



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2011] IASC 114
The Route: Chile
The Applicant: Qantas Airways Limited (Qantas)
(ACN 16 009 661 901)
Public Register: IASC/APP/201123

1 The application

1.1 On 2 September 2011, Qantas applied for an allocation of capacity on the Chile route. Qantas sought an allocation of 1,119 seats per week in each direction to enable it to operate three weekly return non-stop B747-400 services between Sydney and Santiago. The services are planned to commence from 26 March 2012.

1.2 The Commission published a notice on 2 September 2011 inviting other applications for all or any part of the capacity sought by Qantas. No application was received. All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Under the Australia - Chile air services arrangements, the designated airlines of Australia are entitled to operate 2,000 seats per week in each direction on the Chile route and all of these seats are available for immediate allocation.

3 Delegate's consideration

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

3.2 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 and of implementing its proposals is of benefit to the public.

3.3 For an established international carrier such as Qantas, this means that there is public benefit arising from the use of the entitlements. Therefore, the delegate concludes

that an allocation to Qantas of 1,119 seats per week in each direction on the Chile route would be of benefit to the public.

3.4 Qantas has sought authority for its wholly-owned subsidiaries to use the capacity in the interests of commercial and operational flexibility, and for Qantas to be able to code share with its wholly-owned subsidiaries. The Commission has previously allocated capacity to Qantas to be used by its wholly-owned subsidiaries on a number of other routes. The delegate will authorise the use of the capacity by Qantas' wholly-owned subsidiaries on the Chile route, including in joint services with Qantas.

4 Determination allocating capacity on the Chile route to Qantas ([2011] IASC 114)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 1,119 seats per week in each direction on the Chile route under the Australia - Chile 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 2012 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;
- 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 to provide services jointly with any wholly-owned subsidiary of 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, at the time of booking, of the carrier actually operating the flight;
- 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 - Chile 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 – Chile air services arrangements.

Dated: 12 September 2011



Chris Samuel
Senior Analyst
Delegate of the IASC Commissioners