



Australian Government

International Air Services Commission

2010–2011 Annual Report



International Air Services Commission



Australian Government

International Air Services Commission

International Air Services Commission
Annual Report 2010–2011

© Commonwealth of Australia 2011

ISSN 1321-0653

ISBN 978-0-9805351-3-6

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at www.ag.gov.au/cca

For further information please contact the
Executive Director

International Air Services Commission

Tel: (02) 6267 1100 Fax: (02) 6267 1111

e-mail: iasc@infrastructure.gov.au or visit the Commission's website at www.iasc.gov.au

Designed by Department of Infrastructure and Transport

Photography by Peter Chin

Printed by Union Offset Printers

Photographs provided from Qantas Airways Ltd, Virgin Blue Airlines Pty Ltd



Australian Government

International Air Services Commission

The Hon Anthony Albanese MP
Minister for Infrastructure and Transport
Parliament House
CANBERRA ACT 2600

Dear Minister

We are pleased to submit the eighteenth Annual Report of the International Air Services Commission, for the year ended 30 June 2011.

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

A stylized, handwritten signature in black ink, appearing to read 'J Walker'.

Dr Jill Walker
Chairwoman

A handwritten signature in black ink, appearing to read 'Stephen Bartos'.

Stephen Bartos
Commissioner

23 September 2011

The International Air Services Commission is an independent statutory authority, established under the *International Air Services Commission Act 1992*. It allocates capacity available under Australia's air services arrangements with other countries to existing and prospective Australian international airlines by making formal determinations. Applications are assessed against public benefit criteria set out in a policy statement issued to the Commission by the Minister for Infrastructure and Transport.

Contents

Part 1

The Year in Review by Chairwoman, Dr Jill Walker	1
-----------------------------------------------------	---

Part 2

Overview of the International Air Services Commission	5
The role and functions of the Commission	5
Executive profile	7
Dr Jill Walker	7
Mr Stephen Bartos	8
Mr Ian Smith	8
The secretariat	9
Communications with interested parties	10
The role of the Department of Infrastructure and Transport (the Department)	10

Part 3

Report on performance	13
Overview	13
Results against performance targets	13
Serving the object of the Act	13
Case study – the Indonesia route	16
Introduction	16
The applications	16
Claims against the paragraph 5 criteria	16
The Commission's assessment	18
Serving applicants and interested parties	21
Efficiency of financial resources	23

Part 4

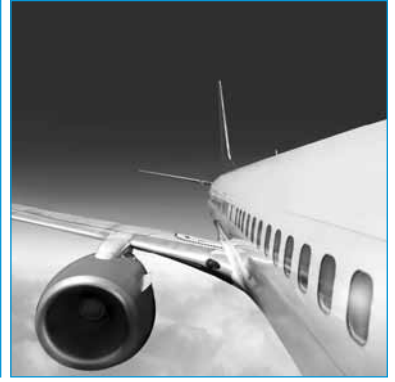
Management and accountability	25
Corporate governance practices	25
External scrutiny	26
Management of human resources	26
Assets management	27
Purchasing	27
Consultants and competitive tendering and contracting	27

Part 5

Financial report	29
Explanatory notes	29

Appendices

Appendix 1 – Determinations and decisions	30
Appendix 2 – Route-by-route summary of Commission determinations and decisions in 2010–11	35
Appendix 3 – Other information	51
Appendix 4 – Freedom of information schedule	53
Appendix 5 – Commission procedures	55
Appendix 6 – Minister's policy statement	57
Appendix 7 – Service Charter 2009–2011	67
Appendix 8 – Commission office holders, 1992–2011	71
Appendix 9 – Glossary of terms	73
Index	77



Part 1 – The Year in Review

by Chairwoman, Dr Jill Walker

This annual report marks the nineteenth year of operations of the International Air Services Commission. I joined the Commission as the Chairwoman in early 2011. It is my pleasure to provide an overview of the activities of the Commission for the past twelve months.

2010–11 was a good year for the international aviation industry with passenger movements in and out of Australia growing by around eight percent. The International Air Transport Association however recently reported that the 2011–12 industry profit outlook has been nearly halved as airlines manage the impact of volatile oil prices and local demand shocks.

During this period, Australian international airlines have dealt with the impact of volcanic ash in both the northern and southern hemispheres, and earthquakes in Japan and New Zealand. These natural disasters have all affected consumer demand.

During 2010–11 a substantial proportion of the Commission's work involved applications by Australian international airlines to use capacity in joint services with other airlines. The Commission considered applications to use capacity in joint services on numerous routes including the following: Fiji; Japan; New Zealand; South Africa; Thailand and the United States.

Also during the year, the Commission considered a contested application, as one or more Australian international airlines sought to obtain capacity which was originally applied for by a different airline. The application by Qantas for capacity on the Indonesia route was contested by V Australia and Strategic Airlines. This complex case is the subject of a detailed case study in this annual report. The case study provides some insight into the working of the Commission.

During the year Australia's largest international airline, Qantas, obtained capacity for services by Qantas and Jetstar for use on a range of routes. The capacity sought ranged from large amounts in the case of the Indonesia route to small amounts on the Vanuatu route (100 seats per week). As an important part of the Qantas group, Jetstar was able to increase its services as a result of allocations from the Commission.

Pacific Blue Australia, the Virgin Blue Group short-haul international carrier, sought and obtained capacity from the Commission to continue expanding its services to island nations in our region including Fiji and Vanuatu.



V Australia, the long-haul Virgin Blue Group airline, was allocated capacity by the Commission to operate on the Bangladesh, France, Greece, Indonesia, Thailand and the United Arab Emirates routes.

Strategic Airlines was allocated capacity on the United States route with an unlimited allocation of passenger and cargo capacity. They were also allocated capacity on the Thailand, China and Indonesia routes.

In 2010–11 the Commission granted capacity to one prospective new Australian airline, Pionair. As with all new entrant airlines, in granting capacity to Pionair, the Commission undertook a detailed analysis of its capability to implement the proposed services. This assessment is intended to ensure, as far as practicable, that valuable capacity entitlements are not allocated to airlines which are ultimately unable to use them. Pionair sought, and was granted, freight capacity of 12 tonnes per week on the Papua New Guinea route.

As we review our performance during the year, I would like to take this opportunity to thank my fellow Commissioner, Mr Stephen Bartos, for his continued commitment to the work of the Commission. I would also like to farewell Mr Ian Smith, who completed his term with the Commission in February 2011. Mr Smith spent three and a half years as a Commissioner and I wish him well for the future.

On behalf of past Chairmen of the Commission and Mr Bartos, I would like to formally farewell Mr Mike Bird, the Executive Director of the Commission for over ten years. Mr Bird will retire from the Australian Public Service in late 2011. He distinguished himself by always providing professional and rigorous advice to the Commission.

I would also like to thank the other members of Mr Bird's small secretariat, without whom the Commission would not function smoothly, and to welcome Sue McIntosh, the new Executive Director.

A handwritten signature in black ink, appearing to read 'J Walker', with a stylized flourish at the end.

Dr Jill Walker
Chairwoman



Part 2 – Overview of the International Air Services Commission

The role and functions of the Commission

The Commission is an independent statutory authority established under the *International Air Services Commission Act 1992* (the Act). 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;
- growth in Australian tourism and trade; and
- the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The Commission's primary responsibility is to serve the object of the Act by allocating capacity entitlements to Australian airlines for the operation of international airline services. The capacity allocated by the Commission comes from entitlements available to be used by Australia's international airlines under air services arrangements between Australia and other countries. In particular, the functions of the Commission are to:

- make determinations allocating capacity and to renew those determinations;
- conduct reviews of determinations; and
- provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.

The Act is complemented by a policy statement from the Minister, which instructs the Commission about the way in which it is to perform its functions. It sets out criteria to be applied by the Commission in various circumstances. For example, more complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established airline. The policy statement is a disallowable instrument under section 11 of the Act. It is reproduced at Appendix 7.

Determinations allocating capacity are usually made for a period of five years for routes where capacity or route entitlements are restricted. In cases where capacity entitlements and route rights are unrestricted, determinations may be issued for a period of ten years. In either case, the Commission has the discretion to make interim determinations, which are for a period of three years. If an applicant requests that a determination be made for a shorter period, the Commission has the option to agree to this.

Carriers normally wish to renew determinations as they come towards their expiry date. The Commission is required to start reviews of these determinations at least one year before they expire. Except for interim determinations, there is a presumption in favour of the carrier seeking renewal that the determination will be renewed as sought.

From time to time, airlines apply to the Commission to vary determinations held by them. There can be a number of reasons for an airline to seek a variation. For example, the airline may be seeking authorisation to use allocated capacity to code share with another airline. The Commission conducts a review in response to such requests. In most situations, the Commission invites submissions from interested parties about the application. If the Commission agrees to a variation request, it makes a decision which varies the determination in the way sought by the applicant. The Commission may itself initiate a review of a determination if it is concerned that a carrier might be in breach of a condition of the determination. This could occur, for example, where a carrier had been allocated capacity, but had not used it beyond the time by which it was required to do so by the Commission. Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.

The Commission has published procedures it follows in considering applications and making determinations. A summary of these procedures is at Appendix 6. The procedures are designed with the aim of ensuring that applicants and other interested parties understand the requirements for making applications or submissions, are familiar with the Commission's decision-making processes, and are aware of their rights and obligations.

Executive profile

The Commission comprises a part-time chairwoman and two part-time members. The membership of the Commission during the year was as follows:

Dr Jill Walker



Dr Jill Walker (formally appointed as the Chairwoman of the IASC on 9 February 2011) is currently a Commissioner at the Australian Competition and Consumer Commission (ACCC). Dr Walker was appointed as a Commissioner of the ACCC in August 2009 for a five year term. Dr Walker is the Chair of the ACCC's Mergers Review Committee as well as a member of the Enforcement and Adjudication Committees.

Dr Walker is also an Associate Member of the New Zealand Commerce Commission.

Dr Walker has extensive experience in the fields of trade practices and antitrust economics. Prior to joining the ACCC, Dr Walker was a member of the Australian Competition Tribunal and worked as an economic consultant for LECG Ltd. Dr Walker has also worked for the Network Economics Consulting Group (NECG) and CRA International. Dr Walker has also been a member of the South Australian Government's panel of expert assessors assisting the District Court in hearing appeals under the Essential Services Commission Act 2002 (SA) and the Gas Pipelines Access (South Australia) Act 1997 (SA).

Earlier in her career Dr Walker was employed as an economic adviser by the ACCC and its predecessors the Prices Surveillance Authority and the Trade Practices Commission. During this time Dr Walker provided advice on significant cases, investigations and authorisations.

Dr Walker holds a Bachelor of Arts and a PhD in Land Economy from the University of Cambridge. She also holds a master's degree in Economics from the University of Massachusetts.

Mr Stephen Bartos



Mr Stephen Bartos, Member, was appointed in July 2010 for a three year term ending in July 2013. Mr Bartos is a director with international consulting firm Sapere Research Group. He is an expert in transport policy, public sector governance and risk. He is author of two books, *Against the Grain – The AWB Scandal* and *Why it Happened* (UNSW Press, 2006), and the reference manual *Public Sector Governance – Australia* (CCH, 2004) which

he continues to edit. He has written numerous refereed articles in scholarly journals and regular governance comment and opinion pieces, including a regular column in the Public Sector Informant (a monthly supplement to the Canberra Times). His work in the aviation sector includes a comprehensive study of the air cargo supply chain for the Office of Transport Security, advising the Victorian government on aviation technical training, a review of Airservices Australia for the former Transport Minister, and advice to the Board of Airservices Australia. Much earlier, he played a key role in provision of economic advice to government on policy ending the 'two airline' agreement.

Prior to consulting, Mr Bartos was Professor of Governance and Director of the National Institute of Governance at the University of Canberra.

Mr Bartos previously worked in the Commonwealth Government for some 25 years. He was a Deputy Secretary in the Finance Department and Head of Budget Group, where he was responsible for advising Ministers on spending and non-tax revenue in the Commonwealth budget, government business enterprises, fiscal policy, accounting policies and public sector performance improvement.

Mr Ian Smith



Mr Ian W Smith, former Member, was appointed in November 2007 for a three-year term ending in November 2010. This was extended to February 2011. Mr Smith has an extensive background in aviation and commerce, particularly in the last 25 years in aviation insurance broking where he has held Managing Director roles with several international aviation brokers. He has experience as a Company Director, currently being the Chairman of Aerospace

Maritime and Defence Foundation of Australia and Chairman of Aviation Development Australia Limited (ADAL), with ADAL running the Australian International Airshow. Also, Mr Smith is a Board Member of Aviation Australia Ltd, Maritime Australia Ltd, and the Regional Aviation Association of Australia. He has also been a consultant to the Department of Defence on aviation insurance matters.

Commissioners’ attendance at meetings in 2010–11

Commissioner	Number of meetings possible	Number of meetings attended
Dr Jill Walker	3	3
Mr Stephen Bartos	11	11
Mr Ian Smith	8	8

The secretariat

The Commission is assisted in its work by a small secretariat. The secretariat is staffed by officers of the Department of Infrastructure and Transport, (the Department). The secretariat is headed by an executive director, supported by a senior adviser and an office manager. These officers provide advice and assistance to the Commissioners on all aspects of the Commission’s operations.



From left: Stephen Bartos Member, Ilona Balint, Jill Walker Chairwoman, Sue McIntosh, Anita Robinson

Communications with interested parties

There are many parties with a direct or indirect interest in what the Commission does. They include:

- the Minister for Infrastructure and Transport;
- current and prospective Australian international airlines;
- the broader aviation industry, including airport owners, providers of services to airlines and employee associations;
- the international tourism and freight industries, including Australian exporters;
- Australian and State Government departments and agencies;
- aviation industry investors, analysts and journalists; and
- the travelling public.

The Commission places great importance on maintaining effective relationships with those parties. Account is taken of the views and/or interests of those parties in the Commission's decision-making processes, as appropriate to particular cases. Regular electronic notification of applications and the Commission's determinations and decisions keeps interested parties up to date with the Commission's activities. At the conclusion of each financial year, the Commission invites those parties to provide feedback about the Commission's performance throughout the year. The aggregated results of responses to the survey this year are presented in this annual report.

The role of the Department of Infrastructure and Transport (the Department)

The Commission works closely with the Department, which has responsibilities complementary to those of the Commission. The Department is responsible for the negotiation and administration of air services arrangements between Australia and other countries.

The capacity and route entitlements for Australian carriers under each set of air services arrangements are recorded by the Department in a Register of Available Capacity. This is maintained by the Department, in accordance with the requirements of the Act. The capacity recorded on the register under the various agreements may be sought by airlines by applying to the Commission for an allocation of capacity.

The entitlements on the Register of Available Capacity are adjusted as determinations allocating capacity are made by the Commission, when unused capacity is handed back by airlines, or when the Department negotiates new or revised capacity entitlements on behalf of the Australian Government. There is regular communication between the Department and the Commission on these matters.

Another important area where the roles of the Commission and the Department intersect is in relation to applications from prospective new Australian airlines wishing to operate international services. Before allocating capacity to an applicant airline, the Commission must be satisfied that the airline is both reasonably capable of obtaining the approvals necessary to operate and of implementing its proposals. The Department is responsible for designating and licensing Australian airlines to operate regular scheduled international services. This role is relevant to the Commission's decision-making about whether a carrier is capable of obtaining the approvals necessary to operate. Similarly, an Australian carrier must hold an allocation of capacity from the Commission before it can be licensed. The Commission and the Department therefore consult closely in cases involving prospective new applicants.



Part 3 – Report on performance

Overview

The Commission's performance report is based on an assessment of its results for the year using a range of criteria. Three sets of criteria have been adopted by the Commission to enable a thorough assessment of all aspects of its operations.

Broadly, the criteria encompass:

- ➔ how well the object of the Act has been met by the Commission's decision making;
- ➔ how fair and effective the Commission has been in dealing with applicants and interested parties; and
- ➔ how efficient the Commission has been in the use of financial resources available to it.

The Commission's assessment of its performance against each of these criteria is set out below.

Results against performance targets

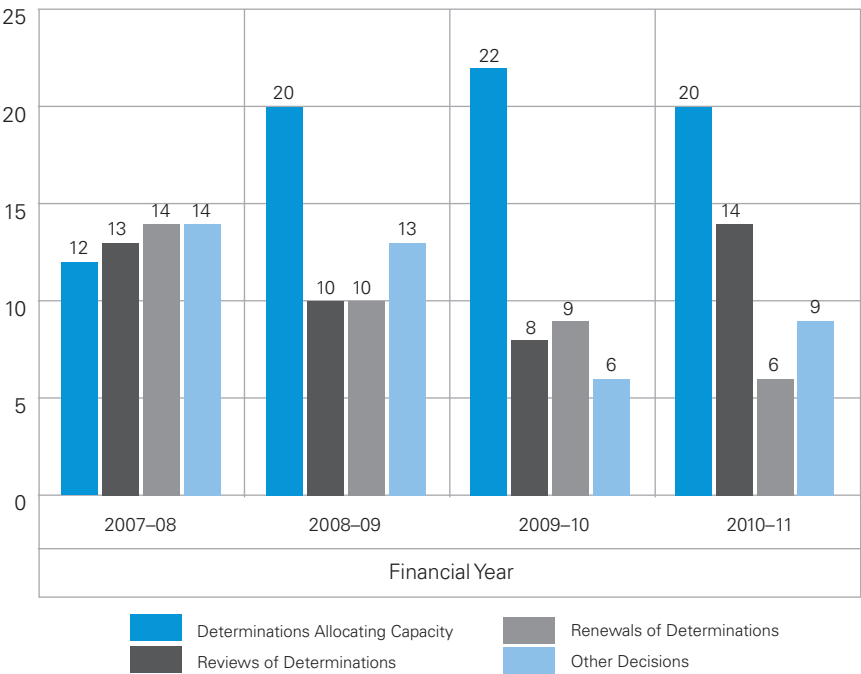
Serving the object of the Act

The object of the *International Air Services Commission Act 1992* is to improve the welfare of Australians by promoting economic efficiency through competitive international air services. Under the Act, the Commission's functions are to make determinations; review determinations; and provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations. In fulfilling its functions, the Act requires the Commission to comply with policy statements made by the Minister under section 11 and to have regard to Australia's international obligations concerning the operation of international air services.

The Commission records annually the number of determinations and decisions made for the year. The volume of activity varies from year to year for reasons which are unrelated to the Commission's performance. The dominant factor underlying the Commission's output is the number of applications made by airlines. The demand for new capacity from the Commission is directly related to the level of demand for air services. In turn, international aviation activity is particularly sensitive to changes in the strength of the global economy, as witnessed during the global financial crisis.

In 2010–11 a total of 49 determinations and decisions were made by the Commission.

Historical numbers of determinations and decisions



Twenty determinations allocating new capacity were made during the year, two less than last year. In many cases, the allocations were for modest amounts of capacity. Nine determinations involving small amounts of capacity were revoked at the request of the carrier holding the capacity.

The Commission varied fourteen determinations at the request of the airline, either to authorise code sharing or to approve the transfer of allocated capacity from one carrier to another. In addition six determinations approaching their expiry date were renewed at the request of the airlines concerned.

The Commission continued the delegation of some of its decision-making powers to the Executive Director for less complex cases. Drafts of delegate determinations and decisions are discussed with Commissioners before finalisation. These arrangements are well-established and improve the efficiency of decision making. The delegate made about 35 per cent of the determinations and decisions made during the year.

A brief summary of all determinations and decisions for 2010–11 is at Appendix 1. A detailed description of each case is provided at Appendix 2.

Two cases during the year demonstrate very clearly how the Commission exercised its functions to meet the object of the Act.

The first case was an application by Qantas to extend a code sharing arrangement with South African Airways on the South Africa route for two years. As the Commission was concerned that the code share application may be anti-competitive, it was required under the policy statement to subject the application to the broader public benefit criteria in paragraph 5 of the statement. Before making its assessment, the Commission is required to consult with the ACCC.

After consulting the ACCC and undertaking extensive analysis against the paragraph 5 criteria, the Commission approved an extension for one year with a condition relating to the minimum number of services that must be operated by the two airlines.

The second case was one which involved the application of the 'use it or lose it' principle on the Papua New Guinea (PNG) route. The Act requires the Commission to include a condition in its determinations that allocated capacity be fully used. The policy statement states that the Commission should specify as short a period for fully using capacity as is reasonable, having regard to the steps required to commence operations.

HeavyLift Cargo Airlines (HeavyLift) had been allocated freight capacity on the PNG route and operated scheduled services with a B727 aircraft in December 2009 and January 2010. In February 2010 the Civil Aviation Safety Authority declined to renew the Air Operator's Certificate for the company from which HeavyLift was wet leasing the aircraft. Also, in March 2010 the Minister announced that all flights by older, noisier aircraft, including the B727, would cease at major Australian airports. Based on advice from HeavyLift that it was now leasing a B737-400 aircraft and would be operating four weekly services within 60 days, the Commission extended the start up date for full utilisation of the capacity.

Following further delays the Commission decided, on 10 December 2010, to conduct a review of HeavyLift's determinations. HeavyLift commenced action in the Federal Court of Australia to prevent the Commission commencing the review. In March 2011 in settlement of the legal action HeavyLift complied with the Commission's request to return 17.5 tonnes of capacity and the Commission agreed not to commence the review. This left HeavyLift with sufficient capacity to proceed with plans to operate three weekly B737-400 freight services and provided additional capacity for allocation to other parties.

Case study – the Indonesia route

Introduction

Each year the Commission highlights one of its more interesting cases to provide an insight into the Commission's approach to assessing complex applications. This year's case study involves competing applications from Qantas, Strategic Airlines and V Australia for the remaining capacity available on the Indonesia route.

The applications

On 27 July 2010 Qantas, on behalf of Jetstar, applied for an allocation of 3,898 seats of capacity per week and an allocation of 729 seats and four frequencies of beyond Indonesia capacity. Qantas' wholly-owned subsidiary company, Jetstar, planned to introduce these additional services using one-class A320 aircraft and two-class A330 aircraft.

In response to Qantas' application, Strategic Airlines applied for an allocation of 1,716 seats. It planned to add 11 weekly A320-200 services with 156 seats.

Virgin Blue also sought an allocation of 2,340 seats to enable it to operate an extra 13 services per week utilising 180 seat B737-800 aircraft.

As the applications from Strategic Airlines and Virgin Blue created competing applications for the same available capacity, the three airlines were invited to address the paragraph 5 criteria in the Minister's policy statement in support of their respective applications. The primary paragraph 5 criterion is the extent to which proposals promote competition in international air services. Other criteria embrace tourism, consumer and trade benefits, as well as the extent to which a proposal will contribute positively to the Australian aviation industry.

Claims against the paragraph 5 criteria

Qantas

In responding to the paragraph 5 criteria, Qantas submitted that, if successful in its application for the additional capacity, Qantas would significantly increase its capacity offering to Indonesia, noting growth in this market had been constrained by the lack of available capacity. Jetstar's proposed schedule was focused on servicing and growing point-to-point traffic.

In terms of competition benefits, Qantas submitted that its low air fares had significantly influenced the high growth rate of travel between the two countries, and its pricing strategy had concurrently contributed to creating a competitive environment for air travel between Australia and Indonesia.

Qantas submitted that its plans to introduce additional services would offer consumers increased choice and frequency of service. Qantas noted it was currently the only Australian carrier to offer Perth-Jakarta services and additional capacity would allow an increase in services from twice weekly to a daily frequency.

Qantas contended that consumer benefits would be gained through its differentiated product, efficiency of operations, innovation and extensive route network. Further Qantas contended that consumer benefits would be achieved through its ability to distribute its product direct to customers via a number of methods. Qantas believed its planned additional services on a number of Australia-Indonesia sectors would encourage more visitors to Australia and therefore benefit tourism.

In terms of trade benefits, Qantas submitted that on its services to Bali and Jakarta, Qantas had the ability to move at least 500 kilograms of freight per flight and, as part of the Qantas Group, Jetstar could offer freight customers access to an extensive international and domestic network.

Strategic Airlines

Strategic Airlines noted it was the newest entrant on the route. Strategic Airlines proposed to obtain capacity to allow it to operate daily services between Perth – Denpasar with the remainder of the capacity divided between services from Brisbane and Melbourne to Denpasar. Strategic Airlines submitted that the increased capacity it sought would drive increased demand for travel to Bali and improve competition across all Australian gateway ports.

Strategic Airlines considered that the presence of three airlines would lead to competition on pricing and deliver benefits to consumers. Strategic Airlines submitted that consumer choice would increase with the option to travel either 'low-cost' or 'full-service' and the choice of travelling economy or business class. Strategic Airlines considered tourism benefits would also increase through offering a full-service product, ensuring that the opportunity for inbound tourism from Indonesia would be maximised.

Strategic Airlines submitted that trade benefits would increase with the increase in air freight options through additional flights to Indonesia each week.

Virgin Blue Group

Virgin Blue submitted that the Virgin Blue Group had made a significant investment in the Indonesian market, operating 28 weekly services between points in Australia and points in Denpasar, and noted that the Group intended to further grow its presence in the market.

Virgin Blue further submitted that since its entry into the market, tariffs had fallen and demand had been significantly stimulated. Virgin Blue argued that the benefits that derived from direct and transparent competition on the route would be maintained if their position in the market was maintained. Virgin Blue noted that it was well placed to stimulate increased tourism from Indonesia as it offered consumers a highly recognisable brand and an award winning product.

In terms of providing greater benefits for freight consumers, Virgin Blue also submitted that the allocation of the increased capacity it sought would provide the opportunity for increased air freight activity.

The Commission's assessment

The Commission assessed the three proposals against the paragraph 5 criteria. It initially considered the proposals in the context of the number of carriers on the route and the existing distribution of capacity between Australian carriers. All carriers held a combined allocation of the 10,800 seats of capacity. Qantas held 5,892 seats per week, Virgin Blue held 4,500 seats per week, and Strategic Airlines with 3.8% of the total seats, held 408 seats per week.

The amount of capacity sought by Strategic Airlines was less than half that sought by Qantas and several hundred seats fewer than that sought by Virgin Blue. The Commission considered that the largest increment in public benefit was likely to be delivered by granting Strategic Airlines most of the capacity it had sought, while providing scope for reasonable capacity increases for both Qantas and Virgin Blue. As Strategic Airlines was intending to offer a business class service on all of its services, the Commission believed that it would provide increased competition to Jetstar's 'Star Class' business class services on the Sydney and Melbourne sectors. The Commission also noted that Strategic Airlines was the only carrier of the three to offer a business class service on the Perth-Denpasar route.

When taking into account the overall balance of capacity in addition to the other aspects of the competition criterion and other paragraph 5 criteria, the Commission found that splitting the capacity could potentially generate a higher level of public benefit than an allocation to one carrier or the other. In the Commission's view, splitting the capacity would also be consistent with the expectation in the Minister's

policy statement that the Commission should aim to provide reasonable growth in entitlements to Australian carriers operating on a route.

In determining an appropriate allocation of capacity, the Commission weighed up several factors, including the relative shares of Australian capacity entitlements and scope for growth. Other factors included the balance of capacity and frequencies to be operated to achieve the most competitive outcome, including in terms of: lower fares in all travel classes; choice and product differentiation; and an efficient allocation of the available capacity so as to minimise the number of residual and therefore unusable seats.

The Commission considered that a similar quantum of capacity should be allocated to each of Qantas and Virgin Blue to facilitate growth by both carriers across a range of sectors and to contribute to a slight shift in overall capacity shares towards Virgin Blue relative to Qantas. Taking into account the application from Strategic Airlines, the Commission believed the substantial capacity share advantage currently held by the Qantas Group would be reduced.

In this regard, the Commission considered the public benefit would be maximised through splitting the available 4000 weekly seats between the three carriers as follows:

Airline	Additional allocation (seats per week)	Total allocation (seats per week)	Percentage of total
Qantas	1226	7118	48.1 %
Strategic Airlines	1514	1922*	13.0 %
Virgin Blue	1260	5760	38.9 %
TOTAL	4000	14800	100 %

*plus the currently authorised 60 spill-over seats and a further 46 seats to be sought from aeronautical authorities, making a total of 2028 seats.

These allocations resulted in a rebalance of capacity with the Qantas share falling to 48.1 % (from 54.5%), the Virgin Blue share declining to 38.9% (from 41.6%), and Strategic Airlines’ share increasing to 13.0% (from 3.7%).

The Commission considered the distribution of services to be operated from Australian gateways would facilitate expansion by each carrier in a way which fostered competition and delivered scope for expansion on all city pairs. In particular, the Commission noted that travellers to and from the four major Australian gateways would have additional capacity available to them and a choice of a new carrier in the case of Sydney and Melbourne. In this regard, the Commission made notional

provision for Strategic Airlines to introduce three services per week from each of these gateways.

Priority was given to expansion at Perth in response to high demand. The Commission included scope for an increase to daily frequencies for Strategic Airlines and extra flights for both Virgin Blue and Jetstar.

The allocation to Qantas was only a little over a third of the allocation sought. However the notional allocations enabled Jetstar to add services on both the Perth (to Denpasar and Jakarta) and Sydney (Denpasar only) sectors. No provision was made for Jetstar to expand at Melbourne, but the allocation to Strategic Airlines would still enable growth in that market.

In relation to the allocation to Qantas, the Commission recognised that the Qantas Group was the only airline operating to Jakarta, offering services from both Sydney (Qantas) and Perth (Jetstar). The Commission allocated two frequencies rather than the five sought and acknowledged that this meant that Jetstar could not add all of the extra services beyond Jakarta to Singapore that it had proposed. The Commission, therefore, allocated beyond capacity of two frequencies and 369 seats per week beyond Jakarta.

While the Commission noted it had authority under the Minister's policy statement to specify the points which must be served by carriers, the Commission decided not to do so in this case because growth by sector might not be uniform and to do so would remove the flexibility for airlines to implement services on sectors, based on their particular commercial considerations.

In terms of the other criteria, specifically consumer benefits, the Commission considered that increased product offerings would be provided through the business class services operated by Strategic Airlines and Jetstar's 'Star Class' services. It was also noted that Virgin Blue was the only one of the three airlines to operate services from Brisbane. The Commission placed little weight on the remaining criteria.

The Commission considered that all three proposals brought strong competition benefits, but greater competition benefits were likely to be associated with the splitting of capacity in the way determined.

The Commission made a three year interim determination, meaning that the allocations of capacity could be reviewed at the renewal stage more quickly than if a full five year determination was made.

The Commission's full determination in this case is available from its website, www.iasc.gov.au.

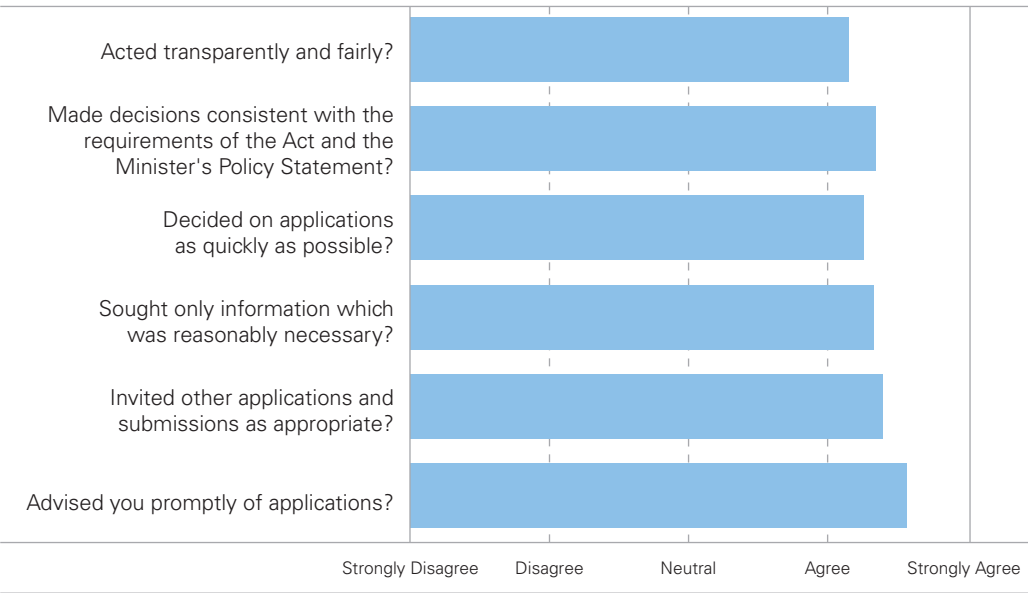
Serving applicants and interested parties

The Commission uses the detailed commitments set out in its service charter as the framework for assessing its service performance. The specific undertakings in the service charter encompass both the ways in which the Commission engages with interested parties and how it makes its decisions. This framework provides the basis for an objective assessment of the Commission’s performance.

Again this year, clients were invited to assess the Commission’s performance by completing an electronic questionnaire. The questions allow respondents to evaluate how well the Commission performed against each of the specific undertakings set out in the charter. Questionnaire responses may be made anonymously, although some of those responding chose to disclose their identity. The Commissioners very much appreciate the effort made by respondents to provide their views on the Commission’s performance.

Respondent scores against each criterion are aggregated and averaged. The following charts show that clients continue to rate the Commission’s performance positively. This suggests a high level of satisfaction with how the Commission is doing its job. The scores are also comparable to the results of previous years.

Decision making process — Do you agree that we:



Dealing with stakeholders — Do you agree that we:



The Commission also records the time taken to make each of its decisions, as it considers timeliness to be a particularly important performance benchmark. This data is used to supplement client feedback in this area.

One of the service promises in the service charter is that the Commission will make decisions about uncontested and unopposed applications within four weeks of receipt and contested or opposed applications within 12 weeks, or inform the airline/s involved if there are reasons why a decision may take longer.

This year there were 35 applications which were uncontested and no applications were opposed. The average decision time taken to complete uncontested applications was 3.2 weeks. This result compares with an average completion time of 3.95 weeks in 2009–10 and 3.0 weeks in the year before that. This year four of the 35 applications took longer than the four weeks to finalise.

One of the uncontested applications was an application from a new carrier. Applications from prospective new carriers take longer than four weeks to finalise because the Commission must be satisfied that the carrier is reasonably capable of servicing the route.

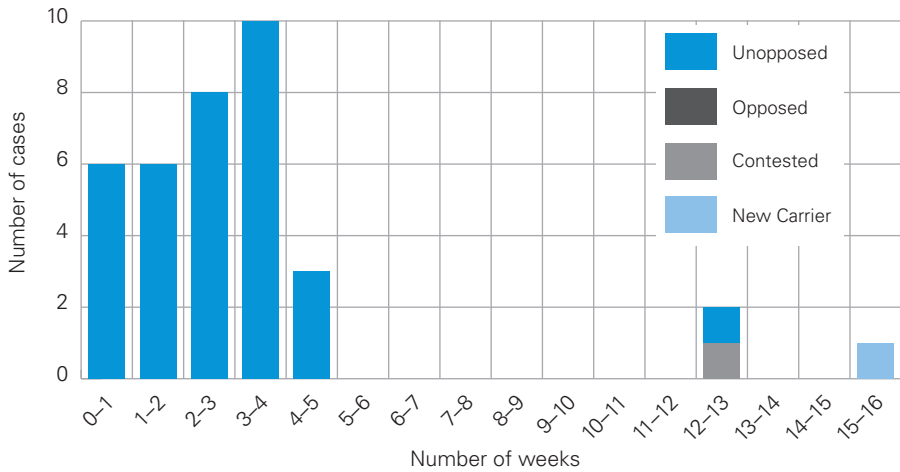
The application from the new carrier was from Pionair for an allocation of 18,000kg per week on the PNG route. This application took the Commission 16 weeks to complete.

The South Africa case referred to under “Serving the object of the Act” took 12 weeks to complete because of the extensive analysis required and this lifted the average completion time significantly.

The only contested case in which Qantas, Strategic Airlines and Virgin Blue made competing applications for the remaining passenger capacity on the Indonesia route is detailed in the case study above. This case took 13 weeks to complete.

Detailed information about the Commission’s timeliness performance is contained in the following chart.

Distribution of decision times by type of case



Note: The chart does not include renewal determinations. These are initiated by the Commission on a time frame that suits airlines’ requirements. The number of cases differs from the number of determinations and decisions in the chart on page 14 because some cases involve more than one determination.

Efficiency of financial resources

The Commission’s budget for the year was \$315,000. These funds are made available from the resources of the Aviation and Airports Division of the Department of Infrastructure and Transport (the Department). The Commission’s budget expenditure is attributable mainly to the salaries of secretariat staff, fees paid to Commission members, travel, the production of the annual report and general office needs. Most corporate overheads and property operating expenditure are paid for by the Department, as the Commission is housed in a departmental building.

Total expenditure for 2010–11 was about \$287,500 or \$27,500 less than budget. Commissioners consider the expenditure to have been made efficiently and effectively. The Commission has delivered steady efficiency gains over a long period. The secretariat comprised an average of about 1.9 full-time equivalent staff, which remained the same as last year. Part 5 details the Commission’s financial performance.



Part 4 – Management and accountability

Corporate governance practices

As the Commission is a small organisation, it requires less complex corporate governance structures than those of larger bodies such as Government departments. The Commission considers its corporate governance arrangements to be appropriate for its small size, and consistent with its statutory role and responsibilities. There are two parts to the governance arrangements. The first of these addresses the Commission's responsibilities under the *International Air Services Commission Act 1992* (the Act). The second part of the governance structure concerns staffing of the Commission's secretariat and the expenditure of the Commission's budget.

Part 4 of the Act sets out procedures the Commission must comply with. The Commission considers that it meets these requirements in full. The most significant of the requirements concerns the holding of meetings. The Commission usually meets at its offices in Canberra. However, when less complex issues are involved, Commissioners hold meetings by teleconference. On rare occasions meetings are held by email. The use of electronic media for conducting meetings reduces travel costs associated with face-to-face meetings, representing a saving to the Commission's budget. A quorum of members is present at all meetings and determinations and decisions are made in accordance with the Act and the Minister's policy statement. Minutes are kept of proceedings at all of its meetings.

During their meetings, Commissioners discuss staffing, financial and risk management issues, as appropriate, with staff of the secretariat. Commissioners and secretariat officers maintain regular contact via email and telephone about matters requiring the Commission's attention in the periods between meetings.

Part 4 of the Act enables the Commission to hold hearings at its discretion. No hearings were held this year.

Part 5 of the Act deals with the membership of the Commission. The Chairperson and Members are appointed by the Governor-General after approval by Cabinet, which considers recommendations of the Minister for Infrastructure and Transport (the Minister). The current period of appointments of Commission members is three years, although the Act provides for terms of appointment up to five years in duration.

The Remuneration Tribunal sets members' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

Section 47 of Part 5 requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners are fully aware of this obligation.

Part 6, Section 53, of the Act requires the Commission to prepare and give to the Minister a report of its operations for the financial year. The Commissioners review drafts of the annual report during its preparation. The final report is cleared and signed off by them and provided to the Minister in accordance with the requirements of the Act. The report is tabled in both Houses of Parliament.

The second part of the Commission's corporate governance arrangements arises from the Commission's relationship with the Department of Infrastructure and Transport (the Department). Secretariat staff members are officers of the Department and are subject to the same responsibilities and obligations applying to all departmental staff. The Commission's executive director is responsible for the day to day management of the secretariat, in accordance with these obligations and responsibilities. Secretariat staff members are expected to adhere to the Australian Public Service's Values and Code of Conduct.

External scrutiny

There was no formal external scrutiny of the Commission this year and no determinations or decisions made by it were the subject of judicial or administrative review.

Management of human resources

The staffing level of the secretariat was below the previous year, at 1.9 full-time equivalent people. As at 30 June, the secretariat was comprised of one Executive Level 2 officer (female, part-time), one Executive Level 1 officer (female, part-time, funded by the Department) and one APS 5 officer (female, part-time). As officers of the Department, secretariat staff members' employment conditions are determined by the Department's normal employment arrangements. However, as part of the arrangements to ensure independence of the Commission from the Department, secretariat staff members are responsible directly to the Commissioners on Commission matters.

The Department's human resource management policies and practices apply to secretariat staff. These include performance management arrangements, including six-monthly discussions about work performance and professional development.

The Commissioners support the professional development of secretariat members by encouraging participation in appropriate study, training courses and conferences. Staff members are involved in the Commission's work through preparing briefing and agenda papers for meetings, engaging in discussion at meetings, and drafting determinations and decisions for consideration by Commissioners. As the work demands of the Commission's activities allow, secretariat staff may also be involved in tasks within the Department, as part of the flexible working arrangements between the Commission and the Department.

Assets management

Asset management is not a significant aspect of the business of the Commission.

Purchasing

The Commission made no significant purchases during the year.

Consultants and competitive tendering and contracting

The Commission did not engage any consultancy services.



Part 5 – Financial report

Financial report as at 30 June 2011

	(1)	(2)	(3)	(4)
	2010–11 Budget \$'000	2010–11 Actual \$'000	Variation (Column 2–1) \$'000	2011–12 Budget \$'000
Salaries	193	196	-3	169
Revenue	0	0	0	0
Supplier expenses	122	92	-30	145
Total	315	288	-27	314
Staff years	1.9	1.9		1.9

Explanatory notes

The Commission's financial report is prepared on an accrual budgeting basis.

The Commission's budget is provided from funds allocated to the Aviation and Airports Division within the Department of Infrastructure and Transport. The Commission's offices are in a departmental building.

Appendix 1 – Determinations and decisions

This table summarises briefly the determinations and decisions issued during 2010–11. A full summary is at *Appendix 2*. Individual determinations and decisions may be viewed on the Commission's website at www.iasc.gov.au.

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Bangladesh	V Australia	[2010] IASC 122	25 Oct 10	five frequencies each way each week with any aircraft type	Allocation of passenger capacity
China	Qantas	[2010] IASC 203 ^d	13 Sep 10	166 seats each way per week to and from Sydney, Melbourne, Brisbane and Perth	Variation of [2008] IASC 121 to increase the allocated capacity from 2,135 seats to 2,301 seats per week
China	Strategic Airlines	[2011] IASC 107 ^d	06 Jun 11	1,911 seats each way per week to and from Sydney, Melbourne, Brisbane and Perth	Allocation of capacity
Fiji	V Australia	[2010] IASC 205	29 Sep 10		Variation of [2008] IASC 129 and [2009] IASC 131 to transfer capacity to Pacific Blue Australia from V Australia
Fiji	Virgin Blue International Airlines	[2011] IASC 209 ^d	10 May 11		Variation of [2007] IASC 119, [2008] IASC 112, [2008] IASC 117, [2008] IASC 129, [2009] IASC 109 and [2009] IASC 131 to permit V Australia to code share on Pacific Blue Australia services
France	V Australia	[2010] IASC 120	25 Oct 10	150 one way seats per day on an annual average basis	Allocation of passenger capacity
Greece	V Australia	[2010] IASC 121	25 Oct 10	800 seats per week	Allocation of passenger capacity
Hong Kong	Qantas	[2011] IASC 211 ^d	06 Jun 11	-six frequencies per week	Revocation of capacity

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Indonesia	Pacific Blue	[2010] IASC 206	29 Sep 10		Variation of [2008] IASC 120, [2009] IASC 103, [2009] IASC 105, [2009] IASC 106, [2009] IASC 107, and [2009] IASC 113 to transfer capacity to Virgin Blue Airlines from Pacific Blue Australia
Indonesia	Qantas	[2010] IASC 107	25 Oct 10	1226 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia, 369 seats weekly beyond and two frequencies	Allocation of passenger capacity
Indonesia	Qantas	[2010] IASC 117	25 Oct 10	780 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2005] IASC 122
Indonesia	Qantas	[2011] IASC 104 ^d	17 May 11	540 seats and three frequencies seats weekly beyond	Allocation of capacity and frequencies beyond Indonesia
Indonesia	Strategic Airlines	[2010] IASC 106 ^d	08 Jul 10	unrestricted capacity between points in Australia, except Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Allocation of unlimited passenger capacity
Indonesia	Strategic Airlines	[2010] IASC 108	25 Oct 10	1514 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Allocation of passenger capacity
Indonesia	Virgin Blue International Airlines	[2010] IASC 109	25 Oct 10	1260 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Allocation of passenger capacity

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Indonesia	Virgin Blue International Airlines	[2010] IASC 212 ^d	01 Dec 10	-three frequencies and -540 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Revocation of [2009] IASC 107
Japan	Qantas	[2010] IASC 210	11 Nov 10		Variation of [2006] IASC 117, [2006] IASC 124, and [2008] IASC 127 to permit Japan Airlines to code share on Qantas services
Japan	Qantas	[2010] IASC 213	10 Dec 10		Variation of [2007] IASC 108 to permit Japan Airlines to code share on Qantas services
New Caledonia	Pacific Wings	[2011] IASC 203 ^d	07 Mar 11	-0.25 and -0.5 units of capacity per week	Revocation of [2009] IASC 112 and [2009] IASC 116
New Caledonia	Qantas	[2010] IASC 112	25 Oct 10	0.5 units of capacity per week	Renewal of [2005] IASC 121
New Caledonia	Qantas	[2010] IASC 113	25 Oct 10	0.25 units of capacity per week	Renewal of [2005] IASC 127
New Zealand	Pacific Blue	[2010] IASC 208	25 Oct 10		Variation of [2007] IASC 118 to permit joint services with Etihad Airways
New Zealand	Pacific Blue	[2011] IASC 201	24 Jan 11		Variation of [2007] IASC 118 to permit Delta to code share on Pacific Blue Australia services
New Zealand	Pacific Blue	[2011] IASC 210 ^d	03 Jun 11		Variation of [2007] IASC 118 to permit joint services with Air New Zealand
Papua New Guinea	HeavyLift Cargo	[2011] IASC 204	25 Mar 11	22.5 tonnes per week	Variation to reduce allocated capacity from 40 tonnes to 22.5 tonnes
Papua New Guinea	Pacific Air Express (Australia)	[2011] IASC 102 ^d	05 Apr 11	17.5 tonnes per week	Allocation of freight capacity

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Papua New Guinea	Pionair	[2010] IASC 110	29 Sep 10	twelve tonnes per week	Allocation of freight capacity
Philippines	Qantas	[2010] IASC 123	25 Oct 10	531 seats per week in each direction	Allocation of passenger capacity
Singapore	Qantas	[2011] IASC 202	24 Jan 11		Variation to permit Finnair to code share on Qantas services
South Africa	Qantas	[2010] IASC 115	25 Oct 10	two services each way each week with any aircraft type	Renewal of [2005] IASC 125
South Africa	Qantas	[2010] IASC 204	29 Sep 10		Variation of [2005] IASC 125, [2006] IASC 130, [2008] IASC 105, [2008] IASC 109 and [2009] IASC 126 to permit South African Airways to code share on Qantas services
South Africa	Virgin Blue International Airlines	[2011] IASC 206	18 Apr 11	-five services each way each week with any aircraft type	Revocation of [2008] IASC 113
Taiwan	Qantas	[2011] IASC 106 ^d	06 Jun 11	2,121 seats per week in each direction for services to and from Brisbane, Sydney, Melbourne and Perth	Allocation of capacity
Thailand	Pacific Blue	[2011] IASC 205 ^d	13 Apr 11		Variation to permit V Australia to code share on Pacific Blue Australia services
Thailand	Qantas	[2010] IASC 114	25 Oct 10	2.9 B747-400 equivalent weekly services	Renewal of [2006] IASC 101
Thailand	Qantas	[2010] IASC 124 ^d	27 Oct 10	seven third party code share services per week in each direction	Allocation of passenger capacity

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Thailand	Qantas	[2010] IASC 209 ^d	27 Oct 10		Variation of [2006] IASC 110 to permit code share with Kenya Airways
Thailand	Qantas	[2011] IASC 101	24 Jan 11	fourteen third party code share services per week in each direction	Allocation of passenger capacity
Thailand	Qantas	[2011] IASC 105 ^d	06 Jun 11	twelve third party code share services per week in each direction and two B747-400 equivalent weekly services	Allocation of capacity
Thailand	Strategic Airlines	[2010] IASC 111 ^d	13 Oct 10	4.2 B747-400 equivalent weekly services	Allocation of passenger capacity
Thailand	V Australia	[2010] IASC 119	25 Oct 10	seven third party code share services per week in each direction	Allocation of passenger capacity
Thailand	Virgin Blue International Airlines	[2011] IASC 207	18 Apr 11	-6.3 B747-400 equivalent weekly services	Revocation of [2009] IASC 119
United Arab Emirates	V Australia	[2010] IASC 118	25 Oct 10	three frequencies per week	Allocation of passenger capacity
United States	Strategic Airlines	[2011] IASC 103 ^d	10 May 11	unlimited passenger capacity, between, via and beyond to third countries	Allocation of passenger and cargo capacity
United States	Virgin Blue International Airlines	[2011] IASC 212	30 Jun 11		Variation of [2008] IASC 110 to permit Delta to code share on V Australia services
Vanuatu	Qantas	[2010] IASC 116	25 Oct 10	100 seats per week in each direction	Renewal of [2006] IASC 128
Vanuatu	Qantas	[2011] IASC 208	13 Apr 11	-400 seats in each direction	Revocation of [2006] IASC 128, [2007] IASC 114, [2009] IASC 128 and [2010] IASC 116
Vietnam	Qantas	[2010] IASC 207	10 Sep 10	-five frequencies per week	Revocation of [2006] IASC 102 and [2008] IASC 108

^d Indicates a determination or decision made by the Commission's delegate

Appendix 2 – Route-by-route summary of Commission determinations and decisions in 2010–11

This appendix provides a detailed summary of the Commission's determinations and decisions for 2010–11. Full determinations and decisions can be viewed on the Commission's website at www.iasc.gov.au.

Bangladesh

On 30 September 2010 V Australia applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Etihad Airways. Under the arrangements V Australia planned to introduce three weekly B777-300ER services between Sydney and Abu Dhabi from February 2011 and sought an allocation of three services per week on the United Arab Emirates route. Etihad Airways would code share on the V Australia services, with Etihad Airways customers having access to all Virgin Blue Group services via interlining.

The proposed arrangements also involved V Australia code sharing as a marketing carrier on services operated by Etihad Airways. Capacity allocations were required on the Thailand, France, Greece and Bangladesh routes in order for V Australia to participate as a marketing carrier with Etihad Airways on those routes. V Australia has sought allocations of daily frequencies on the Thailand route; 150 seats daily on the France route; 800 seats weekly on the Greece route; and five weekly frequencies on the Bangladesh route.

On 25 October 2010 the Commission issued **Determination [2010] IASC 122** allocating five frequencies per week on capacity on the Bangladesh route. The determination is for five years from 25 October 2010.

China

On 24 August 2010 Qantas applied for a variation to Determination [2008] IASC 121, to increase the allocation of seats by 166 per week in each direction to a total of 2,301 seats per week on the China route. The airline planned to upgrade aircraft from the Airbus 330 to a Boeing 747 aircraft during the Northern Winter 2010 scheduling season.

On 13 September 2010 the Delegate, on behalf of the Commission, issued **Decision [2010] IASC 203** varying the determination and allocating 2,301 seats per week in each direction on the China route.



On 18 May 2011 Strategic Airlines applied for an allocation of 1,911 seats per week on the China route. Strategic Airlines proposed to introduce three services per week between Australia and China. The flights would be carried out using an Airbus A330 aircraft.

On 6 June 2011 the Delegate, on behalf of the Commission, issued **Determination [2011] IASC 107** in favour of Strategic Airlines allocating 1,911 seats of capacity per week in each direction between Australia and China, from the seats of capacity available to be operated by the designated airlines of Australia to and from Sydney, Melbourne, Brisbane and Perth. The determination is for five years from 6 June 2011.

Fiji

On 10 September 2010 V Australia applied to transfer to Pacific Blue Australia a total of 2,167 seats per week of capacity. The capacity was allocated by Determinations [2008] IASC 129 and [2009] IASC 131 which grant 1,260 seats and 907 seats per week respectively.

Pacific Blue Australia explained that the change from Pacific Blue Australia to V Australia serving the route was planned to occur between 19 and 25 October 2010. The change would free-up V Australia aircraft to participate in revised network operations and its new partnership arrangements with Etihad Airways and allow the Group's commitment to Fiji continue, with Pacific Blue Australia using the capacity to increase services from Melbourne, Brisbane and Sydney to Nadi.

On 29 September 2010 the Commission issued **Decision [2010] IASC 205** varying Determinations [2008] IASC 129 and [2009] IASC 131, as requested by V Australia, by transferring from V Australia to Pacific Blue Australia the allocations of capacity made in those determinations, being respectively 1,260 seats of capacity per week and 907 seats of capacity per week.



On 15 April 2011 Pacific Blue Australia applied for a variation to determinations [2007] IASC 199, [2008] IASC 112, [2008] IASC 117, [2008] IASC 129, [2009] IASC 109, [2009] IASC 131, to permit the capacity to be used to offer joint services with V Australia or any wholly-owned subsidiary of the Virgin Blue Group.

Pacific Blue Australia was seeking to enable V Australia to code share on Pacific Blue Australia's services between points in Australia and Nadi.

On 10 May 2011 the Delegate of the Commission issued **Decision [2011] IASC 209** varying the above determinations as requested to permit Pacific Blue Australia to provide joint services with V Australia.

France

On 30 September 2010 V Australia applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Etihad Airways. Under the arrangements, V Australia planned to introduce three weekly B777-300ER services between Sydney and Abu Dhabi from February 2011 and accordingly has sought an allocation of three services per week on the United Arab Emirates route. Etihad Airways would code share on the V Australia services, with Etihad Airways customers having access to all Virgin Blue Group services via interlining.

The proposed arrangements also involved V Australia code sharing as a marketing carrier on services operated by Etihad Airways. Capacity allocations were required on the Thailand, France, Greece and Bangladesh routes in order for V Australia to participate as a marketing carrier with Etihad Airways on those routes. V Australia has sought allocations of daily frequencies on the Thailand route, 150 seats daily on the France route, 800 seats weekly on the Greece route, and five weekly frequencies on the Bangladesh route.

On 25 October 2010 the Commission issued **Determination [2010] IASC 120** in favour of V Australia, allocating 150 one way seats per day on an average annual basis on the France route. The determination is for five years from 25 October 2010.

Greece

On 30 September 2010 V Australia applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Etihad Airways. Under the arrangements, V Australia planned to introduce three weekly B777-300ER services between Sydney and Abu Dhabi from February 2011 and accordingly has sought an allocation of three services per week on the United Arab Emirates route. Etihad Airways would code share on the V Australia services, with Etihad Airways customers having access to all Virgin Blue Group services via interlining.

The proposed arrangements also involved V Australia code sharing as a marketing carrier on services operated by Etihad Airways. Capacity allocations were required on the Thailand, France, Greece and Bangladesh routes in order for V Australia to participate as a marketing carrier with Etihad Airways on those routes. V Australia

has sought allocations of daily frequencies on the Thailand route, 150 seats daily on the France route, 800 seats weekly on the Greece route, and five weekly frequencies on the Bangladesh route.

On 25 October 2010 the Commission issued **Determination [2010] IASC 121** in favour of V Australia, allocating 800 seats per week of capacity in each direction on the Greece route. The determination is for five years from 25 October 2010.

Hong Kong

Qantas applied to the Commission on 26 May 2011 to revoke Determinations [2009] IASC 122 and [2007] IASC 115 which allocated respectively two frequencies and four frequencies of capacity per week on the route. On 6 June 2011 the Delegate of the Commission issued **Decision [2011] IASC 211** revoking the determinations as requested.

Indonesia

On 9 September 2010 Pacific Blue Australia applied to transfer to Virgin Blue Airlines the allocations of capacity made to Pacific Blue Australia under all determinations issued to it by the Commission for operations on the Indonesia route.

Pacific Blue Australia said that the proposed transfer would facilitate revised operations by the Virgin Blue Group between Australia and Indonesia. It noted that both Pacific Blue Australia and Virgin Blue Airlines are wholly-owned subsidiaries of Virgin Blue Holdings Limited, so the transfer would occur with an established airline group.

On 29 September 2010 the Commission varied Determinations [2008] IASC 120, [2009] IASC 103, [2009] IASC 105, [2009] IASC 106, [2009] IASC 107 and [2009] IASC 113 in **Decision [2010] IASC 206**, as requested by Pacific Blue Australia, by transferring from Pacific Blue Australia to Virgin Blue Airlines the allocations of capacity made in those determinations.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2005] IASC 122 which allocated 780 seats weekly between any points in Australia and authorised points in Indonesia.

On 25 October 2010 the Commission issued Renewal **Determination [2010] IASC 117** reallocating the capacity as requested by Qantas. The determination is for five years from 30 July 2011.



On 27 July 2010 Qantas applied for an allocation of 3,898 seats of capacity per week on the Indonesia route and an allocation of 729 seats and four frequencies of beyond Indonesia capacity. Qantas' wholly-owned subsidiary company, Jetstar Airways (Jetstar) planned to introduce additional services between Australia and Indonesia from December 2010. Qantas proposed to use the capacity sought to operate an extra 19 services per week.

In response to a notice inviting other applications for the capacity, on 28 July 2010, Strategic Airlines Pty Ltd (Strategic Airlines) lodged a competing application for an allocation of 1,716 seats on the Indonesia route. It planned to add 11 weekly A320-200 services with 156 seats on the route. On 5 August 2010 Pacific Blue Airlines (Aust) also lodged a competing application for an allocation of 2,340 seats to enable it to operate an extra 13 services per week utilising 180 seat B737-800 aircraft.

The Commission decided to split the available capacity between the three applicants. On 25 October 2010 the Commission issued **Determination [2010] IASC 107** allocating 1,226 seats of capacity in each direction and two frequencies and 369 seats of passenger capacity beyond Indonesia to Qantas; **Determination [2010] IASC 108** allocating 1,514 seats of passenger capacity per week in each direction to Strategic Airlines; and **Determination [2010] IASC 109** allocating 1,260 seats of passenger capacity in each direction to Virgin Blue Australia. Further information about this case is available in the Case Study in Part 3 of this report. Each of the determinations is for three years from 25 October 2010.



On 24 June 2010 Strategic Airlines applied to the Commission for an allocation of unlimited capacity on the Indonesia route. Strategic Airlines proposed to utilise this allocation to operate services from other than the major Australian gateways: that is, between points in Australia, other than Sydney, Melbourne, Brisbane and Perth, and authorised points in Indonesia. The airline indicated plans to operate between Port Hedland and Karratha and Denpasar with 156-seat Airbus A320 aircraft.

On 8 July 2010 the Delegate on behalf of the Commission issued **Determination [2010] IASC 106** allocating unrestricted passenger capacity in each direction on the route as requested. The determination is for five years from 8 July 2010.



Virgin Blue applied to the Commission on 29 November 2010 to revoke Determination [2009] IASC 107 which allocates 540 seats per week in each direction and three frequencies per week of passenger capacity beyond Indonesia. On 1 December 2010 the delegate on behalf of the Commission issued **Decision [2010] IASC 212** revoking the determination as requested.



On 21 April 2011 Qantas applied for an allocation of 540 seats per week and three frequencies per week of passenger capacity beyond Indonesia. Qantas' wholly-owned subsidiary company Jetstar Airways, planned to introduce additional services from Australia to Denpasar and beyond to points beyond Indonesia.

On 17 May 2011 the Delegate, on behalf of the Commission, issued **Determination [2011] IASC 104** in favour of Qantas, allocating 540 seats per week in each direction and three frequencies per week of passenger capacity beyond Indonesia as requested. The determination is for five years from 17 May 2011.

Japan

Qantas applied to the Commission on 19 October 2010 for a variation of three determinations to enable the continuation and expansion of code sharing by Japan Airlines on various Jetstar services between Australia and Japan for a further two year period from 1 January 2011.

There were three aspects to the application. First, Japan Airlines would continue to code share on Jetstar's services between Cairns and Tokyo. Secondly, code sharing would also continue on Jetstar's Gold Coast – Osaka services but would no longer involve Sydney – Gold Coast. Finally, Qantas sought a further variation to the determinations to enable Japan Airlines to code share on Jetstar's Cairns – Osaka and Gold Coast – Tokyo services.

On 11 November 2010 the Commission issued **Decision [2010] IASC 210** varying Determinations [2006] IASC 117, [2006] IASC 124 and [2008] IASC 127 to permit Jetstar Airways to code share with Japan Airlines as requested.



Qantas applied to the Commission on 25 November 2010 for a variation of Determination [2007] IASC 108 to enable a new code sharing arrangement with Japan Airlines on Qantas operated services between Perth and Tokyo Narita for the duration of the determination which ends on 9 August 2013.

On 10 December 2010, the Commission issued **Decision [2010] IASC 213** permitting Japan Airlines to code share on Qantas' services as requested.

New Caledonia (France Route 3)

Pacific Wings applied to the Commission on 3 March 2011 to revoke Determinations [2009] IASC 112 and [2009] IASC 116 which allocated respectively 0.25 and 0.5 units of capacity per week on the Australia – France Route 3 (New Caledonia) route.

Pacific Wings advised that an ongoing operational impediment had prevented it from launching its services as anticipated. On 7 March 2011 the delegate on behalf of the Commission issued **Decision [2011] IASC 203** revoking the determinations as requested.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2005] IASC 127 which allocated 0.25 units of capacity per week to Qantas on the route. On 25 October 2010 the Commission issued **Renewal Determination [2010] IASC 113** reallocating the capacity as requested by Qantas. The determination is for five years from 13 December 2011.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2005] IASC 121 which allocated 0.5 units of capacity per week to Qantas. On 25 October 2010 the Commission issued **Renewal Determination [2010] IASC 112** reallocating the capacity as requested by Qantas. The determination is for five years from 21 May 2011.

New Zealand

On 30 September 2010 Pacific Blue Australia applied to the Commission for a variation to Determination [2007] IASC 118 to authorise code sharing with Etihad Airways on services operated by Pacific Blue Australia between points in Australia and Auckland and Christchurch. The determination allocated unlimited passenger and freight capacity to Pacific Blue Australia on the New Zealand route.

On 25 October 2010 the Commission issued **Decision [2010] IASC 208** permitting Etihad Airways to code share on Pacific Blue Australia services.



On 20 December 2010 Pacific Blue Australia applied for a variation of Determination [2007] IASC 118 to permit Delta Air Lines Inc (Delta) to code share on Pacific Blue Australia services between Australia and Auckland and Christchurch. The determination allocated unlimited passenger and freight capacity to Pacific Blue Australia on the New Zealand route.

On 24 January 2011 the Commission issued **Decision [2011] IASC 201** permitting Delta to code share on Pacific Blue Australia services as requested.



On 16 May 2011 Pacific Blue Australia applied for a variation of Determination [2007] IASC 118 to permit Air New Zealand to code share on Pacific Blue Australia services between Australia and New Zealand. The determination allocates unlimited passenger and freight capacity to Pacific Blue Australia on the New Zealand route.

On 3 June 2011 the Delegate of the Commission issued **Decision [2011] IASC 210** to permit Air New Zealand to code share on Pacific Blue Australia services as requested.

Papua New Guinea (PNG)

On 24 March 2011 HeavyLift applied to vary Determination [2005] IASC 114, as varied by Decision [2006] IASC 201, to reduce the amount of capacity allocation by the determination on the PNG route by 17.5 tonnes per week.

On 25 March 2011 the Commission issued **Decision [2011] IASC 204** varying the determination to reduce the allocated capacity from 40 tonnes of freight capacity per week to 22.5 tonnes of freight capacity per week.



On 28 March 2011 Pacific Air Express Australia applied for an allocation of 17.5 tonnes of freight capacity per week on the route. The airline planned to use the capacity to add a third weekly B737-300 freighter service between Brisbane and Port Moresby. Pacific Air Express noted that it has been the only cargo airline operating freighter services on the PNG route for the past 12 months. It stated that the development of air freight volume on the route had been constrained by a shortage of available air freight capacity. Pacific Air Express stated that its flights were regularly overbooked, and additional capacity would accommodate increased activity related to the growth in the PNG energy and mining sectors.

On 5 April 2011 the Delegate on behalf of the Commission issued **Determination [2011] IASC 102** allocating 17.5 tonnes of freight capacity per week in each direction on the Papua New Guinea route. The determination is for five years from 5 April 2011.



On 10 June 2010 Pionair applied for an allocation of eighteen tonnes of cargo capacity per week on the PNG route. Pionair subsequently reduced the amount of capacity sought to twelve tonnes of capacity per week. It planned to operate twice-weekly Convair 580 (six tonne capacity) services between Brisbane, Cairns and Port Moresby and other destinations in PNG.

On 29 September 2010 the Commission issued **Determination [2010] IASC 110** in favour of Pionair, allocating twelve tonnes of capacity per week in each direction on the Papua New Guinea route. The determination is for three years from 29 September 2010.

Philippines

On 11 October 2010 Qantas applied for an allocation of 531 seats of capacity per week on the Philippines route. Qantas advised that its subsidiary Jetstar planned to commence services between Darwin and Manila in early 2011 using a one-class A320 aircraft configured with 177 seats with the capacity fully utilised by 31 October 2011. Qantas also requested that the capacity be able to be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas.

On 25 October 2010 the Commission issued **Determination [2010] IASC 123** in favour of Qantas allocating 531 seats of capacity per week in each direction on the Philippines route. The determination is for five years from 25 October 2010.

Singapore

On 12 January 2011 Qantas applied for authorisation to code share with Finnair on the Singapore and Thailand routes. There were two parts to the application. First, Qantas sought a variation of Determination [2007] IASC 116 to permit Finnair to code share on Qantas services between Australia and Singapore. Second, Qantas requested an allocation of fourteen third-country code share frequencies per week to be used to enable Finnair to code share with Qantas on the Thailand route. As part of the arrangements Qantas would also place its code on Finnair's services between Singapore and Helsinki and between Thailand and Helsinki. The arrangements were proposed to take effect from 10 February 2011 or as soon as necessary approvals had been obtained.

On 24 January 2011 the Commission issued **Decision [2011] IASC 202** varying Determination [2007] IASC to permit Qantas to provide joint services with Finnair on the Singapore route. Information about the Thailand part of the application can be found under the Thailand section of Appendix 2.

South Africa

Qantas applied to the Commission on 28 June 2010 to vary Determinations [2005] IASC 125, [2006] IASC 130, [2008] IASC 105, [2008] IASC 109 and [2009] IASC 126 to permit South African Airways (SAA) to continue code sharing on Qantas' services between Australia and South Africa from 1 January 2011 to 31 December 2012.

The Commission originally authorised code sharing between Qantas and SAA in December 2000 and has granted a series of approvals since that time. The current authorisation is contained in Decision [2008] IASC 225 of 4 December 2008 and extends until 31 December 2010. The code share agreement between the two airlines also involves Qantas code sharing on SAA flights between Perth and Johannesburg. However, no approval for this is required from the Commission. Under the air services arrangements between Australia and South Africa capacity purchased by Qantas on SAA's flights does not count as an exercise of capacity by Qantas.

On 29 September 2010 the Commission issued **Decision [2010] IASC 204** varying Determinations [2005] IASC 125, [2006] IASC 130, [2008] IASC 105, [2008] IASC 109 and [2009] IASC 126 to permit SAA to code share on Qantas' flights operated to and from South Africa until 31 December 2011.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2005] IASC 125 which allocated to Qantas two frequencies per week of capacity in each direction on the South Africa route. The Determination was varied by Decision [2010] IASC 204 to permit code sharing with SAA.

On 25 October 2010 the Commission issued **Renewal Determination [2010] IASC 115** reallocating two frequencies per week in each direction between Australia and Johannesburg, Cape Town and/or Durban. The determination is for five years from 27 September 2011.



V Australia applied to the Commission on 1 April 2011 to revoke Determination [2008] IASC 113 which allocates five services per week of capacity on the South Africa route. V Australia advised that it will not be using its allocation of capacity.

On 18 April 2011 the Commission issued **Decision [2011] IASC 206** revoking the determination as requested.

Taiwan

On 5 May 2011 Qantas applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Jetstar Asia. Under the proposed arrangements Qantas planned to place its code on Jetstar Asia's services between Singapore and Kuala Lumpur, Penang, Hong Kong, Bangkok, Phuket, Taipei, Ho Chi Minh City, and New Zealand.

The application involved multiple routes and, on many of these routes, capacity utilised by a marketing carrier is not considered to be a use of capacity entitlements under the air services arrangements. Accordingly, on those routes, Qantas does not need an allocation of capacity from the Commission to participate in code sharing or an authorisation from the Commission.

However capacity allocations were required on the Thailand and the Taiwan routes in order for Qantas to participate as a marketing carrier with Jetstar Asia. Qantas sought allocations of 14 frequencies per week on the Thailand route and 2,121 weekly seats on the Taiwan route.

On 6 June 2011 the Delegate of the Commission made **Determination [2011] IASC 106** in favour of Qantas allocating 2,121 weekly seats of capacity in each direction on the Taiwan route. The determination is for five years from the date of the determination. Further information on the Thailand decision is under Thailand in this section.

Thailand

On 30 March 2011 Pacific Blue Australia applied for a variation to Determination [2009] IASC 133 which allocated 3.15 B747 equivalent services of capacity each week in each direction on the Thailand route to permit the capacity to be used to offer joint services with V Australia or any wholly-owned subsidiary of the Virgin Blue Group. Pacific Blue Australia is seeking to enable V Australia to code share on Pacific Blue Australia's four times weekly Perth – Phuket services. On 12 April 2011 Pacific Blue Australia amended its application seeking permission to use such capacity to offer joint services with V Australia removing the reference to "any wholly-owned subsidiary of the Virgin Blue Group".

On 13 April 2011 the delegate, on behalf of the Commission, issued **Decision [2011] IASC 205** permitting V Australia to code share on Pacific Blue Australia services as requested.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2006] IASC 101 which allocated 2.9 B747 equivalent units of capacity per week in each direction on the Thailand route.

On 25 October 2011 the Commission issued **Renewal Determination [2010] IASC 114** reallocating 2.9 B747 equivalent units of capacity per week in each direction. The determination is for five years from 13 December 2011.



On 18 October 2010 Qantas advised that it planned to commence a new code share arrangement with Kenya Airways as soon as necessary approvals have been received. Under the arrangements Kenya Airways would code share on Qantas' services between Bangkok and Sydney with Qantas code sharing on Kenya Airways' services between Bangkok and Nairobi. Accordingly Qantas applied for an allocation of seven frequencies per week of capacity to be used in third-country code share services with Kenya Airways on the Thailand route. The allocation would facilitate Qantas code sharing on Kenya Airways services between Bangkok and Nairobi.

Qantas also sought a variation to Determination [2006] IASC 110 to permit Kenya Airways to code share on Qantas-operated services between Sydney and Bangkok. That part of the application is dealt with in Decision [2010] IASC 209.

On 27 October 2010 the Delegate on behalf of the Commission issued **Determination [2010] IASC 124** allocating seven weekly third party code share services in each direction on the route. The Delegate also issued **Decision [2010] IASC 209** varying Determination [2006] IASC 110 to permit Kenya Airways to code share on Qantas services as described in the second part of the application.



Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2006] IASC 101 allocating 2.9 B747 equivalent units of capacity per week in each direction on the Thailand route.

On 25 October 2010 the Commission issued **Renewal Determination [2010] IASC 114** allocating 2.9 B747 equivalent units of capacity per week in each direction on the Thailand route as requested. The determination is for five years from 13 December 2011.



On 30 September 2010 V Australia applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Etihad Airways. Under the arrangements V Australia planned to introduce three weekly B777-300ER services between Sydney and Abu Dhabi from February 2011 and accordingly has

sought an allocation of three services per week on the United Arab Emirates route. Etihad Airways would code share on the V Australia services with Etihad Airways customers having access to all Virgin Blue Group services via interlining.

The proposed arrangements also involved V Australia code sharing as a marketing carrier on services operated by Etihad Airways. Capacity allocations were required on the Thailand, France, Greece and Bangladesh routes in order for V Australia to participate as a marketing carrier with Etihad Airways on those routes. V Australia has sought allocations of daily frequencies on the Thailand route; 150 seats daily on the France route; 800 seats weekly on the Greece route; and five weekly frequencies on the Bangladesh route.

On 25 October 2010 the Commission issued **Determination [2010] IASC 119** allocating seven weekly third party code share services in each direction on the Thailand route. The determination is for five years from 25 October 2010.



On 12 January 2011 Qantas applied for authorisation to code share with Finnair on the Singapore and Thailand routes. There were two parts to the application. First, Qantas sought a variation of Determination [2007] IASC 116 to permit Finnair to code share on Qantas services between Australia and Singapore. Second, Qantas requested an allocation of fourteen third-country code share frequencies per week to be used to enable Finnair to code share with Qantas on the Thailand route. As part of the arrangements Qantas would also place its code on Finnair's services between Singapore and Helsinki and between Thailand and Helsinki. The arrangements were proposed to take effect from 10 February 2011 or as soon as necessary approvals had been obtained.

On 24 January 2011 the Commission issued **Determination [2011] IASC 101** in favour of Qantas allocating fourteen weekly third-party code share services in each direction on the Thailand route. The determination is for five years from 24 January 2011.



On 21 September 2010 Strategic Airlines applied for an allocation of capacity being the equivalent of 4.2 B747 weekly services each week on the Thailand route. Strategic Airlines advised that it planned to use the capacity to operate six frequencies per week with a two-class 274 seat A330 aircraft.

On 13 October 2010 the Delegate, on behalf of the Commission, issued **Determination [2010] IASC 111** allocating 4.2 B747 equivalent services of capacity per week in each direction. The determination is for five years from 13 October 2010.



V Australia applied to the Commission on 1 April 2011 to revoke Determination [2009] IASC 119 which allocated 6.3 B747 equivalent services of capacity per week on the Thailand route. On 18 April 2011 the Commission revoked the Determination as requested by V Australia in **Decision [2011] IASC 207**.



On 5 May 2011 Qantas applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Jetstar Asia. Under the proposed arrangements, Qantas plans to place its code on Jetstar Asia's services between Singapore and Kuala Lumpur, Penang, Hong Kong, Bangkok, Phuket, Taipei, Ho Chi Minh City, and New Zealand.

The application involved multiple routes and, on many of these routes, capacity utilised by a marketing carrier is not considered to be a use of capacity entitlements under the air services arrangements. Accordingly, on those routes, Qantas does not need an allocation of capacity from the Commission to participate in code sharing or an authorisation from the Commission.

However capacity allocations were required on the Thailand and the Taiwan routes in order for Qantas to participate as a marketing carrier with Jetstar Asia. Qantas sought allocations of 14 frequencies per week on the Thailand route, and 2,121 weekly seats on the Taiwan route.

On 6 June 2011 the Delegate of the Commission issued **Determination [2011] IASC 105** allocating 12 weekly third party code share services, and 2 units of B747 equivalent services of capacity per week in each direction on the Thailand route. The determination is for five years from 6 June 2011.

United Arab Emirates

On 30 September 2010 V Australia applied for allocations of capacity on a number of routes and for authorisation to utilise capacity in joint services with Etihad Airways. Under the arrangements V Australia planned to introduce three weekly B777-300ER services between Sydney and Abu Dhabi from February 2011 and sought an allocation of three services per week on the United Arab Emirates route. Etihad Airways would code share on the V Australia services with Etihad Airways customers having access to all Virgin Blue Group services via interlining.

The proposed arrangements also involved V Australia code sharing as a marketing carrier on services operated by Etihad Airways. Capacity allocations were required on the Thailand, France, Greece and Bangladesh routes in order for V Australia to participate as a marketing carrier with Etihad Airways on those routes. V Australia has sought allocations of daily frequencies on the Thailand route; 150 seats daily on the

France route; 800 seats weekly on the Greece route; and five weekly frequencies on the Bangladesh route.

On 25 October 2010 the Commission issued **Determination [2010] IASC 118** allocating three services per week of capacity in each direction for services to/from Sydney, Melbourne (including Avalon), Brisbane and Perth on the United Arab Emirates route. The determination is for five years from 25 October 2010.

United States

On 14 April 2011 Strategic Airlines applied for an allocation of unlimited passenger capacity on the United States route. Strategic Airlines plan to commence services between Australia and the United States from September 2011.

On 10 May 2011 the Delegate, on behalf of the Commission, issued **Determination [2011] IASC 103** in favour of Strategic Airlines allocating unlimited passenger and cargo capacity on the United States route. The determination is for ten years from 10 May 2011.

Vanuatu

Qantas applied to the Commission on 10 September 2010 for a renewal of Determination [2006] IASC 128 which allocated to Qantas 100 seats per week of capacity in each direction on the route.

On 25 October 2010 the Commission issued **Renewal Determination [2010] IASC 116** reallocating 100 seats per week in each direction to Qantas as requested. The determination is for five years from 31 October 2011.



Qantas applied to the Commission on 13 April 2011 to revoke Determinations [2006] IASC 128, [2007] IASC 114, [2009] IASC 128 and [2010] IASC 116 which together allocate 400 seats of capacity per week on the Vanuatu route. On 18 April 2011 the Commission revoked the determinations as requested in **Decision [2011] IASC 208**.

Vietnam

Qantas applied to the Commission on 10 September 2010 to revoke Determinations [2006] IASC 102 and [2008] IASC 108 which allocated three frequencies per week and two frequencies per week respectively on the Vietnam route. Qantas advised that, following a review of the Group's plans for the Vietnam route, there were no immediate intention to operate direct services between Australia's gateway points and Vietnam. On 14 October the Delegate revoked the Determinations as requested by Qantas in **Decision [2010] IASC 207**.



Appendix 3 – Other information

Occupational health and safety

As the staff members of the secretariat are employees of the Department of Infrastructure and Transport, (the Department), 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 5 for further details.

The IASC received no requests under the FOI Act in 2010–11.

Advertising and market research

The Commission is required by the Act to advertise applications received. After consultation with interested parties, the Commission decided to advertise applications on its website. The Commission did not pay any money for advertising.

Ecologically sustainable development and environmental performance reporting

The Commission's offices and secretariat staff are located within the Department's buildings and as such are covered by the Department's processes in this area.



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> (the FOI Act) might not be required because information or documents may be readily available through the Commission's public register process. Formal requests under the FOI Act must be made in writing to the contact officer listed at the front of this report.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed at the commencement of this report. The Commission welcomes views and comments from members of the public and bodies outside the Commonwealth concerning its functions.
Commission powers	The Commission exercises decision-making powers under section 6(4) of the Act to perform its functions. It has the power to do everything necessary or convenient to be done for, or in connection with, performing those functions. The Commission has a range of specific powers that include convening public hearings and summoning witnesses.
Decision process	The general power to grant or refuse access to Commission documents is held by the Chairman. On 5 September 1994, the Chairman authorised the Executive Director to exercise the Chairman's powers and functions under the FOI Act.
Documents available for inspection	<p>The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.</p> <p>The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines 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>

Item	Information
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 offices are located at 62 Northbourne Avenue, Canberra, ACT.

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 *International Air Services Commission Act 1992* (the Act) and consistent with the Minister's policy statement which complements the Act. They are intended to ensure procedural fairness for both the applicants and other interested parties, ensure the Commission's processes are open and transparent, and provide guidance to anyone wishing to apply for, or make submissions about, matters being considered by the Commission. The secretariat provides further individual guidance to applicants for capacity and other stakeholders when requested.

The Commission's procedures incorporates the following main steps:

- ➔ A Register of Public Documents is created for each route and is made available for viewing. 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 and is held on the Commission's confidential register. All public documents are distributed electronically.
- ➔ The Commission will publish a notice inviting other applications for capacity in response to an initial application for capacity, and submissions about applications where required by the Act and Minister's policy statement.
- ➔ Decide the criteria under which applications are to be assessed. More complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established carrier.
- ➔ Where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.
- ➔ The Minister's policy statement requires the Commission to ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.

- ➔ A hearing may be conducted by the Commission 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.
- ➔ The Commission will publish a draft determination 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 proposal prior to the issuing of a final determination. In other cases the Commission will proceed directly to a final determination.
- ➔ The Commission regularly updates its procedures. They are available from the Commission's home page at www.iasc.gov.au, or upon request to the Commission.

Appendix 6 – Minister’s policy statement

Policy Statement No 5 as amended by International Air Services Policy Statement No 5 (Amendment) dated 19 May 2004.

Section 11 Policy Statement

Background

The *Aviation Legislation Amendment Act 2002* (AVLA) inserted Part 3A into the *International Air Services Commission Act 1992*. It permits the International Air Services Commission to delegate some of the Commission’s powers and functions regarding the allocation of capacity in the operation of international air services to an Australian Public Service employee in the Department of Transport and Regional Services. The *International Air Services Commission Amendment Regulations 2003* specify the circumstances in which the Commission may delegate those powers and functions.

The effect of these amendments is to streamline the procedures for considering applications from Australian carriers for a determination granting capacity.

References to the Commission in this instrument include the delegate of the Commission unless expressly excluded.

1. CITATION

- 1.1 This instrument may be referred to as the International Air Services Policy Statement No.5. This policy statement replaces the policy statement made under section 11 of the International Air Services Commission Act 1992 by the instrument dated 23 April 1997 (as amended on 9 March 1999).

2. DEFINITIONS

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

“Act” means the *International Air Services Commission Act 1992* (as amended)

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

“Commission” means the International Air Services Commission, unless otherwise specified.

“delegate” means a person exercising the powers and functions of the Commission pursuant to section 27AB of the Act.

“new entrant” means, in relation to a route, an Australian carrier that 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 the section 7 or 8 of the Act allocating a commercially sustainable level of capacity on the route to a new entrant.

3. GENERAL

3.1 This policy statement sets out the criteria to be applied by the Commission 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 paragraphs 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 the public to be gained from the operation of the capacity, assessed in accordance with the Act and against applicable criteria set out in this policy statement. When calling for applications, the Commission may set out matters it considers particularly important and the weighting that it is likely to give each of those matters.

- 3.3 In general, where capacity is subject to competing applications, the Government considers that own aircraft operations deliver greater benefits per unit of capacity used than code share operations involving arrangements for marketing seats on international carriers operated by another carrier or carriers.
- 3.4 In allocating capacity between competing applicants, the Commission may specify points to be served on the route when the criteria in paragraph 5 below are being applied. In other cases the Commission is to provide the carrier with flexibility to distribute capacity allowed to it among some or all of the combinations available on the route. However, 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 paragraphs 4, 5 and 6 below as appropriate to the allocation of that limited capacity.
- 3.5 Subject to paragraphs 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.
- 3.6 Where capacity that can be used for code share operations is available under air services arrangements, including where foreign airlines have rights to code share on services operated by Australian carriers, the Commission would generally be expected to authorise applications for use of capacity to code share. However, if the Commission has serious concerns that a code share application (or other joint service proposal) may not be of benefit to the public, it may subject the application to more detailed assessment using the additional criteria set out in paragraph 5 (whether the application is contested or not). Before doing so, the Commission will consult with the Australian Competition and Consumer Commission.
- 3.7 Where the Commission authorises a carrier to utilise allocated capacity to provide joint services with another carrier, the Commission will include a condition in all relevant determinations and decisions that the Australian carrier concerned should take all reasonable steps to ensure that passengers are informed, at the time of booking, that another carrier may operate the flight.

4. GENERAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC

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

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

4.2 The delegate of the Commission must refer any applications back to the members of the Commission where the delegate has doubts that the applicant carrier satisfies the requirements of paragraph 4.1(b).

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 is provided in relation to particular circumstances set out in paragraph 6 below.

Competition Benefits

- (a) In assessing the extent to which applications will contribute to the development of a competitive environment for the provision of international air services, the Commission should have regard to:
 - the need for Australian carriers to be able to compete effectively with one another and the carriers of foreign countries;
 - the number of carriers on a particular route and the existing distribution of capacity between Australian carriers;
 - prospects for lower tariffs, increased choice and frequency of service and innovative product differentiation;
 - the extent to which applicants are proposing to provide capacity on aircraft they will operate themselves;
 - the provisions of any commercial agreements between an applicant and another carrier affecting services on the route but only to the

extent of determining comparative benefits between competing applications;

- any determinations made by the Australian Competition and Consumer Commission or the Australian Competition Tribunal in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route; and
- any decisions or notifications made by the Australian Competition and Consumer Commission in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route.

Other Benefits

Tourism Benefits

- (b) In assessing the extent to which applications 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

- (c) In assessing the extent to which the applications 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 standards of service;
 - 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

- (d) In assessing the extent to which applications will promote international trade, the Commission should have regard to:
- the availability of frequent, low cost, reliable freight movement for Australian exporters and importers.

Industry Structure

- (e) The Commission should assess the extent to which applications will impact positively on the Australian aviation industry.

Other Criteria

- (f) The Commission may also assess applications against such other criteria as it considers relevant.

5.2 The Commission is not obliged to apply all the criteria set out in paragraph 5.1, if it is satisfied that the criteria relevant to the application have been met. In applying all criteria, the Commission should take as the pre-eminent consideration, the competition benefits of each application.

6. CRITERIA APPLICABLE IN PARTICULAR CIRCUMSTANCES

Where capacity is not limited

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

Where there is only 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 except one are withdrawn) for allocation of capacity on a route; or
- (b) there is more than one applicant but the amount of available capacity is equal to or exceeds the total amount of capacity applied for:

only the criteria in paragraph 4 are applicable.

Variations of existing Determinations

6.3 Subject to paragraph 6.4, when the Commission is required to assess the benefit to the public, in circumstances where:

- (a) a carrier requests a variation of a determination to allow it flexibility in operating its capacity, including to use Australian capacity in a code share arrangement with a foreign carrier; and
- (b) no submission is received about the application

only the criteria in paragraph 4 are applicable.

6.4 The Commission may apply the additional criteria set out in paragraph 5 where submissions are received about the application for variation, provided those criteria were considered when the original application for allocation of capacity

was made, or in the circumstances set out in paragraph 3.6 above including where no submissions are received.

- 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 section 15(2)(ea) of the Act, the criteria set out in paragraph 4 above are applicable to any persons of the description used in that section.

7. ALLOCATION CRITERIA – START UP PHASE

- 7.1 Where capacity is limited under a bilateral arrangement, during the start up phase in relation to any route on which an Australian carrier is already operating scheduled international services, the preeminent consideration is to introduce competition on the route through the allocation to an initial new entrant of sufficient capacity to develop an efficient and commercially sustainable operation. The Commission should therefore 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 efficient, commercially sustainable operations by both a new entrant and an incumbent Australian carrier;
- (b) the new entrant's tariff and service proposals would enhance competition on the route;
- (c) approval would not result in a decrease in inbound tourism to Australia or to Australian consumer benefits or trade; and
- (d) the new entrant 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 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, (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 another 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 paragraphs 4 and 5 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 paragraph 7.1.
- 7.5 Where the Commission invites applications for capacity on a route during the start up phase and none of the applications received are from new entrants, the criteria in paragraph 4 and, subject to paragraph 6.2, in paragraph 5 above are to be applied in considering an allocation.
- 7.6 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 capacity.

8. RENEWAL OF DETERMINATIONS

- 8.1 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of the renewal of determinations, other than interim determinations, are set out below. The criteria reflect 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 paragraph 7 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 paragraph 8.1(b) below apply to the balance of the capacity.

(b) After the start up phase on the route:

- whether the carrier seeking renewal has failed to service the route effectively; and
- whether use of the capacity in whole or part by another Australian carrier that has applied for the capacity would better serve the public having regard to the criteria set out in paragraphs 4 and 5.

In relation to subparagraph (b), the Commission should issue a fresh determination allocating the capacity to the carrier seeking renewal unless both the criteria are met, in which case all or part of the capacity can be reallocated.

Renewal of Interim Determinations

8.2 Where capacity is limited under a bilateral arrangement, 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 paragraph 7 as applicable.

(b) after the start up phase on the route

- the criteria set out in paragraphs 4 and 5.

9. THE '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 longer than 3 years.

9.2 When seasonal variations in demand are a feature of a route or code share arrangements between airlines and cause temporary minor variations in capacity usage, or unforeseen conditions outside the control of operating international airlines cause temporary suspension of services, the Commission may take these circumstances into account when interpreting the term "fully used" in section 15(2)(c) of the Act.

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 that would have the effect of allowing a carrier that 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 6 months would usually represent a reasonable period for the purposes of subparagraph 10.1.

11. PERIOD FOR WHICH A DETERMINATION IS IN FORCE

- 11.1 The period for which a determination is to be in force is:
- (a) on routes where either capacity or route rights are restricted:
 - (i) if the determination is an interim determination – 3 years; or
 - (ii) if the determination is not an interim determination – 5 yearsunless a carrier applies in writing requesting that a determination be for a lesser period than stipulated in (a) or (b). In these circumstances, the Commission may specify a lesser period in any determination relating to the application. In considering the renewal of a determination made in these circumstances, paragraph 8 will not apply.
 - (b) on routes where capacity and route rights are unrestricted:
 - (i) if the determination is an interim determination – 3 years; or
 - (ii) if the determination is not an interim determination – 10 years.

Appendix 7 – Service Charter 2009–2011

This charter sets out what we do and the standards of service that you can expect from us.

From the Chairman

This charter sets out the standards of service that you can expect from the International Air Services Commission and its staff. These standards apply to how we make decisions and to how we deal with you. We want to give you the best service possible and we welcome your ideas for helping us do so.

Mr John Martin

Chairman

About the Commission

The Commission is an independent statutory authority comprised of three people – a Chairperson and two members. It is established under the *International Air Services Commission Act 1992* (the Act). The aim of the Act is to improve the welfare of Australians by promoting economic efficiency through competitive international air services.

Our role is to allocate capacity to Australian airlines so they can operate these international air services. We assess applications for capacity from airlines, using public benefit criteria in a policy statement given to us by the Minister for Infrastructure, Transport, Regional Development and Local Government. If an application meets the criteria, we make a determination granting capacity to the airline concerned. We also decide on airlines' applications to vary or renew determinations from time to time.

For more straightforward cases, we have authorised our delegate, usually the Commission's executive director, to make determinations and decisions on our behalf. The Commission decides on the more complex applications. In either case, you can expect the same high level of service from us.

Making an application

If you wish to apply for capacity, or make a submission when we have invited these in certain cases, procedures for doing so can be found on our Internet site at www.iasc.gov.au. We suggest that prospective new airlines first contact the Commission's executive director.

Our clients

In the broadest sense, the Australian community is our primary client because competitive air services promote the welfare of Australians. At a practical level though, airlines are the clients most directly affected by our decisions. However, our work is also relevant to many other parties. 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 Infrastructure, Transport, Regional Development and Local Government;
- ➔ Australian and State government departments and agencies; and
- ➔ the aviation industry press and analysts.

Our service promises

We aim to provide you with the highest standards of service, both in the way we deal with you and in making our decisions. We make these commitments to you:

In our dealings with you, we will

- ➔ treat you courteously and professionally;
- ➔ provide you with clear and accurate advice;
- ➔ include contact names and phone numbers in our correspondence;
- ➔ answer phone calls promptly by name or return any missed calls within one working day if you leave a message;
- ➔ reply to your emails within two working days;
- ➔ reply to your letters within ten working days; and
- ➔ respond constructively to your suggestions for improving our service.

In our decision-making processes, we will

- ➔ notify you within five working days of receiving an application for capacity;
- ➔ follow our published procedures for handling applications – the procedures are on our Internet site or we will post, email or fax them to you upon request;
- ➔ seek only information that we consider is reasonably necessary for us to best carry out our functions;
- ➔ protect information you provide to us in confidence (although we prefer to keep confidential information to a minimum to ensure transparent decision making);
- ➔ make our decisions consistent with the requirements of the Act and the Minister's policy statement;
- ➔ make decisions about uncontested applications within four weeks of receipt and contested or opposed applications within twelve weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this;
- ➔ finalise the renewal of existing determinations quickly and, in the case of contested renewals, at least six months prior to the expiry date; and
- ➔ notify applicants by email within one working day of a decision being made, and other interested parties by email and on our Internet site within three working days.

What we ask of you

We ask you to provide comprehensive and accurate information in good time and to be straightforward in your dealings with us.

Accessibility

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

Our primary method of communication is by email. We provide information about current cases directly to interested parties who ask for it via this means. We advise you of applications received, and Commission decisions about those applications. You can request our emails to attach copies of these documents, or simply for the emails to include links to the documents on our internet site. Please contact us if you wish to be added to either notification list.

Our Internet site at www.iasc.gov.au provides up-to-date information about the Commission's business. It includes applications received, documents relating to current cases and all Commission determinations and decisions. Other important documents are on the site, including the Act and the Minister's policy statement, as well as the Commission's procedures.

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 offices.

Monitoring and review

We will monitor our performance against our service commitments. We encourage you to comment on our performance, including by suggesting 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, email or telephone.

At the end of each year we will assess how we have performed against our service standards. We will invite your comments on our service performance, such as through a brief confidential questionnaire. The aggregated results of the assessments will be summarised in our annual report. If you wish to receive a copy of the annual report, please let us know and we will post it to you. Alternatively, the report can be downloaded from 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

International Air Services Commission

Telephone: (02) 6267 1100

Facsimile: (02) 6267 1111

Email: iasc@infrastructure.gov.au

Internet: www.iasc.gov.au

Postal address: GPO Box 630, Canberra ACT 2601

Premises: Mezzanine level, 62 Northbourne Avenue, Canberra, ACT

Appendix 8 – Commission office holders, 1992–2011

The following table sets out the Chairpersons and Members of the Commission since the Commission was founded.

Chairs	Period	Members	Period
Stuart Fowler	July 1992 to April 1993	Brian Johns	July 1992 to June 1997
James Bain	July 1993 to June 1998	Russell Miller	July 1992 to June 1998
Russell Miller	July 1998 to January 2000	Michael Lawriwsky	December 1997 to February 2007
Michael Lawriwsky and Stephen Lonergan (Members presiding at alternate meetings)	January 2000 to August 2000	Stephen Lonergan	August 1998 to August 2004
Ross Jones	August 2000 to August 2003	Vanessa Fanning	November 2004 to November 2007
John Martin	November 2003 to November 2009	Philippa Stone	July 2007 to July 2010
Philippa Stone and Ian Smith (Members presiding at alternate meetings)	November 2009 to June 2010	Ian Smith	November 2007 to February 2011
Jill Walker	February 2011 to February 2014	Stephen Bartos	July 2010 to July 2013



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 set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both 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 an amount of capacity available under air services arrangements, 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 the travelling public.
Capacity	is an amount of space available on an aircraft for the carriage of passengers and/or freight. It may be expressed within air services arrangements in various ways, such as in number of seats, units of capacity, or frequency of service, usually 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.
Commissioner	means a member of the Commission.
Contested application	involves two or more applicants 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, but in some cases for three years (an interim determination), or for ten years (where capacity is not limited under the air services arrangements in question).
Department	the Department of Infrastructure, Transport, Regional Development and Local Government.
Free-sale	a form of code sharing involving one airline selling seats on another airline's services and paying that other airline an agreed amount for the number of seats actually sold.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Hand-back	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 (or in some cases 10) years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that usually attaches to a standard determination at the renewal stage.
Joint service	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 must receive approval from the Commission before using allocated capacity in joint services.
Member	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.

Opposed application	a situation in which an interested party makes a submission arguing 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 any allocations already made by the Commission. The Department maintains the Register.
Renewal determination	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.
Use it or lose it	a principle requiring allocated capacity to be used, or else be returned for reallocation.
Variation	a decision amending a determination, including conditions attached to it.
Wet Lease	a lease of the aircraft with crew.



Index

A

access to information, 53, 69–70
accountability *see* management and accountability
the Act *see* *International Air Services Commission Act 1992* (the Act)
advertising and market research, 51
Air New Zealand
 code sharing with Pacific Blue Australia, 42
annual report, 26
applications made by airlines, 13, 68
assets management, 27
Australian Competition and Consumer Commission, 59
Australian Public Service Values, 26
Aviation Legislation Amendment Act 2002 (AVLA), 57

B

Balint, Ilona, 9
Bangladesh route
 V Australia, 35
Bartos, Stephen, 3, 8, 9
benefit to the public *see* public benefit criteria
Bird, Mike, 3

C

capacity entitlements, 5
case study
 Indonesia route, 16–20
Chairwoman of the Commission, 1–3, 7
 see also Walker, Jill
charter *see* service charter
China route
 Qantas, 35–36
 Strategic Airlines, 36
clients of the Commission, 68
 questionnaire, 21–22, 70
 requirements of, 69
Code of Conduct, 26
code sharing, 59
 Jetstar with Japan Airlines, 40
 Pacific Blue Australia with Air New Zealand, 42
 Pacific Blue Australia with Delta Air Lines, 41–42
 Pacific Blue Australia with Etihad Airways, 41
 Pacific Blue Australia with V Australia or Virgin Blue Group, 36–37

 Qantas with Finnair, 43
 Qantas with Japan Airlines, 40
 Qantas with Jetstar Asia, 45, 48
 Qantas with Kenya Airways, 46
 Qantas with South African Airways, 44
 V Australia with Etihad Airways, 35, 36, 37–38, 46, 47, 48
commercially sustainable level of capacity,
 definition of, 57
the Commission *see* International Air Services Commission
communication with interested parties, 10, 21–22
competing applications, 59
competition benefits, 60–61
competitive tendering and contracting, 27
conflict of interest
 members of the Commission, 26
consultancy services, 27
consumer benefits, 61
contact details for the Commission, 70
contested applications, 1
 Indonesia route, 16–20
corporate governance, 25–26
criteria for assessing applications *see*
 paragraph 5 criteria; particular circumstances
 criteria; public benefit criteria; start-up phase
criteria for performance assessment of the
 Commission, 13

D

decision-making powers, 14, 53
decision-making process, 21, 53
 timeliness in, 22–23
definitions in policy statement, 57–58
delegate, definition of, 58
delegation of powers
 to Australian Public Service employee, 57
 to Executive Director, 14
Delta Air Lines
 code sharing with Pacific Blue Australia, 41–42
the Department *see* Department of Infrastructure and Transport
Department of Infrastructure and Transport
 and Commission's budget, 23
 roles and functions, 10–11
 and secretariat of the Commission, 9, 26, 27, 51
determinations and decisions
 brief summary, 30–34
 draft, 56
 interim, 65

- number of, 13–14
- period in force, 66
- procedures, 55–56
- renewal of, 64–65
- route by route summary, 35–49
- variation of, 6

documents maintained, 53

E

ecologically sustainable development and environmental performance, 51

entitlements of capacity, 5

Etihad Airways

- code sharing with Pacific Blue Australia, 41
- code sharing with V Australia, 35, 36, 37–38, 46–47, 48

Executive Director, 9, 26

- delegation of powers to, 14

- see also* Bird, Mike; McIntosh, Sue

executive profiles, 7–9

external scrutiny, 26

F

Fiji route

- Pacific Blue Australia, 36–37

finances

- efficiency of financial resources, 23

- financial report, 29

- and governance arrangements, 25

Finnair

- code sharing with Qantas, 43, 47

France route

- V Australia, 37

freedom of information, 51

- schedule, 53–54

Freedom of Information Act 1982 (the FOI Act), 51

functions *see* roles and functions

G

glossary of terms, 73–75

governance, 25–26

Greece route

- V Australia, 37–38

H

health and safety, 51

hearings of the Commission, 25, 56

HeavyLift

- Papua New Guinea (PNG) route, 15, 42

Hong Kong route

- Qantas, 38

human resources, 25, 51

- management of, 26–27

Indonesia route

- case study, 16–20

- Jetstar, 16, 39

- Pacific Blue Australia, 38

- Qantas, 16–17, 18–20, 38, 39, 40

- Strategic Airlines, 16, 17, 18–20, 39

- timeliness of decision making, 23

- V Australia, 16

- Virgin Blue, 16, 18–20, 38, 39–40

industry structure, 62

interested parties

- Commission serving, 21–23

- communication with, 10

interim determinations, 65

international air services

- competition in, 16–20

- provision of, 5

International Air Services Commission

- about the Commission, iv, 67

- clients, 68

- hearings, 25, 56

- meetings, 9, 25

- membership of, 25

- office holders 1992–2011, 71

- overview, 5–11

- performance, 13–23, 70

- procedures, 55–56

- relationship with the Department, 9, 26

- roles and functions, 5–6, 11, 13

- service charter, 21, 22, 68–69

International Air Services Commission Act 1992 (the Act), iv, 57

- Commission procedures consistent with, 55

- governance arrangements under, 25

- object of, 5, 13, 14

International Air Services Policy Statement No 5 (Amendment), 57

J

Japan Airlines

- code sharing with Jetstar, 40

- code sharing with Qantas, 40

Japan route

- Japan Airlines, 40

- Jetstar, 40

Jetstar

- code sharing with Japan Airlines, 40

- Qantas acting on behalf of, 16

Jetstar Asia

- code sharing with Qantas, 45, 48

joint services *see* code sharing

judicial decisions, 26

K

Kenya Airways

code sharing with Qantas, 46

L

legislation

Freedom of Information Act 1982 (the FOI Act), 51

International Air Services Commission Act 1992 (the Act), iv, 5, 13, 14, 25, 55, 57

Remuneration Tribunal Act 1973, 26

M

management and accountability, 25–27

market research, 51

McIntosh, Sue, 9

meetings of the Commission, 25
attendance at, 9

members of the Commission, 7, 8
remuneration, 26

Minister for Infrastructure, Transport, Regional
Development and Local Government, iv, 67, 68

Minister's policy, 13, 57–66
see also paragraph 5 criteria; particular
circumstances criteria; public benefit criteria;
start-up phase

N

New Caledonia (France Route 3)
Pacific Wings, 41
Qantas, 41

new carrier applications, 22

new entrant
definition of, 58
Pionair, 3, 22, 43

New Zealand route
Pacific Blue Australia, 41–42

O

object of *International Air Services Commission
Act 1992* (the Act), 5, 13, 14

occupational health and safety, 51

office holders of the Commission 1992–2011, 71

opposed applications, 22

outlook, 1

P

Pacific Air Express

Papua New Guinea (PNG) route, 42

Pacific Blue Australia

code sharing with Air New Zealand, 42
code sharing with Delta Air Lines, 41–42

code sharing with Etihad Airways, 41
code sharing with V Australia or Virgin Blue,
36–37, 45

Fiji route, 36–37

Indonesia route, 38

New Zealand route, 41–42

Thailand route, 45
see also V Australia; Virgin Blue

Pacific Wings

New Caledonia (France Route 3), 41

Papua New Guinea (PNG) route

HeavyLift, 15, 42

Pacific Air Express, 42

Pionair, 22, 43

paragraph 5 criteria, 16, 58, 59

assessment against, 18–20

claims against, 16–18
see also particular circumstances criteria;
public benefit criteria; start-up phase

particular circumstances criteria, 62–63

see also paragraph 5 criteria; public benefit
criteria; start-up phase

performance management arrangements for staff,
26

performance of the Commission
criteria for assessment of, 13
report on, 13–23

Philippines route

Qantas, 43

Pionair, 22, 43

PNG route *see* Papua New Guinea (PNG) route

policy statement *see* Minister's policy

procedures of the Commission, 55–56

professional development for staff, 26–27

public benefit criteria, 5, 15, 55
competition benefits, 60–61
consumer benefits, 61
industry structure, 62
tourism benefits, 61
trade benefits, 61
see also paragraph 5 criteria; particular
circumstances criteria; start-up phase

public involvement, arrangements for, 53

purchasing, 27

Q

Qantas

acting on behalf of Jetstar, 16

China route, 35–36

code sharing with Finnair, 43, 47

code sharing with Japan Airlines, 40

code sharing with Jetstar Asia, 45, 48

code sharing with Kenya Airways, 46

code sharing with South African Airways, 15, 44

Hong Kong, 38

Indonesia route, 16–17, 18–20, 38, 39, 40

New Caledonia (France Route 3), 41

- Philippines route, 43
- Singapore route, 43
- South Africa route, 44
- Taiwan route, 45
- Thailand route, 46, 47, 48
- Vanuatu route, 49
- Vietnam route, 49

R

- Register of Available Capacity, 10–11
- Register of Confidential Documents, 53
- Register of Public Documents, 53, 55
- Remuneration Tribunal, 26
- Remuneration Tribunal Act 1973*, 26
- renewal of determinations, 64–65
- risk management, 25
- Robinson, Anita, 9
- roles and functions
 - of the Commission, 5–6, 11, 13
 - of the Department, 10–11
- route, definition of, 58

S

- scrutiny, 26
- secretariat, 9, 26
 - adherence to APS Values and Code of Conduct, 26
 - employees of the Department, 51
 - responsibilities, 27
- service charter, 21, 22
 - accessibility, 69
 - dealing with clients, 68
 - decision-making processes, 69
 - making an application, 68
 - monitoring and review, 70
- Singapore route
 - Qantas, 43
- Smith, Ian, 3, 8
- South Africa route
 - Qantas, 44
 - V Australia, 44
- South African Airways
 - code sharing with Qantas, 15, 23, 44
- staffing *see* human resources
- stakeholders, dealing with, 22
- start-up phase
 - allocation criteria, 63–64
 - definition of, 58
- Strategic Airlines
 - China route, 36
 - Indonesia route, 16, 17, 18–20, 39
 - Thailand route, 47
 - United States route, 49

T

- Taiwan route
 - Qantas, 45
- Thailand route
 - Pacific Blue Australia, 45
 - Qantas, 46, 47, 48
 - Strategic Airlines, 47
 - V Australia, 46–47, 48

- timeliness in decision making, 22–23
- tourism benefits, 61
- trade benefits, 61
- training for staff, 26–27
- transfer applications, 66

U

- uncontested applications, 22
- United Arab Emirates route
 - V Australia, 48–49
- United States route
 - Strategic Airlines, 49
- unopposed applications, 22
- updates to procedures, 56
- ‘use it or lose it’ principle, 15, 65

V

- V Australia
 - Bangladesh route, 35
 - code sharing with Etihad Airways, 35, 36, 37–38, 47
 - code sharing with Pacific Blue Australia, 36–37
 - Fiji route, 36
 - France route, 37
 - Greece route, 37–38
 - Indonesia route, 16
 - South Africa route, 44
 - Thailand route, 46–47, 48
 - United Arab Emirates route, 48–49
 - see also* Pacific Blue Australia; Virgin Blue
- Vanuatu route
 - Qantas, 49
- variation of determinations, 6
- Vietnam route
 - Qantas, 49
- Virgin Blue
 - code sharing with Pacific Blue Australia, 36–37, 45
 - Indonesia route, 16, 18–20, 38, 39, 40
 - see also* Pacific Blue Australia; V Australia

W

Walker, Jill, 1–3, 7, 9
website, 56, 70

Y

year ahead see outlook
year in review, 1, 3



