



INTERNATIONAL AIR SERVICES COMMISSION

DECISION

DECISION: [2002] IASC 204
VARIATION OF: IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102, AND [2001] IASC 122
THE ROUTE: SINGAPORE
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 991) (QANTAS)
PUBLIC REGISTER: IASC/APP/200203

1 The application

1.1 On 11 January 2002, Qantas applied to the Commission to vary determinations IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102, and [2001] IASC 122 (the Determinations) to permit Alitalia to code share on Qantas services between Singapore and Australia.

1.2 Alitalia currently code shares on Qantas services between Rome and Australia via Bangkok. Qantas proposes to operate these services via Singapore instead of Bangkok from 31 March 2002.

1.3 The Commission published a notice on 17 January 2002 inviting submissions from interested parties about the application. A submission was received from Jardine Airport Services Australia (JASA), a response from Qantas and a further submission from JASA.

1.4 JASA provides ground handling services at both Melbourne International Airport and Sydney International Airport to a number of international airlines. JASA submitted that it had faced significant impediments in competing with Qantas in supplying ground handling services to other international airlines, due to code sharing and other cooperative arrangements (including joint services arrangements and domestic on-carriage) between Qantas and other airlines. JASA submitted that it is appropriate for the IASC to take action against Qantas to prevent potential anti-competitive behaviour.

1.5 Qantas responded that JASA's objection has nothing to do with the applications before the Commission nor is it supported by the *International Air Services Commission Act 1992* (the Act) or the Policy Statement. Qantas also submitted that JASA's objection relates to matters that are more properly considered by the Australian Competition and Consumer Commission (ACCC). All non-confidential material supplied by the applicant is filed on the Register of Public Documents. Confidential material supplied by the applicant is filed on the Commission's confidential register.

2 Provisions of relevant air services arrangements

2.1 The Australia – Singapore air services arrangements permit code sharing, including the provision of capacity and services to another airline by a designated airline.

2.2 The Australia – Italy air services arrangements authorise code sharing between designated carriers of the two countries.

3 Commission’s assessment

3.1 The Commission notes JASA’s submissions and the Qantas response. The Commission considers that in the circumstances the matters raised in the submission are matters primarily for consideration by the ACCC. The Commission understands that JASA has already referred the matters raised in its submission to the ACCC.

3.2 When considering applications to vary determinations the Commission must determine whether the determinations, as varied, would be of benefit to the public. Under paragraph 4 of the Minister’s Policy Statement the use of Australian entitlements is of benefit to the public. For an established international carrier such as Qantas this means that there is public benefit arising from the use of capacity.

3.3 Pursuant to s.15(2)(e) of the Act, a carrier cannot use allocated capacity by providing services jointly with any another carrier without the prior approval of the Commission.

3.4 The Commission will vary the determinations as requested.

4 Decision [2002] IASC 204

4.1 In accordance with section 24 of the Act, the Commission varies Determinations IASC/DET/9713, IASC/DET/9914, [2000] IASC 112, [2000] IASC 115, [2001] IASC 102, and [2001] IASC 122, as requested by Qantas, by:

adding the following conditions:

- “the capacity may be used by Qantas to provide services jointly with Alitalia in accordance with:
 - the code share agreement dated 22 March 2001;
 - or any subsequent code share agreement between Qantas and Alitalia for operations on the Australia-Singapore route with the prior approval of the Commission; and
- under any code share agreement with Alitalia:
 - Qantas must price and sell its services on the route independently of Alitalia;

– Qantas must not share or pool revenues on the route with Alitalia;”

Dated: 19 March 2002

Ross Jones
Chairman

Stephen Lonergan
Member

Michael Lawriwsky
Member