



## Australian Government

### International Air Services Commission

#### RENEWAL DETERMINATION

**Determination:** [2014] IASC 101  
**Renewal of:** [2008] IASC 123  
**The Route:** Philippines  
**The Applicant:** Qantas Airways Ltd  
(ACN 009 661 901) (Qantas)  
**Public Register File:** IASC/APP/201342

The Commission makes a fresh determination allocating to Qantas 129 seats of passenger capacity per week on the Philippines route.

#### 1 The application for renewal

1.1 On 8 October 2008, the Commission issued Determination [2008] IASC 123 (the Determination), allocating to Qantas 129 seats of capacity per week in each direction on the Philippines route. The capacity may be used by Qantas or a wholly owned subsidiary of Qantas.

1.2 Under section 17 of 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 5 December 2014. In view of this, the Commission sent, on 14 October 2013, a letter to Qantas inviting it to apply to the Commission if it wished to renew the Determination. On 16 December 2013, Qantas applied for a renewal of the Determination.

1.3 The Commission published a notice on 16 December 2013, in accordance with sections 12 and 17 of the Act, inviting other applications about the application. No other applications were received.

1.4 All material supplied by the applicant is available on the Commission's website ([www.iasc.gov.au](http://www.iasc.gov.au)).

#### 2 Relevant provisions of the air services arrangements

2.1 Currently, for services to/from Manila and Clark, there are 3,073 seats per week in each direction available for allocation to Australian airlines on the Philippines route. An additional 1,000 seats each way each week are available after the designated airline or airlines of Australia or the Philippines have received approval to operate a minimum of 4,000 seats each way each week. A further seven frequencies per week with any aircraft type are available for services to and from Avalon.

2.2 For services to/from international airports other than Manila and Clark, there is unrestricted capacity.

### **3 Delegate's assessment**

3.1 In accordance with section 27AB of the Act and regulation 3A of the International Air Services Commission Regulations 1992, the delegate of the Commission may consider Qantas' application. (For the purposes of this determination, all references to the Commission include the delegate of the Commission).

3.2 In considering an application for renewal of a determination under section 8 of the Act, the Commission must make the same allocation of capacity as the original determination unless the Commission is satisfied that the allocation is no longer of benefit to the public. In assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out for that purpose in the policy statement made by the Minister under section 11 of the Act.

3.3 Under paragraph 6.2 of the Minister's Policy Statement (No. 5) of 19 May 2004 (the Policy Statement), in circumstances where there is only one applicant for an allocation of capacity on a route, only the criteria in paragraph 4 are applicable. Paragraph 4 provides that the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public unless such carriers are not reasonably capable of obtaining the necessary approvals to operate on the route and are not reasonably capable of implementing their applications.

3.4 The Commission notes that:

- there are no other applicants seeking capacity on the route;
- Qantas is an established international carrier and is therefore reasonably capable of obtaining the necessary approvals to operate on the route and of implementing its application; and
- there is no evidence that Qantas has failed to service the route effectively.

3.5 The Commission also notes from Qantas' Northern Winter 2013 capacity utilisation report of 12 November 2013, that of the 1,927 seats per week allocated to it on the Philippines route, Qantas is utilising 1,908 seats per week. In the Commission's view, this effectively amounts to full utilisation of allocated capacity.

3.6 In light of the above, the Commission concludes that the renewal of Determination [2008] IASC 123 would be of benefit to the public.

### **4 Determination for renewal of Determination [2008] IASC 123 allocating capacity on the Philippines route to Qantas ([2014] IASC 101)**

4.1 The delegate, on behalf of the Commission makes, a determination in favour of Qantas, allocating 129 seats per week of passenger capacity in each direction on the Philippines route under the Australia – Philippines air services arrangements.

4.2 The determination is for five years from 6 December 2014.

4.3 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;
- neither Qantas nor another Australian carrier which is a wholly owned subsidiary of Qantas is permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission; and
- 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 – Philippines 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.

Dated: 8 January 2014



Marlene Tucker  
Executive Director  
Delegate of the IASC Commissioners