

# DETERMINATION

**DETERMINATION:** [2000] IASC 112  
**THE ROUTE:** SINGAPORE  
**THE APPLICANT:** QANTAS AIRWAYS LIMITED  
(ACN 009 661 901)  
**PUBLIC REGISTER FILE:** IASC/APP/200005

## 1 The application

1.1 On 28 February 2000, an application was received from Qantas Airways Limited (Qantas) for an allocation of capacity on the Singapore route. Qantas is seeking an allocation of 2340 seats per week in each direction to enable it to operate a number of additional services. Qantas is planning to introduce eleven B767 services per week between Brisbane and Singapore and an additional eleven B767 services per week between Perth and Singapore. British Airways proposes to code share on these new Qantas services.

1.2 Qantas proposes to utilise the additional capacity in a staged manner, with full utilisation to take place by 29 October 2000, when the Northern Winter 2000 scheduling period commences.

1.3 The Commission published a notice on 2 March 2000 inviting other applications for all or any part of the available capacity and submissions from interested parties about the Qantas application. No applications or submissions were received.

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

## 2 Current services

2.1 Qantas currently operates 52 flights a week on the Singapore route. It also code-shares on 14 flights a week operated by British Airways. Qantas has an allocation of 15,596 seats.

2.2 The only other Australian carrier on the route is Ansett International, which codes-shares on 66 flights a week operated by Singapore Airlines. Ansett has an allocation of 5,359 seats.

2.3 There are a number of fifth freedom carriers on the route. Own aircraft operations are conducted by Egypt Air, Emirates and Gulf Air. From 1 April 2000, this will amount to 16 weekly flights and up to approximately 4,600 seats. In addition, code

share services are conducted by Alitalia ( partner- KLM), Lufthansa (partner – Singapore Airlines) and Swissair (partner- Qantas).

### **3 Provisions of relevant air services arrangements**

3.1 The Australia - Singapore Confidential Memorandum of Understanding (MOU) of 27 May 1998 as amended permits code sharing is permitted, including on services operated by third country carriers. Any capacity used under a code share counts as not less than 25% of the seats available on the aircraft used for each code share service.

3.2 Under the MOU, the designated airlines of Australia are entitled to operate 23,200 seats per week in each direction, with a provision for up to 23,300 seats to allow for additional capacity requirements. Currently, Qantas has an allocation of ~~16,100~~ 15,596 seats. There are 2,345 seats per week available for allocation.

### **4 Commission's assessment**

4.1 Under the Minister's Policy Statement (No 3 of 23 April 1997, as amended on 9 March 1999), the relevant criteria to be applied in deciding whether or not to allocate capacity, given that there is only one applicant and no other submissions, is whether Qantas is reasonably capable of obtaining the necessary approvals and of implementing its proposals.

4.2 Qantas is an established international carrier, which has the technical and financial resources to implement its proposal. The Commission concludes that Qantas is reasonably capable of obtaining the necessary approvals and implementing its proposal and that the allocation to Qantas of 2340 seats per week in each direction on the Singapore route would be of benefit to the public.

4.3 Section 15(2)(d) of the Act specifies that the Commission must include a condition in determinations stating the extent to which the carrier may use that capacity in joint services with another carrier. Qantas has stated that the capacity would be used in a code share arrangement whereby British Airways would market capacity on Qantas operated services on the route. The Commission has previously approved the operation of capacity by Qantas in joint services with British Airways pursuant to the Qantas/British Airways Code Share Agreement of 5 October 1997 and will do so in this case, subject to its usual conditions relating to this agreement.

### **5 Other issues**

5.1 The Commission normally includes conditions in determinations approving code shares that the Australian carrier must price and sell its services on the route independently and that it must not share or pool revenues. However, the Australian Competition and Consumer Commission (ACCC) has issued an authorisation for a Joint Services Agreement (JSA) between Qantas and British Airways (expiry date 11 May 2000).

## **6 Determination allocating capacity on the Singapore route to Qantas ( [2000] IASC 112)**

6.1 The Commission makes a determination in favour of Qantas, allocating 2340 seats per week in each direction on the Singapore route under the Australia - Singapore Air Services Agreement.

6.2 The determination is for five years from the date of the determination.

6.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from no later than 30 November 2000 or from such other date approved by the Commission;
- only Qantas is permitted to utilise the capacity;
- 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 between Qantas and British Airways, and the Qantas /BA Joint Services Agreement; or
  - any new code share agreement whether or not it replaces the existing agreement with the prior approval of the Commission;
- Qantas may only price and market its services, or share or pool revenues/profits on the route jointly with British Airways as long as such practices are authorised under the *Trade Practices Act 1974* or otherwise authorised by the Australian Competition Tribunal, in the event of review by that Tribunal;
- Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of booking;
- 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 - Singapore Air Services Agreement 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 - Singapore Air Services Agreement.

Dated: 27 March 2000

Michael Lawriwsky  
Member

Stephen Lonergan  
Member