



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2010] IASC 123
The Route: Philippines
The Applicant: Qantas Airways Limited (Qantas)
(ACN 009 661 901)
Public Register: IASC/APP/201020

1 The application

1.1 On 11 October 2010, Qantas applied for an allocation of 531 seats of capacity per week on the Philippines route. Qantas advised that it plans 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 sought a five-year determination. 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.

1.2 The Commission published a notice on 14 October 2010, inviting other applications for capacity. No applications were received. All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The proposed services by Qantas are consistent with the air services arrangements between Australia and the Philippines. The Register of Available Capacity shows that for services to Manila there are 2,784 seats of capacity per week available for allocation.

3 Commission's consideration

3.1 Qantas is the only applicant for capacity. 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. Under paragraph 4, the use of entitlements by an Australian 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.

3.2 Qantas is an established 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. Accordingly, the Commission will allocate the capacity sought to Qantas. The Commission has authorised use of allocated capacity by Qantas or its wholly-owned subsidiaries on a number of routes, and will do so in this case.

4 Determination allocating capacity on the Philippines route to Qantas ([2010] IASC 123)

4.1 The Commission, makes a determination in favour of Qantas, allocating 531 seats of capacity per week in each direction on the Philippines route in accordance with the Australia – Philippines 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:

- Qantas is required to fully utilise the capacity from no later than 31 October 2011;
- the capacity may be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas;
- 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;
- 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 – Philippines 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 – Philippines air services arrangements.

Dated: 25 October 2010

Ian Smith
Member Presiding

Stephen Bartos
Member