



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2011] IASC 126
Renewal of: [2006] IASC 116
The Route: Switzerland
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/201124

1 The application for renewal

1.1 On 26 October 2006, the delegate of the Commission issued Determination [2006] IASC 116 (the Determination) allocating to Qantas seven third-country code share frequencies per week on the Switzerland route. The Determination was subsequently varied by Decision [2008] IASC 202 to permit joint services with British Airways.

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 18 March 2012.

1.3 Qantas applied to the Commission on 11 October 2011 for a renewal of the Determination. The Commission published a notice on 20 October 2011 inviting submissions about the application. No submissions were received.

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

2 Delegate's consideration

2.1 In accordance with section 27AB of the Act and regulation 3A of the *International Air Services Commission Amendment Regulations 2003 (No.1)*, the delegate of the Commission considers the Qantas application.

2.2 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. The Commission notes that:

- Qantas has been servicing the route effectively; and
- there are no other applicants seeking capacity on the route.

2.3 In these circumstances, the delegate concludes that the renewal of Determination [2006] IASC 116 would be of benefit to the public.

3 Determination for renewal of Determination [2006] IASC 116 allocating capacity on the Switzerland route to Qantas ([2011] IASC 126)

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating seven third-country airline code share frequencies per week in each direction on the Switzerland route under the Australia - Switzerland air services arrangements.

3.2 The determination is for five years from 19 March 2012.

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;
- 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 Qantas to provide services jointly with British Airways in accordance with:
 - the code share agreement dated 5 October 1997, and the amendment annex to that agreement between Qantas and British Airways for operations on the Australia – Switzerland Route; or
 - any subsequent code share agreement between Qantas and British Airways for operations on the Australia – Switzerland route, whether or not it replaces the existing agreement, with the prior approval of the Commission or the delegate;
- under any code share agreement with British Airways:
 - Qantas must price and sell its services on the route independently of British Airways;
 - Qantas must not share or pool revenues on the route with British Airways
- where the capacity is used to provide joint services on the route, nothing in this determination exempts Qantas from complying with the Australian Consumer Law. The airlines are required to 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 – Switzerland 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 – Switzerland air services arrangements.

Dated: 19 December 2011

Sue McIntosh

Sue McIntosh
Executive Director
Delegate of the IASC Commissioners

