

RENEWAL DETERMINATION

DETERMINATION NO: [2000] IASC 103
RENEWAL OF: DETERMINATION IASC/DET/9501
THE ROUTE: VANUATU
THE APPLICANT: QANTAS AIRWAYS LIMITED
(ACN 009 661 901)

1 The application for renewal

1.1 On 15 May 1995, the Commission issued Determination IASC/DET/9501 (the determination) allocating 30 seats per week in each direction to Qantas Airways Limited (Qantas) on the Vanuatu route. This was subsequently varied by IASC/DEC/9603 and IASC/DEC/9812 so that Qantas now has an allocation of 200 seats pursuant to this determination and serves the route as marketing carrier under a code share agreement with Air Vanuatu.

1.2 The determination expires on 14 May 2000.

1.3 Qantas has applied to the Commission seeking a renewal of the determination. The Commission subsequently published a notice inviting submissions from any interested person about the renewal of the determination, and other applications for an allocation of all or part of the capacity subject to renewal. No submissions or other applications were received.

2 Commission's consideration

2.1 Under the policy statement (No. 3), issued by the Minister on 23 April 1997, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- Qantas has been fully utilising the relevant capacity;
- there are no other applicants seeking capacity on the route; and
- there is no evidence that Qantas has failed to service the route effectively.

2.3 The Commission therefore concludes that the renewal of Determination IASC/DET/9501 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice. Under the *International Air Services Commission Act 1992*, the Commission may make changes to the terms and conditions included in the original determination

where warranted by changes in circumstances since the original determination was made.

3 Determination for renewal of Determination IASC/DET/9501 allocating capacity on the Vanuatu route to Qantas ([2000] IASC 103)

3.1 The Commission finds a renewal of the Determination IASC/DET/9501 allocating capacity to Qantas on the Vanuatu route would be of benefit to the public.

3.2 The Commission makes a fresh determination in favour of Qantas, allocating 200 seats per week in each direction on the Vanuatu route.

3.3 The determination is for 5 years from 15 May 2000 and is subject to the following conditions:

- that Qantas is required to fully utilise the allocated capacity from 15 May 2000;
- only Qantas is permitted to utilise the capacity;
- the capacity may be used by Qantas (as marketing carrier) to provide joint services with Air Vanuatu in accordance with:
 - the Capacity Purchase/Sale Agreement between Air Vanuatu (Operations) Limited and Qantas dated 16 September 1993 as extended from time to time in accordance with its terms; or
 - the Capacity Purchase/Sale Agreement as otherwise amended, with the prior consent of the Commission; or
 - any new joint services arrangement between Air Vanuatu and Qantas for operations on the Australia – Vanuatu route, whether or not it replaces the existing Agreement, with the prior approval of the Commission;
- subject to the following conditions:
 - Qantas must price and sell its services on the route independently;
 - Qantas must not share or pool revenues under any such agreement; and
 - Qantas must take all reasonable steps to ensure that all 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-Vanuatu Air Services Agreement 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 results in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia-Vanuatu Air Services Agreement.

Dated: 21 February 2000

Michael Lawriwsky
Member

Stephen Lonergan
Member