



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2010] IASC 116
Renewal of: [2006] IASC 128
The Route: Vanuatu
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/201013

1 The application for renewal

1.1 On 31 October 2006, the delegate of the Commission issued Determination [2006] IASC 128 (the Determination), allocating to Qantas 100 seats per week of capacity in each direction on the Vanuatu route.

1.2 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of a determination at least 12 months before the expiry of the Determination. The Determination expires on 30 October 2011.

1.3 Qantas applied to the Commission on 10 September 2010 for a renewal of the Determination. The Commission published a notice on 14 October 2010 inviting other applications for an allocation of the capacity subject to renewal. No other applications were received.

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

2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 5) of 19 May 2004, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- according to the Register of Available Capacity, there are 100 seats per week of capacity available for passenger services;
- there are no other applicants seeking capacity on the route; and

- there is no evidence that Qantas has failed to service the route effectively;

2.3 In these circumstances, the Commission concludes that the renewal of Determination [2006] IASC 128 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice and current air services arrangements. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

3 Determination for renewal of Determination [2006] IASC 128 allocating capacity on the Vanuatu route to Qantas ([2010] IASC 116)

3.1 The Commission makes a determination in favour of Qantas, allocating 100 seats per week in each direction on the Vanuatu route under the Australia – Vanuatu air services arrangements.

3.2 The determination is for five years from 31 October 2011.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only Qantas is permitted to utilise the capacity;
- neither Qantas nor another Australian carrier which is a wholly owned subsidiary of Qantas is 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 Qantas (as marketing carrier) to provide services jointly with Air Vanuatu in accordance with:
 - the code share agreement between Qantas and Air Vanuatu dated 8 November 2002; or
 - any subsequent code share agreement between Qantas and Air Vanuatu for operations on the Vanuatu route with the prior approval of the Commission;
- under any code share agreement with Air Vanuatu:
 - Qantas must price and sell its services on the route independently of Air Vanuatu;

- Qantas must not share or pool revenues on the route with Air Vanuatu;
- Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of 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 - Vanuatu 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 - Vanuatu air services arrangements.

Dated: 25 October 2010

Ian Smith
Member Presiding

Stephen Bartos
Member