



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2011] IASC 129
Renewal of: [2006] IASC 124
The Route: Japan
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 Commission issued Determination [2006] IASC 124 (the Determination) allocating 2.4 B767-200 units of capacity per week to Qantas on the Japan route. The Determination was subsequently varied by Decision [2008] IASC 221 to reduce the amount of capacity to 0.6 B767-200 units per week in each direction.

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 21 April 2012.

1.3 Qantas applied to the Commission on 11 October 2006 for a renewal of the Determination. The Commission published a notice on 20 October 2006 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 124 would be of benefit to the public.

3 Determination for renewal of Determination [2006] IASC 124 allocating capacity on the Japan route to Qantas ([2011] IASC 129)

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 0.6 B767-200 units of capacity per week in each direction on the Japan route under the Australia - Japan air services arrangements.

3.2 The determination is for five years from 22 April 2012.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- 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 any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- Jetstar may use the capacity to provide services jointly with Japan Airlines until 31 December 2012 in accordance with:
 - the code share agreement of 9 February 2007, as amended, with such additional conditions (if any) as the Commission may require prior to code share services commencing, or as varied except in relation to:
 - Cairns–Tokyo, Gold Coast–Osaka, Cairns–Osaka and Gold Coast–Tokyo being the city pairs served; or
 - any financial adjustment; and
- Jetstar must submit, prior to the next Commission review of the code share arrangements, a report on the number of code share seats sold by Japan Airlines on Jetstar–operated services between Cairns–Tokyo, Gold Coast–Osaka, Cairns–Osaka and Gold Coast–Tokyo and Jetstar’s yields per revenue passenger kilometre for all passenger classes on these services;
- where the capacity is used to provide joint services on the route, nothing in this determination exempts Qantas and any wholly owned subsidiary 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 – Japan 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 – Japan air services arrangements.

Dated: 19 December 2011

Sue McIntosh

Sue McIntosh
Executive Director
Delegate of the IASC Commissioners