



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2024] IASC 130  
**The Route:** Hong Kong  
**The Applicant:** Qantas Airways Limited (Qantas)  
(ABN 16 009 661 901)  
**Public Register File:** IASC/APP/202445

**The Commission makes a determination allocating to Qantas Airways Limited unlimited freight capacity on the Hong Kong route. The Determination is valid for 99 years from 16 December 2024.**

### 1 The Application

1.1 On 21 November 2024, Qantas Airways Limited (Qantas) applied to the International Air Services Commission (the Commission) for an allocation of unlimited freight capacity on the Hong Kong route.

1.2 Qantas has requested the capacity allocation on the following basis:

- the allocation is requested for a period of 99 years from the date of the determination;
- the capacity will be fully utilised by 31 January 2025;
- the capacity may be utilised by Qantas, Jetstar or another Australian carrier which is a wholly-owned subsidiary of Qantas; and
- the capacity may be used by Qantas to provide joint services with any wholly-owned subsidiary and by any wholly-owned subsidiary of the Qantas Group to provide joint services with Qantas.

1.3 Qantas' application is in response to changes agreed by the Government authorities of Australia and Hong Kong in November 2024, liberalising the air services arrangements between the two countries to permit the designated airlines of their respective countries to operate unrestricted frequencies for freight services between all points in Australia and Hong Kong.

1.4 In accordance with section 12 of the *International Air Services Commission Act 1992* (the Act), on 27 November 2024, the Commission published Qantas' application on the Commission's website inviting other applications for capacity. No other applications were received.

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

## **2 Air services arrangements**

2.1 Paragraph 7(2)(aa) of the Act provides that the Commission must not allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement(s).

2.2 According to the Register of Available Capacity, Australian designated airlines are able to utilise unrestricted frequencies for freight services between all points in Australia and Hong Kong.

## **3 Commission's consideration**

3.1 Subsection 12(3) of the Act allows any person to apply to the Commission for a determination allocating capacity to enable an Australian carrier to operate international air services.

3.2 Qantas is seeking the allocation of unrestricted frequencies for the operation of freight services. Qantas has a total capacity allocation on the Hong Kong route of 24 frequencies, with 23 frequencies allocated under Determination [2019] IASC 129, and one all-cargo frequency allocated under Determination [2024] IASC 126.

3.3 Subsection 7(1) of the Act empowers the Commission to make a determination allocating available capacity. Subsection 7(2) requires, in part, that the Commission's determination must not allocate capacity unless the Commission is satisfied that the allocation would be of benefit to the public and would not be contrary to any restrictions on capacity contained in bilateral arrangements, or combination of bilateral arrangements.

3.4 Further, subsection 7(3) of the Act provides that in assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out in the policy statement made by the Minister pursuant to section 11 of the Act.

3.5 Pursuant to section 11 of the Act, the Minister issued the *International Air Services Commission Policy Statement 2018* (the Policy Statement) which came into effect on 28 March 2018. The Policy Statement sets out the criteria which the Commission is required to apply in assessing the benefit to the public of allocations of capacity.

3.6 The Commission notes that there are no other applicants seeking capacity on the route and no opposition to the application. Section 12 of the Policy Statement provides, in part, that in circumstances where there is only one applicant for allocation of capacity on a route, and there is no opposition to the application, the Commission is to have regard to the 'reasonable capability criterion' in section 8 of the Policy Statement and need not have regard to any other matter.

3.7 Under the reasonable capability criterion in section 8 of the Policy Statement, the Commission is required to assess the extent to which all Australian carriers that are, or would be permitted to use the capacity allocated under a determination are reasonably capable of: (a) obtaining any licences, permits or other approvals required to operate on and service the route to which the determination relates; and (b) using the capacity allocated under the determination.

3.8 The Commission notes that Qantas is an established international carrier which currently operates scheduled international freight services between Australia (Sydney) and Hong Kong<sup>1</sup>. The Commission therefore finds that Qantas is reasonably capable of obtaining the necessary regulatory approvals to operate on the route and of using the proposed capacity allocation.

3.9 Accordingly, the Commission has concluded that Qantas satisfies the criteria under section 8. The Commission, therefore, has decided to allocate the capacity as requested by Qantas.

3.10 Subsection 15(1) of the Act empowers the Commission to include such terms and conditions as it thinks fit. Section 15 also provides for certain conditions to be included in a determination. In light of this, the Commission has decided to issue this determination subject to the conditions set out in Item 4 below.

3.11 Paragraph 15(2)(a) of the Act requires a determination to specify the period during which it is to be in force. Subsection 15(3) of the Act effectively provides that if the Minister's Policy Statement sets out how the period of validity of the determination is to be fixed, then the period of validity is as so fixed. In any other case, an interim determination is to be in force for three years while a determination that is not an interim determination is to be in force for five years.

3.12 Section 20 of the Policy Statement sets out how the Commission is to fix the period during which a determination is to be in force. The Commission considers that this application is within the scope of subsection 20(2) and has decided that this determination is to be in force for a period of 99 years.

3.13 Paragraph 15(2)(c) of the Act requires a determination to include a condition that the capacity be fully used, except so far as the regulations otherwise permit.

3.14 Regulation 9 of the International Air Services Regulations 2018 provides that for the purposes of paragraph 15(2)(c)(ii) of the Act, a determination is not required to include a condition that capacity allocated by the determination be fully used if available capacity is not restricted by the bilateral arrangement or combination of arrangements, permitting the carriage to which the capacity relates.

3.15 In light of the liberalisation of the air services arrangements, the Commission considers that this application is within the scope of regulation 9 and has decided not to include a condition requiring the capacity to be fully utilised.

#### **4 Determination allocating capacity on the Hong Kong route to Qantas Airways Limited ([2024] IASC 130)**

4.1 In accordance with section 7 of the Act, the Commission makes a determination in favour of Qantas Airways Limited allocating unrestricted frequencies for the operation of

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<sup>1</sup> [International Airline Timetable Summary Northern Winter 2024-25, Qantas Freight entry](#)

freight services on the Hong Kong route, in accordance with the Australia-Hong Kong air services arrangements.

4.2 The Determination is valid for 99 years from 16 December 2024.

4.3 The Determination is subject to the following conditions:

- (a) The capacity may be utilised by:
- Qantas Airways Limited; or
  - Jetstar Airways Pty Limited, as long as it remains a wholly-owned subsidiary of the Qantas Group; or
  - Such other wholly-owned subsidiary of the Qantas Group the Commission approves in writing, as long as it remains a wholly-owned subsidiary of the Qantas Group.
- (b) Neither Qantas Airways Limited nor another Australian carrier which is a wholly-owned subsidiary of the Qantas Group is permitted to utilise the capacity to provide code share or joint services with another carrier or any other person unless approved by the Commission, except to the extent permitted in condition (c).
- (c) The capacity may be used by Qantas Airways Limited to provide code share or joint services with any wholly-owned subsidiary of the Qantas Group to provide code share or joint services with Qantas Airways Limited.
- (d) To the extent that the capacity is used to provide code share (or joint) services on the route, the airlines must take all reasonable steps to ensure that consumers are informed, at the time of booking, of the carrier actually operating the flight. Nothing in this determination exempts the airlines from complying with the Australian Consumer Law.
- (e) Changes in relation to the ownership and control of Qantas Airways Limited and/or its wholly-owned subsidiary are permitted except to the extent that any change:
- results in the designation of the airline(s) as an Australian carrier under the Australia – Hong Kong 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 Airways Limited (or the wholly-owned subsidiary) or be in a position to exercise effective control of Qantas Airways Limited (or the wholly-owned subsidiary) without the prior consent of the Commission.

Dated: 16 December 2024



GENEVIEVE BUTLER  
Chairperson



JANE MCKEON  
Commissioner