



Australian Government

International Air Services Commission

DECISION

Decision:	[2010] IASC 202
Variation of:	[2007] IASC 116
The Route:	Singapore
The Applicant	Qantas Airways Limited (ACN 009 661 901) (Qantas)
Public Register File:	IASC/APP/201006

1 The application

1.1 On 10 May 2010, Qantas applied for a variation of Determination [2007] IASC 116 to permit China Eastern Airlines to code share on Qantas services between Australia and Singapore. Qantas will also place its code on selected China Eastern Airlines services between Singapore and China that offer connections with Qantas' Australia-Singapore flights. The new arrangements are proposed to commence from 1 June 2010.

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

1.3 The Commission published a notice on 11 May 2010 inviting submissions about the application.

1.4 A confidential submission was received from the Victorian State Government supporting Qantas' application.

2 Provisions of the relevant air services arrangements

2.1 The Australia – Singapore air services arrangements allow the designated airlines of Australia to enter into unrestricted code share, blocked space or other co-operative marketing arrangements with any other airline, including airlines of third parties, as marketing and/or operating airline, provided that the airlines hold the authority to operate or market the service.

3 Delegate's assessment

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (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.

3.2 When considering applications to vary determinations, the Commission (or its delegate) must decide whether the determinations, as varied, would be of benefit to the public. Under section 6.3 of the Minister's policy statement, where a carrier requests a variation of a determination to allow it flexibility in operating its capacity and no

submission is received about the application, only the criteria in paragraph 4 of the policy statement are applicable. Under paragraph 4, the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public. Qantas is an established international carrier which is clearly capable of obtaining the necessary approvals and of implementing its proposal. This means that there is public benefit arising from the use of the entitlements.

3.3 Section 15(2)(e) of the Act, 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 advised in its application that the code share agreement between Qantas and China Eastern Airlines is a free sale agreement.

3.4 The code sharing arrangement between Singapore and China does not involve the use of Australian capacity under the relevant air services arrangements and therefore does not require authorisation by the Commission.

3.5 Several airlines offer direct or indirect services between Australia and Singapore. A number of airlines market seats under code share arrangements with carriers offering services between Australia and Singapore. The delegate considers there is unlikely to be a net adverse impact on competition from the proposed code share arrangements in the highly competitive Australia-Singapore market.

3.6 The Commission has previously authorised the use of capacity in joint services between Qantas and other carriers on the Singapore route and the delegate will authorise the use of capacity in joint services with China Eastern Airlines on this route. The delegate, will require the final signed code share agreement to be received and approved by the Commission prior to services commencing. The delegate, on behalf of the Commission, will vary the determination as requested by Qantas.

4 Decision [2010] IASC 202

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2007] IASC 116, which allocates capacity on the Singapore route, by:

adding the following conditions to the Determination:

- the capacity may be used by Qantas to provide services jointly with China Eastern Airlines in accordance with:
 - the signed code share agreement between Qantas and China Eastern Airlines for operations on the Australia - Singapore route, subject to the agreement being received and approved by the Commission prior to services commencing; or
 - any subsequent code share agreement between Qantas and China Eastern Airlines for operations on the Australia - Singapore route with the prior approval of the Commission;
- under any code share agreement with China Eastern Airlines:

- Qantas must price and sell its services on the route independently of China Eastern Airlines; and
- Qantas must not share or pool revenues on the route with China Eastern Airlines.

Dated: 25 May 2010

Michael Bird
Executive Director
Delegate of the IASC Commissioners