



Australian Government

International Air Services Commission

RENEWAL DETERMINATION

Determination: [2011] IASC 125
Renewal of: [2006] IASC 112
The Route: Korea
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 delegate of the Commission issued Determination [2006] IASC 112 allocating to Qantas 500 seats per week in each direction between Australia and Korea.

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 30 June 2012.

1.3 Qantas applied to the Commission on 11 October 2011 for a renewal of the Determination. The Commission published a notice on 20 October 2011 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 delegate 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 112 would be of benefit to the public.

3 Determination for renewal of Determination [2006] IASC 112 allocating capacity on the Korea route to Qantas ([2011] IASC 125)

3.1 The delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 500 seats per week in each direction on the Korea route under the Australia – Korea air services arrangements.

3.2 The determination is for five years from 1 July 2012.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity;
- only 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 approval of the Commission;
- Qantas may use the capacity to provide services jointly with Asiana Airlines in accordance with:
 - the Qantas – Asiana Codeshare Agreement of 15 November 1996 as extended from time to time in accordance with its terms, on the condition that there is no variation to the agreement resulting in the number of seats exchanged between Qantas and Asiana exceeding 500 per week in each direction; or
 - any new joint service arrangements between Qantas and Asiana for operations on the Australia – Korea route whether or not it replaces the existing agreement, with the prior approval of the Commission;
- under the code share agreement with Asiana Airlines:
 - Qantas must price and sell its services on routes independently of Asiana Airlines; and
 - Qantas must not share or pool revenues with Asiana Airlines;
- where the capacity is used to provide joint services on the route, nothing in this determination exempts Qantas 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 – Korea 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 – Korea air services arrangements.

Dated: 19 December 2011

Sue McIntosh

Sue McIntosh
Executive Director
Delegate of the IASC Commissioners

