



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2011] IASC 130
Renewal of: [2009] IASC 132
The Route: Fiji
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/201124

1 The application for renewal

1.1 On 5 November 2009, the Commission issued Determination [2009] IASC 132 allocating to allocating to Qantas 852 seats of capacity per week in each direction on the Fiji route. The Commission issued an interim (three year) rather than a five year determination. The Commission gave as its reason for issuing an interim determination concern about the possible effect on the balance of public benefits if circumstances changed materially, during the life of the determination, from those on which the Commission had based the determination.

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 4 November 2012.

1.3 Qantas applied to the Commission on 11 October 2011 for a renewal of Determination [2009] IASC 132. The Commission published a notice on 20 October 2011 inviting submissions about the applications. No submissions were received.

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

2 Commission's consideration

2.1 Paragraph 8.2 of the Minister's policy statement states that on routes where the start up phase is over, as is the case on the Fiji route, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations are those set out in paragraphs 4 and 5.

2.2 The Commission notes that:

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

2.1 As the capacity for which Qantas is seeking a renewal determination does not exceed that in their current determination, and as there were no other applicants for the capacity, the Commission does not consider that the criteria in paragraph 5 are relevant in this instance.

2.3 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. Qantas is an established international carrier and clearly satisfies the paragraph 4 criteria.

2.4 In these circumstances, the Commission concludes that the renewal of Determination [2009] IASC 132 would be of benefit to the public.

3 Determination for renewal of Determination [2009] IASC 132 allocating capacity on the Fiji route to Qantas ([2011] IASC 130)

3.1 The Commission makes a determination in favour of Qantas, allocating 852 seats of capacity per week in each direction on the Fiji route, in accordance with the Australia – Fiji air services arrangements.

3.2 The determination is for five years from 5 November 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;
- Qantas is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the prior approval of the Commission;
- the capacity may be used by any wholly-owned subsidiary of Qantas to provide joint services with Qantas;
- 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 – Fiji 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 – Fiji air services arrangements.

Dated 19 December 2011



Jill Walker
Chairperson



Stephen Bartos
Member

