



Australian Government
International Air Services Commission

DECISION

Decision: [2009] IASC 206
Variation of: [2007] IASC 116
The Route: Singapore
The Applicant: Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/200908

1 The application

1.1 On 30 April 2009, Qantas applied for a variation to Determination [2007] IASC 116, which allocates capacity for passenger services on the Singapore route. The variation was sought to permit Qantas to code share with Japan Airlines on certain services operated by Qantas between Australia and Singapore. Qantas proposes to commence the code share arrangements on 1 June 2009.

1.2 The proposed arrangements will involve Japan Airlines code sharing on flights between Singapore and three points in Australia, namely Adelaide, Melbourne and Perth. Japan Airlines will code share on three flights each way per week on the Adelaide- Singapore sector and on a daily flight each way on the Perth-Singapore and Melbourne-Singapore sectors respectively. Qantas will code share on a daily Japan Airlines service each way on the Singapore- Tokyo and Singapore- Osaka sectors respectively.

1.3 Qantas already has Commission authorisation to code share with a number of air carriers on the Singapore route. It also has Commission authorisation to code share with Japan Airlines on the Japan route. The code share agreement between Qantas and Japan Airlines is a free sale agreement for passenger traffic only.

1.4 The Commission published a notice on 8 May 2009 inviting submissions about the application. No submissions were received. All public material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of the relevant air services arrangements

2.1 The Australia – Singapore air services arrangements allow the designated airlines of Australia to enter into unrestricted code share, blocked space or other co-operative marketing arrangements with any other airline, including airlines of third

parties, as marketing and/or operating airline, provided that the airlines hold the authority to operate or market the service.

3 Delegate's assessment

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

3.2 When considering applications to vary determinations, the Commission (or its delegate) must decide whether the determinations, as varied, would be of benefit to the public. Under section 6.3 of the Minister's Policy Statement of 19 May 2004 (the Policy Statement), where a carrier requests a variation of a determination to allow it flexibility in operating its capacity and no submission is received about the application, only the criteria in paragraph 4 of the Policy Statement are applicable. Under paragraph 4 of the Policy Statement, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public. Qantas is an established international carrier which is clearly capable of obtaining the necessary approvals and of implementing its proposal. This means that there is public benefit arising from the use of the entitlements.

3.3 Section 15(2) (e) of the Act requires the Commission to include a condition in determinations stating the extent to which the carrier may use allocated capacity in joint services with another carrier. Qantas has advised that the code share arrangement is a free sale arrangement whereby Japan Airlines may sell any number of seats on each Qantas flight covered by the code share arrangements.

3.4 The code sharing arrangement between Singapore and Japan does not involve the use of Australian capacity under the Australia- Japan air services arrangements and is therefore not considered by the Commission.

3.5 Several airlines offer direct or indirect services between Australia and Singapore. A number of airlines market seats under code share arrangements with carriers offering services between Australia and Singapore. The delegate considers there is unlikely to be a net adverse impact on competition from the proposed code share arrangements in the highly competitive Australia-Singapore market.

3.6 The Commission has previously authorised the use of capacity in joint services between Qantas and other carriers on the Singapore route and the delegate will authorise the use of capacity in joint services with Japan Airlines on this route.

3.7 The delegate, on behalf of the Commission, will vary the determination as requested by Qantas.

4 Decision [2009] IASC 206

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2007] IASC 116, which allocates capacity on the Singapore route by:

adding the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with Japan Airlines in accordance with:
 - the code share agreement dated 27 April 2009;
 - or any subsequent code share agreement between Qantas and Japan Airlines for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with Japan Airlines:
 - Qantas must price and sell its services on the route independently of Japan Airlines;
 - Qantas must not share or pool revenues on the route with Japan Airlines.

Dated: 27 May 2009

Dilip Mathew
Acting Executive Director
Delegate of the IASC Commissioners