



Australian Government

International Air Services Commission

DECISION

Decision: [2014] IASC 213
Variation of: [2009] IASC 127
The Route: Thailand
The Applicant: Qantas Airways Ltd
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/201447

The Commission's delegate varies Determination [2009] IASC 127 to change its expiry date to the date that the variation to Determination [2011] IASC 123 comes into effect.

1 The applications

1.1 On 13 February 2014, the Commission received applications from Qantas seeking variations to nine of its determinations which allocate passenger capacity on the Thailand route. The applications have the effect of consolidating Qantas' capacity allocations on the route.

1.2 On 25 February 2014, Qantas wrote to the Commission to clarify that it wishes to retain its total allocation of 35.6 B747 equivalent units of passenger capacity and 26 third country code share frequencies per week. Qantas further informed the Commission that of the 35.6 B747 equivalent units of passenger capacity, 23 frequencies are being used for third country code share. In effect, Qantas utilises a total of 12.6 B747 equivalent units of passenger capacity and 49 third country code share frequencies.

1.3 In addition to nine determinations allocating a total of 35.6 B747 equivalent units of passenger capacity per week and 26 third country code share frequencies per week, Qantas holds Determination [2008] IASC 119 which allocates unlimited capacity for all-cargo services on the Thailand route, valid for 10 years.

1.4 Qantas has requested a variation to Determination [2011] IASC 123 to increase the allocation to a total of 35.6 B747 equivalent units of capacity per week in each direction for passenger services and 26 third country code share frequencies per week between Australia and Thailand. Qantas is seeking to consolidate its existing determinations with the desire to retain all capacity entitlements it has been allocated. Qantas is not seeking additional capacity.

1.5 Qantas further seeks to vary the other eight determinations to amend their expiry dates to the date when the variation to Determination [2011] IASC 123 takes effect, should that variation be granted by the Commission. These determinations, which will effectively cease to be in force when the variation to Determination [2011] IASC 123 takes effect, are as follows:

- [2009] IASC 120
- [2009] IASC 127
- [2010] IASC 114
- [2011] IASC 101
- [2011] IASC 105
- [2011] IASC 112
- [2013] IASC 103; and
- [2013] IASC 139.

1.6 The effect of these variations, if approved, would be to consolidate Qantas' nine determinations of limited capacity on the Thailand route into one determination.

1.7 The Commission published a notice on 14 February 2014, in accordance with section 22 of *International Air Services Commission Act 1992* (the Act), inviting submissions about the proposed variations. No submissions were received. Qantas' supplementary letter was published on 25 February 2014.

1.8 All material supplied by the applicant is available on the Commission's website (www.iasc.gov.au).

2 Delegate's consideration

2.1 An Australian carrier may, at any time, apply under section 21 of the Act to have a determination varied. Under subsection 10(2) of the Act, the Commission must conduct a review of a determination if an Australian carrier applies for variation of a determination under section 21. However, before conducting a review under section 10, the Commission must, by notice, invite submissions about the review of the determination as required under section 22.

2.2 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 the Qantas applications. (For purposes of this determination, references to the Commission include the delegate of the Commission).

2.3 In relation to Determination [2009] IASC 127, the variation sought by Qantas would do no more than bring forward the expiry date of the determination. In light of this, the decision in relation to [2009] IASC 127 will be made in accordance with section 24(1) of the Act.

2.4 Subsection 24(1) of the Act provides that the Commission must, having conducted a review to decide an application to vary a determination, make a decision:

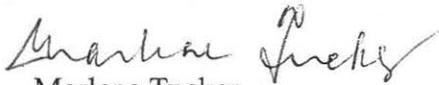
(a) confirming the determination; or (b) varying the determination in a way that gives effect to the variation requested.

2.5 The delegate considers that Qantas' request to consolidate its multiple determinations is consistent with the Commission's view that consolidating multiple determinations on a particular route would simplify and make capacity allocations more transparent. Bringing forward the expiry date of [2009] IASC 127 is part of Qantas' attempt to consolidate its multiple determinations on the Thailand route. In light of this, the Commission's delegate decided to vary [2009] IASC 127 to give effect to the variation requested.

3 Decision varying Determination [2009] IASC 127 allocating capacity on the Thailand route to Qantas ([2014] IASC 213)

3.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, makes a decision varying Determination [2009] IASC 127 to amend the expiry date of this determination to the date when the variation to Determination [2011] IASC 123 takes effect.

Dated: 14 March 2014


Marlene Tucker
Executive Director
Delegate of the IASC Commissioners