



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2009] IASC 108
The Route:	Indonesia
The Applicant:	Qantas Airways Limited (Qantas) (ACN 009 661 901)
Public Register:	IASC/APP/200913

1 The application

1.1 On 12 June 2009, Qantas applied for an allocation of 360 seats per week of capacity on the Indonesia route. The capacity is planned to be used by Jetstar to enable it to increase its current four weekly services to daily flights between Perth and Denpasar. The services are to be operated with one-class A320 177-seat aircraft. Concurrently, Jetstar plans to reduce from three to two per week the number of services it operates on a Perth – Jakarta - Singapore routing. The capacity entitlement gained from the removal of this weekly service will contribute towards the capacity required to operate the additional Perth - Denpasar flights.

1.2 Qantas also proposes to code share on all of Jetstar's flights. The allocation is sought for a period of five years and the capacity is planned to be fully used by 31 August 2009.

1.3 The Commission published a notice on 16 June 2009 inviting other applications for the capacity sought by Qantas. No applications were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The Australia – Indonesia air services arrangements permit the multiple designation of Australian airlines. The Register of Available Capacity shows that there are 1,128 seats weekly available for allocation between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia.

3 Delegate's consideration

3.1 In accordance with section 27AB of the Act and regulation 3A of the *International Air Services Commission Regulations 1992*, the delegate of the Commission considers Qantas' application.

3.2 Under paragraph 6.2 of the Minister's policy statement (No. 5), of 19 May 2004, the Commission is required only to apply the criteria in paragraph 4 of the policy statement in this case. Under paragraph 4, the use of Australian entitlements by a carrier that is

reasonably capable of obtaining the necessary approvals (4(b)(i)) and of implementing its proposals (4(b)(ii)) is of benefit to the public. Qantas is an established international carrier which is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements. The delegate, on behalf of the Commission, will allocate to Qantas the capacity it has sought.

3.3 Section 15(2)(e) of the Act, the Commission must include a condition in determinations stating the extent to which the carrier may use that capacity in joint services with another carrier. The delegate will authorise code sharing between Qantas and Jetstar on the proposed services, consistent with previous determinations and decisions allowing code sharing between Qantas and its wholly-owned subsidiary.

4 Determination allocating capacity on the Indonesia route to Qantas ([2009] IASC 108)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 360 seats per week in each direction on the Indonesia route in accordance with the Australia - Indonesia air services arrangements.

4.2 The determination is for five years from the date of the determination.

4.3 The determination is subject to the following conditions, which apply to Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas:

- Qantas is required to fully utilise the capacity from no later than 31 August 2009, or from such other date approved by the Commission;
- only Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas is permitted to utilise the capacity;
- Qantas is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of the booking;
- changes in relation to the ownership and control of Qantas are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Indonesia air services arrangements being withdrawn; or
 - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Qantas or be in a position to

exercise effective control of Qantas, without the prior consent of the Commission, and

- changes in relation to the management, status or location of operations and Head Office of Qantas are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia – Indonesia air services arrangements.

Dated: 24 June 2009

Michael Bird
Executive Director
Delegate of the IASC Commissioners