



Australian Government
International Air Services Commission

RENEWAL DETERMINATION

Determination: [2014] IASC 105
Renewal of: [2010] IASC 101
The Route: Papua New Guinea (PNG)
The Applicant: Qantas Airways Limited
(ACN 009 661 901) (Qantas)
Public Register File: IASC/APP/201450

The Commission's delegate makes a fresh determination allocating 888 seats per week on the PNG route for five years.

1 The application for renewal

1.1 On 24 March 2010, the Commission issued Determination [2010] IASC 101 (the Determination) allocating 888 seats per week in each direction on the PNG route to Qantas. The Determination was for five years. The capacity may be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas. Qantas confirmed that the capacity is currently being used by QantasLink to operate 12 weekly Dash 8-Q400 return services between Cairns and Port Moresby.

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 23 March 2015. In view of this, the Commission sent, on 19 March 2014, a letter to Qantas inviting it to apply for renewal if it wished to renew the Determination.

1.3 Qantas applied to the Commission on 26 March 2014 for a renewal of the Determination for five years from 24 March 2015.

1.4 As required by sections 12 and 17 of the Act, the Commission published a notice on 26 March 2013 inviting other applications for the capacity. No applications were received.

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

2 Delegate's consideration

2.1 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 the Qantas application. (For purposes of this determination, all references to the Commission include the delegate of the Commission).

2.2 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.

2.3 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 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.

2.4 The Commission notes that:

- there are no other applicants seeking capacity on the route; and
- 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.

2.5 Under paragraph 8.1 of the Policy Statement, there is a presumption in favour of the carrier seeking the renewal.

2.6 In these circumstances, the Commission is satisfied that renewal of Determination [2010] IASC 101 would be of benefit to the public.

3 Determination for Renewal of Determination [2010] IASC 101 allocating capacity on the PNG route to Qantas ([2014] IASC 105)

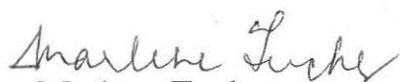
3.1 In accordance with section 8 of the Act, the delegate, on behalf of the Commission, makes a determination in favour of Qantas, allocating 888 seats per week in each direction on the PNG route under the Australia - PNG air services arrangements.

3.2 The determination is for five years from 24 March 2015.

3.3 The determination is subject to the following conditions:

- Qantas is required to fully utilise the capacity from the date of issue of this instrument;
- the capacity may be utilised by Qantas or another Australian carrier which is a wholly-owned subsidiary of Qantas;
- 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;
- the capacity may be used by Qantas to provide joint services with any wholly-owned subsidiary of the Qantas Group and by any wholly owned subsidiary of the Qantas Group to provide joint services with Qantas;
- to the extent that the capacity is used to provide joint services on the route, Qantas and any wholly-owned subsidiary of Qantas must take all reasonable steps to ensure that passengers are informed of the carrier actually operating the flight at the time of the booking. Nothing in this determination exempts Qantas and any wholly owned subsidiary from complying with the Australian Consumer Law; 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 – PNG 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: 10 April 2014



Marlene Tucker
 Executive Director
 Delegate of the IASC Commissioners