30 June, the Commission had not formally determined the HeavyLift application.

Virgin Blue

On 12 June 2003, Virgin Blue applied for an allocation of capacity on each of the New Zealand, Fiji and Vanuatu routes. It sought unlimited capacity on the New Zealand route and 1,260 and 720 seats per week on the Fiji and Vanuatu routes respectively. Virgin Blue planned to operate its services using Boeing B737-800 and/or B737-700 aircraft, with seating

capacities of 180 seats and 144 seats respectively. The airline intended to commence operations on all routes in October 2003 and to be fully using its capacity on the Fiji and Vanuatu routes by October 2004. The airline did not disclose the intended scale of its operations in the New Zealand market.

Performance against service charter

The Commission commits in its service charter to deliver high standards of service to stakeholders and makes every effort to ensure those standards are met. The Commission had planned to conduct an external review of its service charter this year. However, in light of changes to the Commission's regulatory framework that affect the way the Commission operates in the future, the Commission decided instead to substantially revise and update the charter. The aims were to reflect new arrangements, make the charter clearer and introduce a greater level of measurability. Stakeholders were consulted in the development of the revised charter. The Commission considers that the new charter introduces a higher level of commitment and accountability to stakeholders. It also takes account of the fact that a delegate will take some decisions on behalf of the Commission, assuming regulations governing the exercise of delegated authority come into force. The Commission expects that its delegate will operate to the same standards of service as the Commission itself does.

All stakeholders were invited to provide feedback on the Commission's service performance throughout the year. A detailed questionnaire asked respondents to rate Commission performance in delivering core services.

These included:

- publishing of notices of applications,
- keeping stakeholders informed of applications and decisions,
- advising of the Commission's decisions to interested parties,
- adhering to high standards of integrity in handling confidential information, and
- taking into account comments from stakeholders and clients about the Commission's performance and service, and responding to these comments, including seeking to remedy any shortcomings.

The Commission received a limited number of responses, although the responses were from a range of parties. The ratings were consistently in the "always" and "mostly" positive range, which suggests that service levels are meeting or exceeding client expectations.

According to the survey responses, the Commission was efficient and timely in publishing notices of applications (including notices inviting other applications and submissions). Clients considered that the Commission decided on applications in an appropriate period of time, and informed them of applications and decisions in a prompt and efficient manner. The survey reflected highly on the distribution of public documents to interested parties, and also confirmed high standards of integrity in handling confidential information. Customer service was rated at a high standard, with the results showing that Commission staff were consistently professional, prompt and helpful. Clients considered that any comments provided by them about the Commission's service performance were taken into account and acted upon where required.

Significant developments post 30 June 2003

In July 2003, the Commission concluded its consideration of the application from Virgin Blue for capacity on the New Zealand, Fiji and Vanuatu routes. The Commission made a determination in favour of Virgin Blue allocating the capacity sought. Virgin Blue is expected to commence services in October 2003.

Also in July, the Commission deferred a decision about the application from HeavyLift Cargo Airlines for capacity on several south-west Pacific routes, pending the receipt of additional information about the airline's capability to implement its planned services.

Outlook

The positive signs of recovery in international aviation evident towards the end of the financial year are likely to accelerate in the new year, assuming no further major adverse events. As traffic levels improve, Australian carriers can be expected to seek to expand operations in response. The advent of services by Virgin Blue in the latter part of 2003 will be a major development in international services for Australia.

Part 4 — Management and accountability

Corporate governance practices

The Act places a range of requirements and responsibilities upon Commissioners in the performance of their duties, including regulating the way in which Commission meetings are to be conducted.

Commissioner appointments arise from recommendations by the Minister for Transport and Regional Services and approval by Cabinet. Commissioners are appointed formally by the Governor General for a period not exceeding five years. The current Commissioners hold three-year appointments. The Remuneration Tribunal determines Commissioners' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

The Commission meets on an as-required basis, this year averaging about six weeks between meetings. Most meetings are held in Canberra at the Commission's offices. Where less complex matters are involved, meetings are conducted by teleconference or by email. These "electronic" meetings reduce costs, as Commissioners do not need to travel from interstate for face to face meetings. In all cases, 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 that supports the Commission in its work. 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 accountability and governance arrangements applying to other members of the Department. They are therefore expected to adhere to 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.

All of these expected standards are consistent with those adopted by the Commission in its service charter.

The Commission is a very small organisation and does not require the more complex organisational and management systems associated with larger organisations. As part of their formal meetings, Commissioners review management, staffing, financial and risk management issues regularly with the secretariat. Finally, this annual report provides a detailed account of the Commission's activities.

Management of human resources

The Commission liaises with the Department of Transport and Regional Services about the level of resources necessary to support the Commission's role. The average staffing level (ASL) for the year was 2.3 full-time equivalent people. This compared with an ASL of 2.6 and 4.4 for the years 2001–02 and 2000–2001 respectively. The Department has undertaken to make additional staffing resources available to the Commission if required from time to time. This is important to ensure that the Commission has adequate day to day support and also forms part of a strategy to manage the risk associated with dependency on key individuals within the secretariat.

As departmental employees, secretariat officers are subject to the Department's human resource management policies and practices. Staff members participate in six monthly reviews of their performance and discuss personal development activities undertaken and planned for the future. The Commissioners are supportive of the professional development of secretariat members and encourage their participation in relevant activities including courses and conferences. Staff members are involved in Commission meetings through the preparation of agenda papers, participation in discussion, and drafting of determinations and decisions for Commission consideration. Further information about human resource management is contained in the Department's annual report.

Part 5 — Financial statements

Financial statements as at 30 June 2003

	(1) 2002–2003 Budget S'000	(2) 2002–03 Actual S'000	(3) Variation (Column 2-1)	(4) 2003–04 Budget S'000
Output 1.1				
Salaries	219	209	-10	*
Administrative expenses	90	94	4	90
TOTAL ALLOCATIONS	309	303	-6	90
Staff years	3.5	2.3	-1.2	2.8

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.

Property operating expenses incurred by the Commission, and similarly corporate overheads, are budgeted and paid for by the Department. Property operating expenses include the lease rental paid, repair and maintenance, electrical services and cleaning services undertaken during the financial year.

* For 2003–04, the Department has decided to fund salaries of the secretariat directly from within its own budget, rather than through an allocation to the Commission as in past years. The Commission will continue to be responsible for the management of its administrative expenses.

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 Australian 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.

Commonwealth disability strategy

The Commission has not developed its own disability strategy, as the approach adopted by the Department is applicable to the Commission's offices (which are located within the Department's buildings) and staff members.

Advertising and market research

For advertisement of applications for air route capacity made by Australian airlines, the Commission paid \$5,578 to Starcom Worldwide and \$5,329 to HMA Blaze.

Correction of material errors in previous annual report

There were no material errors identified in the 2001–2002 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	[2002] IASC 223	25-Nov-02	(792 seats)*	Revocation of IASC/DET/9821
	Qantas	[2002] IASC 224	25-Nov-02	(408 seats)	Revocation of [2001] IASC 110
Fiji	Qantas	[2002] IASC 125	25-Nov-02	50 tonnes	Renewal of IASC/DET/9812
France	Qantas	[2003] IASC 106	30-May-03	three units	Renewal of IASC/DET/9818
Germany	Qantas	[2002] IASC 126	25-Nov-02	three frequencies	Renewal of IASC/DET/9722
	Qantas	[2003] IASC 201	07-Mar-03		Variation of [2001] IASC 118 and [2002] IASC 126 to permit Swiss International to code share on Qantas' services to Germany
Hong Kong	Qantas	[2002] IASC 122	10-Oct-02	1,300 seats, four frequencies	Allocation of capacity
	Qantas	[2003] IASC 107	30-May-03	600 seats, three frequencies	Renewal of IASC/DET/9807
Indonesia	Qantas	[2002] IASC 221	10-Oct-02	(1.85 B747 equivalent services)	Handback of capacity allocated by IASC/DET/9813
	Qantas	[2002] IASC 123	10-Oct-02	240 seats; 1600 seats and four frequencies beyond	Renewal of IASC/DET/9813
	Qantas	[2003] IASC 203	23-Apr-03		Variation of IASC/DET/9813, [2002] IASC 113 & [2002] IASC 123 to permit Australian Airlines to use capacity and code share for cargo sales
Japan	Qantas	[2003] IASC 105	30-May-03	six B767-200	Renewal of IASC/DET/9804
Malaysia	Qantas	[2003] IASC 103	30-May-03	542 seats	Capacity may be used by wholly owned subsidiaries
	Qantas	[2003] IASC 205	18-Jun-03		Variation of [2003] IASC 103 to permit Australian Airlines and Qantas to code share

Route	Airline	IASC No.	Publication Date	Capacity Allocated (per week)	Comments
New Caledonia	Transpac Express	[2002] IASC 121	15-Oct-02	0.75 units	Allocation of capacity
Papua New Guinea	Qantas	[2002] IASC 219	08-Aug-02	(550 seats)	Variation of [2002] IASC 115 to approve additional code share and reduce capacity allocation to 1000 seats
	Transair	[2003] IASC 104	30-May-03	20 tonnes	Renewal of IASC/DET/9814
Philippines	Qantas	[2002] IASC 220	10-Oct-02	(229 seats)	Revocation of IASC/DET/9809
	Qantas	[2002] IASC 127	25-Nov-02	229 seats	Renewal of IASC/DET/9803
Singapore	Qantas	[2002] IASC 128	25-Nov-02	2,800 seats	Renewal of IASC/DET/9713
	Qantas	[2003] IASC 202	07-Mar-03		Variation of [2001] IASC 122 to permit Swiss International to code share on Qantas' services
South Africa	Qantas	[2003] IASC 108	30-May-03	one frequency	Renewal of IASC/DET/9810
	Qantas	[2003] IASC 204	30-May-03		Variation of IASC/DET/9810, [2000] IASC 107, [2001] IASC 114 & [2002] IASC 117
Switzerland	Qantas	[2003] IASC 102	07-Mar-03	3.5 frequencies	Allocation of capacity
Thailand	Qantas	[2002] IASC 129	25-Nov-02	seven third party code share services	Renewal of IASC/DET/9806
	Qantas	[2003] IASC 101	17-Jan-03	one all cargo service	Allocation of capacity
United Kingdom	Qantas	[2002] IASC 120	08-Aug-02	three services	Allocation of capacity
Vanuatu	Qantas	[2002] IASC 222	10-Oct-02	(50 seats)	Handback of seats from IASC/DET/9811
	Qantas	[2002] IASC 124	10-Oct-02	100 seats	Renewal of IASC/DET/9811

* Figures in brackets indicate a reduction in capacity

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 2002–03. 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 19 November 2002 Qantas applied to revoke Determinations IASC/DET/9821 and [2001] IASC 110 which would reduce Qantas' capacity allocation on the Argentina route to nil. On 25 November 2002, in Decisions [2002] IASC 223 and [2002] IASC 224 respectively, the Commission revoked the determinations.

Fiji

On 29 August 2002 Qantas applied for a renewal of Determination IASC/DET/9812. On 25 November 2002 the Commission issued a new Determination [2002] IASC 125 in favour of Qantas, allocating 50 tonnes per week in each direction between Australia and Fiji for five years from 18 May 2003.

France

On 29 August 2002 Qantas sought a renewal of Determination IASC/DET/9818. On 30 May 2003 the Commission issued a new Determination [2003] IASC 106 in favour of Qantas, allocating three units of capacity per week in each direction between Australia and France for five years from 8 September 2003.

Germany

On 29 August 2002 Qantas requested a renewal of Determination IASC/DET/9722. On 25 November 2002 the Commission issued a new Determination [2002] IASC 126 in favour of

Qantas, allocating three frequencies per week with any aircraft type between Australia and Germany for five years from 19 February 2003.

On 12 February 2003 Qantas sought a variation of Determinations [2001] IASC 118 and [2002] IASC 126 to permit Swiss International to code share on Qantas' services between Australia and Germany. The Decision to approve the request ([2003] IASC 201) was issued on 7 March 2003.

Hong Kong

On 27 August 2002 Qantas applied for an allocation of 1,300 seats and four frequencies per week for passenger services on the Hong Kong route. Granting the application would leave three frequencies and 2,679 seats available for allocation. Virgin Blue submitted that the route could benefit from additional competition and that if only three services per week remained, this would be insufficient for it to start a sustainable and commercially viable operation. Virgin Blue requested that the Commission grant Qantas an interim (three year) determination. An interim determination would mean that there would be no rebuttable presumption in favour of Qantas when the allocation was to be renewed.

Qantas responded that there was no justification in restricting it to an interim allocation. Qantas submitted that there was no doubt about future availability of capacity on the route and that it expected that within a three year time frame more than sufficient capacity to meet airline requirements would be agreed.

The Commission considered that an interim allocation would provide scope for a viable amount of capacity to be available for a prospective new entrant to compete for, if no

additional capacity was negotiated within the next two years. On 10 October 2002, the Commission made an interim (three year) determination allocating the capacity sought ([2002] IASC 122).

Qantas applied on 29 August 2002 for a renewal of Determination IASC/DET/9807 allocating 600 seats and three frequencies per week in each direction between Australia and Hong Kong. The Commission approved the request on 30 May 2003, issuing a new Determination [2003] IASC 107 for five years from 24 September 2003.

Indonesia

On 29 August 2002 Qantas applied to the Commission to reduce the capacity allocated by Determination IASC/DET/9813 on the Indonesia route as it no longer planned to operate services beyond Jakarta. Qantas sought to have its allocation reduced from 5.85 B747 equivalent services with nine frequencies to four B747 equivalent services weekly with four frequencies for services beyond Indonesia. On 10 October 2002 the Commission issued Decision [2002] IASC 221 varying the allocation of capacity made to Qantas beyond Indonesia.

On 29 August 2002 Qantas applied for renewal of IASC/DET/9813 allocating 240 seats weekly in each direction between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia. IASC/DET/9813 also allocates 1600 seats and four frequencies weekly beyond Indonesia, in each direction, any or all of which may serve Denpasar. On 10 October 2002 the Commission issued a new Determination [2002] IASC 123 for five years from 1 October 2003.

Qantas applied on 5 March 2003 to vary Determinations IASC/DET/9813, [2002] IASC 113 and [2002] IASC 123 to permit Australian Airlines, a wholly owned subsidiary of Qantas, to use some or all of the capacity on the Indonesia route. On 23 April 2003 in Decision [2003] IASC 203 the Commission varied the determinations as requested.

Japan

Qantas sought renewal of Determination IASC/DET/9804. On 30 May 2003 the Commission issued a new Determination [2003] IASC 105 allocating six B767-200 units of capacity per week in each direction between Australia and Japan for five years from 9 August 2003.

Malaysia

On 1 May 2003 Qantas applied for an allocation of 542 seats per week on the Malaysia route in order to introduce services to Kota Kinabalu, a point not previously served by an Australian airline. Qantas proposed that the capacity would be used by Australian Airlines to operate twice weekly B767-300 services on a routing of Cairns – Singapore – Kota Kinabalu – Sydney and vice versa. The Commission issued a determination in favour of Qantas ([2003] IASC 103) on 30 May 2003 allocating the capacity requested.

Qantas applied to the Commission on 24 May 2003 to vary Determination [2003] IASC 103 requesting that the capacity be used by Australian Airlines to provide joint services with Qantas and vice versa between Australia and Malaysia. On 18 June 2003 in Decision [2003] IASC 205 the Commission varied the determination as requested.

New Caledonia

On 3 September 2002 Transpac applied for an allocation of 0.75 units of capacity on the New Caledonia route (France Route 3). In 1999 Transpac had been allocated capacity on four south-west Pacific routes, including New Caledonia, to operate freight services but had been unable to commence services. The Commission accepted advice from Transpac that its failure to commence operations was due to factors beyond its control.

In its new proposal, Transpac planned to combine passenger services to New Caledonia and Norfolk Island with freight services to Vanuatu, New Caledonia, Nauru and the Solomon Islands in order to improve the viability of its operations. On 15 October 2002 the Commission made Determination [2002] IASC 121 in favour of Transpac allocating the capacity sought. Transpac was given until the end of October 2003 to fully utilise the capacity allocated on the various routes.

Papua New Guinea

Qantas applied on 9 July 2002 for a variation of Determination [2002] IASC 115. Qantas sought to reduce the capacity allocation from 1,550 seats per week to 1,000 seats per week and to expand its commercial arrangement to allow it to code share on all of Air Niugini's services between Australia and Port Moresby from 1 September 2002. Qantas submitted that without the proposed commercial arrangement Air Niugini would be forced to withdraw from the route and possibly from all international operations.

The proposal was for a significant increase in the scope of the code share arrangements on the route along with Qantas ceasing to operate in its own right. On the other hand the arrangements might avoid the loss of Air Niugini on the route which would lead to a far greater loss of public

benefit than under the proposed arrangements. The proposed arrangements did involve increased services and improved service levels along with an element of competitive pressure through a hard block code share arrangement.

The clear and real risk of the loss of a principal operator from the PNG route, leaving sharply reduced levels of service and associated public benefit, led the Commission to conclude that it should authorise the new arrangements. On 8 August 2002 in Decision [2002] IASC 219 the Commission agreed to vary the determination as requested.

On 16 April 2003 Transair sought renewal of Determination IASC/DET/9814. On 30 May 2003 the Commission issued a fresh Determination [2003] IASC 104 in favour of Lessbrook Pty Limited trading as Transair, allocating 20 tonnes of dedicated freight capacity per week in each direction between Australia and Papua New Guinea for five years from 30 June 2003.

Philippines

On 29 August 2002 Qantas applied to the Commission to revoke Determination IASC/DET/9809 which allocated 229 seats per week of capacity on the Philippines route. On 10 October 2002 in Decision [2002] IASC 220 the Commission revoked the determination.

Qantas applied for a renewal of Determination IASC/DET/9803. On 25 November 2002 the Commission issued a new Determination [2002] IASC 127 in favour of Qantas, allocating 229 seats per week in each direction between Australia and the Philippines for five years from 3 April 2003.

Singapore

On 29 August 2002 Qantas sought renewal of Determination IASC/DET/9713.

On 25 November 2002 the Commission issued a new Determination **[2002] IASC 128** in favour of Qantas allocating 2,800 seats per week in each direction between Australia and Singapore for five years from 23 March 2003.

On 12 February 2003 Qantas applied to the Commission to vary Determination [2001] IASC 122 to permit Swiss International to code share on Qantas services between Singapore and Australia from 30 March 2003. On 7 March 2003 the Commission issued Decision **[2003] IASC 202**, authorising the code share arrangement.

South Africa

On 29 August 2002 Qantas applied for a renewal of Determination IASC/DET/9810 which allocated one frequency per week in each direction on the South Africa route. On 30 May 2003 the Commission issued Determination **[2003] IASC 108** allocating the requested level of capacity.

On 10 April 2003 Qantas applied to the Commission to vary Determinations IASC/DET/9810, [2000] IASC 107, [2001] IASC 114 and [2002] IASC 117 to allow South African Airways (SAA) to continue to code share on Qantas flights operating to and from South Africa until 30 June 2005. The Commission first approved code share arrangements between Qantas and SAA in December 2000 and reviewed its approval in April 2002, extending the authorisation until 30 June 2003.

After a detailed examination of commercial in confidence material supplied by Qantas, the Commission concluded that the net public

benefits offered by the code share arrangements continued to be positive on balance. The most significant negative issue was that prices to business travellers continued to be high and there was little incentive for the carriers to compete vigorously under a code share arrangement. On the other hand, the cost efficiencies associated with the rationalisation of services since the start of the code share had provided a basis for the continuation of services to both Perth and Sydney.

The proposed addition of a fifth frequency by both carriers later in 2003 would benefit the public through improved choice of day of travel and on-board improvements associated with updated aircraft operated by SAA. The additional capacity and lower aircraft direct operating costs of the new aircraft should act to keep prices to consumers from rising and should assist in improving profitability on the Perth – Johannesburg route in particular.

The Commission continued to have concerns about the possible longer term impact of the code share if worldwide conditions for airlines improve. Qantas and SAA would be in a position to take greater advantage of their dominance of the direct market through price rises in a stronger market.

On 30 May 2003 the Commission agreed in Decision **[2003] IASC 204** to permit South African Airways to code share on Qantas services until 30 June 2005 as requested.

Switzerland

On 12 February 2003 Qantas applied for an allocation of 3.5 frequencies per week on the Switzerland route to permit Qantas to code share on daily Swiss International services between Frankfurt and Switzerland. The proposed code share served to replace the code share arrangements Qantas had with Swissair on the route. The new arrangements were for Qantas to code share on Swiss International's daily service

between Frankfurt and Zurich and for Swiss International to code share on Qantas services between Frankfurt and Sydney via Singapore. On 7 March 2003 the Commission issued Determination [2003] IASC 102 in favour of Qantas.

Thailand

On 29 August 2002 Qantas applied for a renewal of Determination IASC/DET/9806 which allocates seven third party code share services per week in each direction on the Thailand route. The Commission, on 25 November 2002, issued Determination [2002] IASC 129 in favour of Qantas.

On 12 December 2002 Qantas applied to the Commission for an allocation of one all-cargo service per week on the Thailand route.

On 17 January 2003 the Commission issued Determination [2003] IASC 101 in favour of Qantas.

United Kingdom

On 17 July 2002 Qantas applied for an allocation of three services per week in each direction on the United Kingdom route.

On 8 August 2002 the Commission issued Determination [2002] IASC 120 in favour of Qantas.

Vanuatu

On 29 August 2002 Qantas applied to the Commission to reduce the capacity allocated by Determination IASC/DET/9811 on the Vanuatu route from 150 seats per week to 100 seats per week. On 10 October 2002 in Decision [2002] IASC 222 the Commission varied the allocation of capacity as requested by Qantas.

Qantas sought renewal of IASC/DET/9811 on 29 August 2002. On 10 October 2002 the Commission made a fresh Determination [2002] IASC 124 in favour of Qantas, allocating 100 seats per week in each direction between Australia and Vanuatu for five years from 25 November 2003.

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

As at 30 June 2003*

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR ALLOCATION (per week)
Argentina	Nil	2,800 seats
Austria	Nil	2,800 seats
Bahrain	Nil	12 frequencies**
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 three units, route 2 = two units, route 3 = 2.5 units (one unit = 400 seats)	Route 1 = 250 code share seats, route 2 = 2.5 units, route 3 – no capacity currently available
Germany	Seven frequencies	14 frequencies
Greece	Nil	2,100 seats
Hong Kong	9,121 seats and 33 frequencies	3,479 seats and three frequencies
India	Nil	2,100 seats
Indonesia	4,940 seats	5,860 seats**
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	542 seats	20,058 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
Papua New Guinea	1,000 seats	2,200 seats

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR ALLOCATION (per week)
Philippines	916 seats	Route 1 = 1,584 seats, regional development route = 400 seats
Poland	Nil	2,800 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	3.5 frequencies and seven third-country code share frequencies	3.5 frequencies and seven third- country code share frequencies**
Taiwan	888 seats	2,712 seats
Thailand	Seven B747 and 14 third-country code share frequencies	28 B747s and 14 third-country code share frequencies
Tonga	Nil	600 seats
United Arab Emirates	Nil	44 frequencies**
United Kingdom	21 services	Seven services
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, & Northern Mariana Islands route = 4 DC10s
Guam		
Vanuatu	300 seats	1,100 seats
Vietnam	Nil	Five frequencies
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

**These routes have a regional package in place whereby services to points other than Brisbane, Melbourne, Sydney and Perth have unrestricted capacity entitlements. Refer to the Register of Available Capacity for details.

Appendix 4 – Freedom of information schedule

Item	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information ACT 1982</i> (FOI) 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 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.
- The Commission regularly updates its procedures. They are available from the Commission's home page at <http://www.iasc.gov.au>, or upon request to the Commission.

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; and

- 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; and
- (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; and
- 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; and
 - 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; and
- 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; and
- (b) the proposed new carrier's tariff and service proposals would enhance competition on the route; and
- (c) approval would not result in a decrease in inbound tourism to Australia, Australian consumer benefits or trade; and
- (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); and

- (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; and
 - 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, criteria for assessing benefit to the public are:
 - (a) whether the carrier seeking renewal has failed to service the route effectively; and
 - (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 2003–2005

Who we are and our role

The Commission is an independent statutory authority, established under the provisions of the *International Air Services Commission Act 1992* (the Act). The Commission is comprised of a Chairperson and two Members. Our role is to allocate capacity to existing and prospective Australian international airlines so that they may operate air services between Australia and other countries. We do this by making formal determinations. These are made following an assessment of applications from airlines for capacity available under Australia's air services arrangements with other nations. We make our assessments using public benefit criteria set out in a policy statement issued to us by the Minister for Transport and Regional Services.

The role of the Department of Transport and Regional Services (the Department)

The Act provides for us to delegate many of our powers and functions to an officer of the department, in certain circumstances. We will delegate the relevant powers and functions to our executive director, who is also a departmental officer. This will give you a single point of contact and should ensure that the administration of Commission and departmental decision making is harmonised. The delegate will adopt the standards set out in this charter, so you will receive the same level of service in all cases.

In practical terms, the Commission will determine the more complex cases, such as where there are competing applications for capacity, a carrier is new to a route, or there are serious competition concerns about a proposal. Our delegate will deal with straightforward applications.

The people and organisations with an interest in what we do

Existing and prospective airlines are the organisations mainly affected by Commission decisions. However, our decisions are relevant to many other people and organisations. These include:

- the travelling public;
- the tourism and air freight industries, including Australian exporters;
- the wider aviation industry, including airport owners, providers of services to airlines, and employee associations;
- the Minister for Transport and Regional Services; and
- Australian and State Government departments and agencies.

Our commitment to you

We aim to provide you with the highest standard of service possible. We endeavour to achieve this through fostering professional relationships, and by an accessible, fair and prompt decision making process. Where possible, we have measurable standards against which our service can be judged. Specifically:

In our dealings with you, we will

- treat you fairly, courteously and professionally;
- provide clear, accurate advice and answer your questions promptly;
- respond constructively to your feedback;
- include contact names and phone numbers in our correspondence; and
- answer phone calls by name and return any missed calls within 24 hours if you leave a message.

In our decision making processes, we will

- inform you directly within five working days of receiving an application for capacity;
- follow our published procedures for handling cases (available on our website or upon request);

- seek only information which is reasonably necessary for us to best carry out our functions, and explain the reasons for seeking any additional information;
- be transparent and fair, with a minimum of confidentiality consistent with the legitimate protection of commercial interests;
- make decisions about uncontested applications within three weeks of receipt and contested applications within 12 weeks, or inform you if issues arise which will extend the decision time;
- finalise the renewal of existing determinations as quickly as possible and, in the case of contested renewals, at least six months prior to the expiry date; and
- notify applicants within 24 hours of a decision being made, and other interested parties within three working days.

What we ask of you

To assist us to provide the best service possible, we ask you to provide timely, comprehensive and accurate information and to be honest and fair in your dealings with us.

Accessibility

We keep you informed quickly and as comprehensively as you wish about our activities. We also endeavour to make contacting us as easy as possible. Contact details conclude this charter.

We provide information about current cases directly to interested parties by email. There are two levels of information provided. The first is simple notification, which advises when applications have been received, and when Commission decisions are made. More detailed information is provided if you wish to receive copies of all relevant documents directly. This second service is provided for a small annual fee. Documents are provided in pdf format. Contact us if you wish to be added to either notification list.

Our internet site at www.iasc.gov.au provides ready access to all aspects of the Commission's business. It includes direct links to the Act, the Minister's policy statement, Commission procedures, information about current cases, and decisions.

If you do not have access to email or our internet site, notifications and copies of documents can be provided to you by facsimile or post, or if you visit our office.

Monitoring and review

We will monitor our performance against the commitments we have made in this service charter. We encourage you to comment on our performance and to suggest ways to improve our service. If you are dissatisfied with any aspect of our service, it is important that you tell us so we can address your concerns. Comments should be provided to the Commission's executive director by mail, facsimile, email or telephone.

At the end of each year we will assess how we have performed against the standards we have set ourselves. We may invite your comments on our service performance, such as through a brief questionnaire. The results of the assessment will be set out in our annual report. If you wish to receive a copy of the report, let us know and we will post it to you. Alternatively, the report can be found on our internet site.

We will also review annually the service charter itself, to ensure that it is meeting your requirements. This may include arranging an independent review from time to time.

Contact details

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Appendix 8 — Commission office holders, 1992–2003

The following tables set out the Chairmen and Members of the Commission, and its Executive Directors, over the last 11 years since the Commission was founded.

Chairmen	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 Loneragan (acting Chairman at alternate meetings)	January 2000 to August 2000	Stephen Loneragan	August 1998 to the present
Ross Jones	August 2000 to August 2003		

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

Appendix 9 — Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act 1992</i> as amended.
Air services arrangement	is a treaty and/or lower level agreement or arrangement between Australia and another country under which the carriage by air of passengers or freight or both is permitted on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier	means a person who <ul style="list-style-type: none">• conducts or proposes to conduct, an international airline service to and from Australia; and• under the air services arrangements to which the capacity applies, may be permitted to carry passengers or freight, or both passengers and freight, under that arrangement as an airline designated, nominated or otherwise authorised by Australia.
Available capacity	means that an operational decision is not in force in relation to that capacity, so an Australian carrier may seek an allocation of some or all of that capacity.
Benefit to the public	occurs if the Australian carrier to whom the capacity is allocated uses that capacity.
Blocked space	a form of code sharing involving one airline purchasing a “block” of seats on another airline’s services, which it is then able to sell to consumers.
Capacity	is an amount of space used for the carriage of passengers or freight. It may be expressed in various ways, such as in number of seats, units of capacity, or frequency of service, generally per week, in each direction on a route.
Code sharing	is a form of joint service between two carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.
Commission	means the International Air Services Commission, established by section 6 of the Act.
Contested application	involves more than one applicant carrier seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.

Determination	allocates capacity to an Australian carrier, usually for a period of five years, or for three years in some circumstances (an interim determination).
Department	in this report, means the Department of Transport and Regional Services.
Fifth freedom rights	are traffic rights enabling an airline to pick up and set down passengers between a bilateral partner nation and another nation.
Financial viability test	is a test applied by the Commission as part of its responsibility to ensure that capacity is allocated to an Australian carrier only if the carrier can demonstrate that it is reasonably capable of implementing its proposals.
Free-sale	a form of code sharing involving one airline selling seats on another airline's services and paying that other airline only for the cost of seats actually sold.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Handback	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
Interim determination	is a determination that is in force for three years, rather than the five years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that attaches to a standard determination.
Joint services	an arrangement entered into by an Australian carrier with another carrier to operate services on a joint basis. It may take different forms such as one or more of code sharing, joint pricing, or revenue and/or cost sharing or pooling. Australian carriers need approval from the Commission before using allocated capacity in joint services.
Member	in this report, means a member of the Commission.
Minister's policy statement	is a written instrument made by the Minister for Transport and Regional Services under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
Ongoing employee	is a person engaged under subsection 22(2)(a) of the <i>Public Service Act 1999</i> on an ongoing basis.
Opposed application	a situation in which an interested party argues that an application from a carrier should not be granted by the Commission.

Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Register of available capacity	sets out the amount of capacity under each of Australia’s air services arrangements available for allocation, after deducting allocations already made by the Commission. The Department maintains the Register.
Renewal	involves issuing a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may involve updated terms and conditions at the Commission’s discretion.
Review	involves an examination of an existing determination, either at the request of a carrier which wishes to vary the determination, or on the Commission’s initiative if it is concerned that a carrier has or will breach a condition of the determination. In the case of a carrier-initiated review, the Commission may either vary the determination as requested by the carrier or confirm the determination. For a Commission-initiated review, the Commission may decide to confirm, vary, suspend or revoke the determination.
Revocation	a decision by the Commission to revoke (cancel) a determination.
Route	is the combination of origin, destination, intermediate and beyond points (cities) which an Australian carrier may serve under an air services arrangement.
Slots	time-specific landing and take off rights granted to a carrier to operate into and out of a particular airport, usually by the airport owner/operator.
Use it or lose it	a principle requiring allocated capacity to be used, or else be returned for reallocation.
Variation	a decision amending conditions attached to a determination.

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