



Australian Government

International Air Services Commission

INTERNATIONAL AIR SERVICES COMMISSION

Annual Report 2023–24







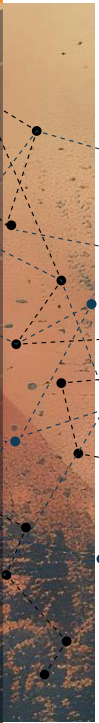
Australian Government

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Annual Report

2023–24



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Designed by Department of Infrastructure, Transport, Regional Development, Communications and the Arts
Photographs provided from: Qantas Airways Limited, Tasman Cargo Airlines and Virgin Australia



Australian Government

International Air Services Commission


The Hon Catherine King MP
Minister for Infrastructure, Transport, Regional Development and Local Government
Parliament House
CANBERRA ACT 2600

Dear Minister

We are pleased to submit the thirty-second Annual Report of the International Air Services Commission, for the year ended 30 June 2024.

Our report is submitted to you in accordance with subsection 53(1) of the *International Air Services Commission Act 1992* (the Act) and is for presentation to each House of the Parliament in accordance with subsection 53(2) of the Act.

Yours sincerely


Ms Genevieve Butler
Chairperson


Ms Jane McKeon
Commissioner

18 September 2024

The background features a dark grey diagonal band across the center. Above it, a blue triangle contains a white network of dots and lines, transitioning into an orange triangle with a pattern of small orange dots. Below the grey band, there are overlapping geometric shapes in shades of blue and green, some with a grid or network pattern.

The International Air Services Commission is an independent statutory authority, established under the *International Air Services Commission Act 1992*. It allocates capacity available under Australia's air services arrangements with other economies to existing and prospective Australian international airlines by making formal determinations. Applications are assessed against public benefit criteria set out in a policy statement issued to the Commission by the Minister for Infrastructure, Transport, Regional Development and Local Government.

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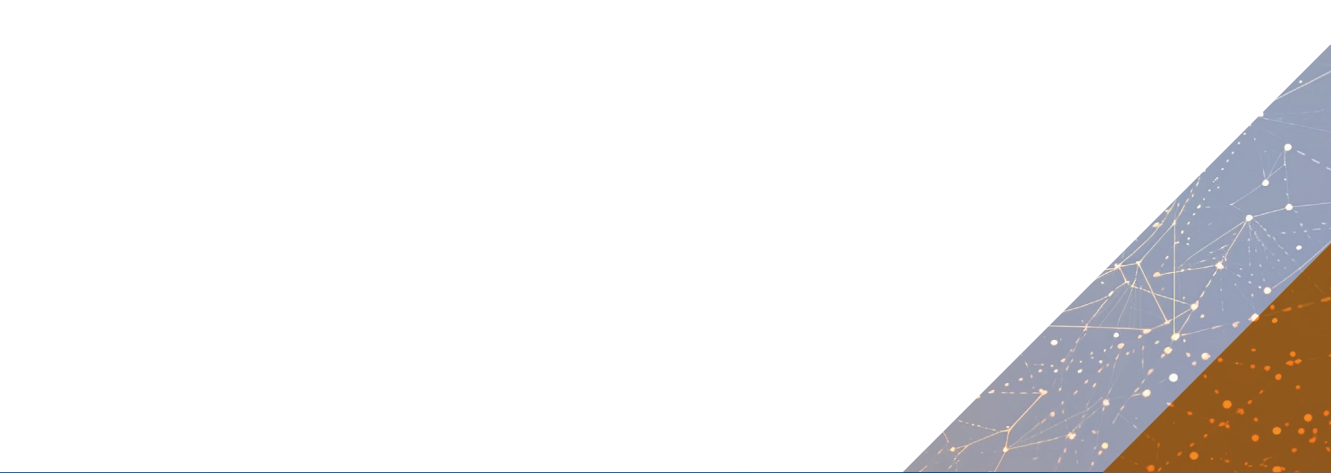


Photo © Qantas Airways Limited

PART 1

The Year in Review by the Chairperson, Ms Genevieve Butler

This Annual Report marks the thirty-second year of operation of the International Air Services Commission (the Commission). It is my pleasure to provide an overview of the Commission's activities for the last 12 months.

The Commission remained busy, dealing with 42 applications resulting in 13 determinations allocating new capacity, 15 renewals of capacity allocations, one resolution, 3 revocations (at the request of the carriers concerned revoking 12 determinations) and 9 decisions varying a range of determinations.

While most applications were straightforward, 2 applications on the Indonesia route, an application by Qantas to code share with Garuda Indonesia and a contested application for the same limited capacity by Qantas and Virgin Australia, were complex. Multiple submissions were received on both matters, requiring significantly more detailed work by the Commission.

The Commission held a total of 19 meetings during the year. While some meetings were conducted face-to-face in Canberra, the Commission also continued to carry out its work by teleconference. The Commission engaged closely with Australian carriers, including holding meetings with executive officers from Qantas and Virgin Australia.

Growth of international passenger traffic over the last 12 months has been constant. International passenger traffic for the year ended May 2024 increased to 38.846 million passengers from 28.509 million for the year ended May 2023. February 2024 showed the first increase in inbound international passenger services since February 2020 (prior to the COVID-19 pandemic), with 8,050 inbound international flights recorded¹ up from 7,697 in February 2020.²

1 Bureau of Infrastructure, Transport and Research Economics (BITRE) Statistical Report, Aviation International airline activity February 2024

2 Bureau of Infrastructure, Transport and Research Economics (BITRE) Statistical Report, Aviation International airline activity February 2020



Photo © Virgin Australia

In terms of passenger carriage, Qantas Airways had the largest share of the market in May 2024 at 17.2%, followed by Jetstar at 12.4%, Singapore Airlines at 9.6%, Air New Zealand at 7.1% and Emirates at 6.1%. Australian designated airlines – Qantas Airways, Jetstar and Virgin Australia accounted for 32.3% of total passenger carriage in May 2024, a slight increase from their share of 31.1% in May 2023.³

International scheduled freight traffic in May 2024 saw a significant increase of 26.3% compared to May 2023, with both inbound and outbound freight traffic showing substantial growth compared to the previous year. Inbound freight traffic increased by 31.5% and outbound freight traffic increased by 19.8% compared to May 2023.⁴

During the 2023–24 financial year, the Commission issued 13 determinations allocating capacity; 3 more than the previous financial year. Notably, Qantas and Virgin Australia were allocated increased capacity entitlements, enabling expansion of their services on various international routes. Qantas applied for and was allocated capacity for services on the Indonesia, Korea, Philippines, Samoa, Solomon Islands and Tonga routes. Qantas also applied for and was issued capacity on the France and Vanuatu routes, to enable the carrier to commence direct services on these routes in 2024. Virgin Australia applied for and was issued additional capacity entitlements enabling further expansion of its services on the Vanuatu route.

In addition, at the request of the airlines, the Commission renewed 15 determinations approaching their expiry date. Qantas sought renewal of its capacity allocations on the Canada, Chile, Cook Islands, Fiji, Indonesia, New Zealand and Papua New Guinea routes. Virgin Australia renewed its capacity allocation on the Fiji route. Both airlines also renewed their respective capacity allocations on the Japan route, to service Tokyo-Haneda airport.

3 Bureau of Infrastructure, Transport and Research Economics (BITRE) Statistical Report, Aviation International airline activity May 2024

4 Bureau of Infrastructure, Transport and Research Economics (BITRE) Statistical Report, Aviation International airline activity May 2024



Photo © Tasman Cargo

Australian carriers have continued to expand their international services successfully into new markets, with Qantas launching services to the Solomon Islands (Honiara) from October 2023. Tasman Cargo Airlines launched freight services to Hong Kong also from October 2023.

The Commission conducted 10 reviews of determinations at the request of airlines. The determinations were primarily varied to authorise code sharing, while some determinations were varied to reduce the capacity allocation or to extend the date of utilisation. One determination was varied at the request of Qantas to increase its capacity allocation by 9 seats on the Solomon Islands route.

Virgin Australia did not re-commence its services to the United States, and accordingly returned its capacity allocation. In October 2023, at the request of an administrator appointed by Pacific Air Express, the Commission revoked all of the capacity allocations held by the carrier. Qantas reduced its capacity allocations on the Hong Kong and Papua New Guinea routes. It also revoked some of its capacity allocations on the Korea and Chile routes.

I would like to express my gratitude to my fellow Commissioner, Ms Jane McKeon, for her expertise and significant contribution in performing the functions and duties of the Commission. Ms McKeon's extensive industry knowledge and experience were invaluable during the assessment of the complex cases that the Commission handled in the past year.

I would also like to thank the IASC Secretariat for supporting the smooth operations of the Commission during the year.

Genevieve Butler
Chairperson



Photo © Virgin Australia

PART 2

Overview of the International Air Services Commission

The role and functions of the Commission

The Commission is an independent statutory authority established under the *International Air Services Act 1992* (the Act). The object of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services by Australian carriers, resulting in:

- a) increased responsiveness by airlines to the needs of consumers, including an increased range of choices and benefits;
- b) growth in Australian tourism and trade; and
- c) the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The Commission's primary responsibility is to serve the object of the Act by allocating capacity entitlements to Australian airlines for the operation of international passenger and freight services. The capacity allocated by the Commission comes from entitlements available to Australian international airlines under air services arrangements between Australia and other economies. In particular, the functions of the Commission are to:

- a) make determinations allocating capacity to Australian carriers in both contested and uncontested situations;
- b) renew determinations on application by carriers;
- c) conduct reviews of determinations; and
- d) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.

The Act is complemented by a policy statement from the Minister. The International Air Services Commission Policy Statement 2018 (the Policy Statement), is a legislative instrument under section 11 of the Act. It sets out criteria to be applied by the Commission in various circumstances, including how the Commission is to assess the benefit to the public of an allocation of capacity.

Reasonable capability criterion and the additional criteria

There are 2 sets of criteria that the Commission is to have regard to in assessing whether an application is of benefit to the public: the 'reasonable capability criterion' under section 8 of the Policy Statement, and the 'additional criteria' in section 9. When and how the Commission is to have regard to the criteria is set out in part 3 of the Policy Statement.

Under the 'reasonable capability criterion', the Commission is 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.

Section 9 of the Policy Statement lists the 'additional criteria' which the Commission may have regard to in assessing an application. The additional criteria include competition, consumer benefit, tourism and trade, and relevant information obtained from other Australian Government agencies and authorities. The list is not exhaustive and subsection 9(l) explicitly provides that the Commission may consider 'any other matter or consideration that the Commission considers to be relevant'.

The Commission has published administrative guidelines to assist applicants in submitting their applications and interested persons in making submissions about applications to the Commission. A summary of these procedures is at Appendix 5. The aim of the procedures is to ensure that applicants and other interested parties understand the requirements for making applications or submissions, are familiar with the Commission's decision-making processes, and are aware of their rights and obligations.

Duration and types of determinations

Determinations allocating capacity are usually made for a period of 5 years for routes where capacity entitlements or route rights are limited (restricted) under the relevant air services arrangements. In cases where capacity entitlements and route rights are not limited (that is, there is no limit or restriction on the amount of capacity that can be operated by carriers), the determinations are made for 99 years.

For routes that have restricted capacity, if an applicant carrier requests that a determination be made for a shorter period, the Commission will fix the period as requested.⁵

In exceptional circumstances, the Commission may issue an interim determination which is valid for a period of no more than 3 years. Interim determinations are normally made when capacity is being allocated to a new Australian carrier.

⁵ Section 20, *International Air Services Commission Policy Statement 2018*

Renewal of determinations

The Commission is required to start its consideration of the renewal of a determination at least 12 months before it expires. The Commission initiates such a review by formally asking the Australian carrier to whom the determination allocates capacity whether they wish to apply to seek a renewal of the determination. Except for interim determinations, there is a presumption in favour of making the same allocation of capacity to the carrier seeking the renewal, unless the Commission is satisfied that the (same) allocation is no longer of benefit to the public.⁶ The allocation is generally no longer of benefit to the public if:

- a) the carrier seeking renewal has failed to service the route effectively; and
- b) if there are other applications for some or all of the capacity; and
- c) the Commission having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.⁷

Review of determinations: transfer applications, variations on application and review for cause

From time to time, Australian carriers apply to the Commission to vary determinations held by them. There can be a number of reasons for an airline to seek a variation. For example, a carrier may request to transfer a capacity allocation to another entity within the same airline group, or it may seek authorisation for a wholly-owned subsidiary to utilise the capacity allocation.⁸

The most common application for variation received by the Commission seeks authorisation to enable an Australian carrier to use its allocated capacity to offer code share services with another airline, including foreign airlines. The Commission conducts a review of the determination, and as required by the Act, invites submissions about the application.

In relation to an application for variation other than a transfer application⁹ (as discussed in the paragraph below), if the Commission does not receive submissions opposing the variation requested, then in assessing the application, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter. If, however, the Commission receives one or more submissions opposing the application for variation, the Commission is to have regard to the reasonable capability criterion, and may have regard to any of the additional criteria it considers to be relevant.¹⁰

6 Subparagraph 8(2)(a)(i), *International Air Services Commission Act 1992*

7 Section 14, *International Air Services Commission Policy Statement 2018*

8 Section 22, *International Air Services Commission Act 1992*

9 As defined in section 4 of the *International Air Services Commission Act 1992*

10 Section 17, *International Air Services Commission Policy Statement 2018*

As noted above, most of the applications for variation of existing determinations received by the Commission relate to an Australian carrier seeking authorisation to utilise existing capacity allocations for code sharing with another airline or airlines. This type of variation application is a transfer application as so defined in section 4 of the Act. In assessing whether a transfer application would not be of benefit to the public, the Commission is to have regard to:

- a) the reasonable capability criterion;
- b) the undesirability of approving a transfer where doing so will, or is reasonably likely to, permit or encourage any form of speculative activity, including trading in capacity allocations for commercial benefit; and
- c) the undesirability, other than in exceptional cases, of approving a transfer application by a carrier that has never used an allocation, or has only used an allocation for less than 6 months.

The Commission may also have regard to any of the additional criteria it considers relevant, as set out in section 9 of the policy statement.¹¹ If the Commission finds that a transfer application would not be of benefit to the public, the Commission must not vary the determination as requested.¹²

The Commission may itself initiate a review of a determination if it is concerned that a carrier might be in breach of a condition of the determination.¹³ This can occur, for example, where a carrier has been allocated capacity, but has not fully used that capacity by the time it was required to do so by the Commission. Where the Commission has commenced a review because an Australian carrier has not complied with a condition that capacity be fully used, the Commission may have regard to the following matters:

- a) whether at the time of the review, there is an application from another Australian carrier for an allocation of capacity on the route, and the unused capacity prevents a competing applicant from being allocated capacity entitlements;
- b) whether there is seasonal variation in demand on the route in question; and
- c) any other matter that the Commission considers to be relevant.¹⁴

Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.¹⁵

11 Section 18, *International Air Services Commission Policy Statement 2018*

12 Section 25, *International Air Services Commission Act 1992*

13 See subsection 10(1) and section 23, *International Air Services Commission Act 1992*

14 Section 24, *International Air Services Commission Policy Statement 2018*

15 Subsection 23(1), *International Air Services Commission Act 1992*

Executive profile

The Act provides for a Chairperson and 2 Members of the Commission. From 1 July 2023 to 30 June 2024, the Commission was comprised of a Chairperson, Ms Genevieve Butler (who was appointed Chairperson on 5 August 2021) and one Member, Ms Jane McKeon (who joined the Commission on 1 October 2021).

The membership of the Commission as at 30 June 2024 is as follows:¹⁶



Ms Genevieve Butler, Chairperson

Ms Genevieve Butler was appointed by the Governor-General as part-time Chairperson of the Commission for a three-year term commencing on 5 August 2021. Ms Butler has been a Member of the Commission since 14 May 2021.

Ms Butler is a government lawyer with an expertise in administrative law, statutory interpretation and aviation law. She has provided in-house legal advice to the Australian Transport Safety Bureau, particularly regarding the application of the *Transport Safety Investigation Act 2003* and the *Freedom of Information Act 1982*. She provided legal advice regarding the search for the missing Malaysian Airlines Flight MH370 and for coronial inquiries regarding aviation accidents. Previously, she provided legal advice and conducted litigation for the ACT Government Solicitor in the ACT Supreme Court and ACT Civil and Administrative Tribunal, working on matters including regulation and licensing, public and constitutional law, information privacy, citizen's rights and community protection. She has also worked for the Department of Parliamentary Services, providing advice to Senators and Members of Parliament on matters including intellectual property law, international human rights and administrative law.

Ms Butler has a broad governance background and is a Member of the Australian Institute of Company Directors. In addition to her role as Chairperson of the Commission, she is currently Chair of the Animal Welfare Advisory Committee, an ACT Government ministerial advisory body. Ms Butler was previously a national Board Member of the Association of Corporate Counsel Australia (ACC), and ACT President of the ACC. She is a former member of the ACT Government's Brand Strategic Advisory Board and Non-Executive Director of Community Services #1. Ms Butler also served on the ACT Law Society's Government Law Committee and Military Law Committee for many years and is a former editor of the Aviation Law Association of Australia and New Zealand's periodical.

Ms Butler's international career in public affairs took her to Europe, North America and Africa. She worked as an external relations adviser for the United Nations Department of Peacekeeping Operations in New York and for the United Nations Mission in Eritrea

¹⁶ The Chairperson and Member had their appointments extended by the Governor General on 1 August 2024.

and Ethiopia. During this time, she also Chaired a Board of Inquiry. Ms Butler held the role of Public Affairs Manager for the Australian Embassy to Belgium and Mission to the European Union and NATO, based in Brussels. She has also worked as a foreign correspondent and producer for leading media organisations including CNN, CNBC and Reuters in London, Paris, Stockholm, Frankfurt and Brussels.

Ms Butler holds the following degrees: Bachelor of Laws (Hons) from the Australian National University (ANU), Graduate Diploma of Legal Practice from the NSW College of Law, Master of Journalism from the University of Queensland and Bachelor of Arts from the ANU. She is admitted as a practitioner of the Supreme Court of NSW and holds an Unrestricted Government Practising Certificate from the ACT Law Society. She has undertaken post-graduate courses at the United Nations University in Tokyo. Foreign languages include French.



Ms Jane McKeon, Commissioner

Ms Jane McKeon was appointed by the Governor-General as part-time Member of the Commission for a three-year term commencing 16 December 2021. Ms McKeon was initially appointed as Acting Member of the Commission by the then Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development from 1 October to 26 December 2021.

Ms McKeon has experience in public policy and stakeholder management. She is an independent non-executive director of Crown Sydney and chairs the board's Risk, Compliance and Responsible Gaming Committee; provides advisory consulting services to clients in the private and public sectors; and is a member of the UNSW School of Aviation Industry Advisory Committee. She has previously served on the Board of the Australian Government's Council of Australia Latin America Relations and as a Commissioner of Tourism Western Australia.

Ms McKeon had a long career in the airline industry, having joined Ansett Australia as a management trainee. As Group Executive – Government Relations for Virgin Australia from 2010 to 2018, she was responsible for leading engagement with governments, regulators and industry bodies in Australia and internationally to enhance the airline's profile and reputation and influence policy and regulatory frameworks to support its strategic transformation program. From 2014 to 2017 she was Chair of the airline's joint venture with the Samoan Government, Virgin Samoa. She was a member of the Tourism and Transport Forum Advisory Board and the International Air Transport Association Industry Affairs Committee and a director of Airlines for Australia and New Zealand.

From 2002 to 2010, Ms McKeon was employed by Qantas Airways. She was appointed General Manager – Government and International Relations in 2004, with responsibility for promoting the carrier's interests in the development of Australia's aviation and related policy settings, managing economic regulatory activities to support Qantas'

international passenger and freighter services and the launch of Jetstar as an Australian international carrier. She also represented Qantas on the Board of Airline Representatives of Australia, the Aeropolitical Committee of the Association of Asia Pacific Airlines and the Australian Tourism Export Council.

Ms McKeon holds Bachelor of Arts (First Class Honours) and Bachelor of Science degrees from the University of Melbourne and is a Member of the Australian Institute of Company Directors.

Commissioners' attendance at meetings in financial year 2023–24

Commissioner	Number of meetings possible	Number of meetings attended
Ms Genevieve Butler	19	19
Ms Jane McKeon	19	19



L-R: Mr Damon Vavros (Senior Adviser), Ms Jasmina Ackar (Director), Ms Genevieve Butler (Chairperson), and Ms Jane McKeon (Commission Member).

The Secretariat

The Commission is assisted in its work by a small Secretariat. The Secretariat is comprised of officers of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department). The Secretariat is headed by a Director, supported by a Senior Adviser. The Secretariat provides advice and assistance to the Commissioners on all aspects of the Commission's operations.

Communications with interested parties

There are many stakeholders with a direct or indirect interest in what the Commission does. They include:

- ▶ the Minister;
- ▶ current and prospective Australian international airlines;
- ▶ the broader aviation industry, including airport owners, providers of services to airlines and employee associations;
- ▶ the international tourism and freight industries, including Australian exporters;
- ▶ Australian and State Government departments and agencies;
- ▶ aviation industry investors, analysts and media; and
- ▶ the travelling public.

The Commission places great importance on maintaining effective relationships with those stakeholders. The Commission takes into account the views of stakeholders in its decision-making processes, as appropriate to particular cases. Interested members of the public and aviation stakeholders (who have requested to be included in the Commission's notification list) are regularly notified, by email, of applications received and the Commission's determinations and decisions. The Commission's website is regularly updated to inform the public of applications and determinations and decisions made by the Commission. At the conclusion of each financial year, the Commission invites stakeholders to provide feedback about the Commission's performance throughout the year. The aggregated results of responses to the survey this year are provided at Part 3.

The role of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

The Commission works closely with the department. The department is responsible for the negotiation and administration of air services arrangements between Australia and other economies. An important part of the negotiating process is to provide opportunities for Australian and foreign airlines to expand their services between Australia and other economies.

Register of Available Capacity

The capacity and route entitlements for Australian international carriers under each set of air services arrangements are recorded by the department in a Register of Available Capacity for Australian international airlines (Register of Available Capacity). This is maintained by the department, in accordance with the requirements of the Act and is available on the department's website: <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/international-aviation/air-services-agreements-arrangements/register-available-capacity>

An Australian carrier may apply to the Commission for an allocation of capacity recorded on the register as available for immediate allocation. The entitlements on the Register of Available Capacity are adjusted as determinations allocating capacity are made by the Commission, as carriers hand back unused capacity and when the department negotiates new or revised capacity entitlements on behalf of the Australian Government. There is regular communication between the department and the Commission on these matters.

Another area where the roles of the Commission and the department intersect is in relation to applications from prospective new Australian international airlines wishing to operate scheduled international passenger and/or freight services. Before allocating capacity to an applicant airline, the Commission must be satisfied that the airline is a) reasonably capable of obtaining any licences, permits and other regulatory approvals necessary to operate on and service the route to which the determination relates and b) of using the capacity allocated under the determination. The department is responsible for designating and licensing Australian airlines to operate regular scheduled international services. The Commission consults the department as to whether an Australian carrier is reasonably capable of obtaining the regulatory approvals necessary to operate on the relevant route. Furthermore, an airline must hold an allocation of capacity from the Commission before the department can make operational decisions in relation to the capacity on the route, including the issue of licences and scheduled international timetable approvals. The Commission and the department therefore consult closely in cases involving proposed international air service operations by Australian carriers.



Photo © Tasman Cargo

PART 3

Report on performance

Overview

The Commission's performance report is based on an assessment of its results for the year using a range of criteria. Three sets of criteria have been adopted by the Commission to enable a thorough assessment of all aspects of its operations. Broadly, the criteria encompass:

- ▶ how well the object of the Act has been met by the Commission's decision making;
- ▶ how fair and effective the Commission has been in dealing with applicants and interested parties; and
- ▶ how efficient the Commission has been in the use of financial resources available to it.

The Commission's assessment of its performance against each of these criteria is set out below.

Results against performance targets

Serving the object of the Act

The object of the *International Air Services Commission Act 1992* (the Act) is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services. In fulfilling its functions, the Act requires the Commission to comply with policy statements made by the Minister under section 11 of the Act and to have regard to Australia's international obligations concerning the operation of international air services.

The Commission records annually the number of determinations and decisions (involving reviews and variations of determinations) it has made during the financial year. The volume of activity varies from year to year, and the Commission's work is dictated by the number of applications made by airlines. The allocation of new (or additional) capacity is similarly directly related to the response of Australian carriers to the demand for air services. In the financial year 2023–24, the Commission received 42 applications resulting in 13 determinations allocating new capacity, 10 variation decisions, 15 determinations renewing capacity allocations, 3 revocation decisions (at the request of the airline holding the capacity), and one decision not to issue a determination.

Allocations of capacity

Qantas sought and was issued 2 units of capacity on the France route and 1,798 seats on the Vanuatu route. Qantas applied to commence direct international services between Perth and Paris (France) from July 2024, operating 4 days per week during the peak European summer, moving to 3 days per week from mid-August 2024. The services will be operated using Boeing 787 Dreamliner aircraft configured with 236 seats. On the Vanuatu route, Qantas plans to operate 3 services per week between Brisbane and Port Vila from September 2024 utilising a combination of Boeing 737 aircraft configured with 174 seats and Embraer E190 aircraft (operated through a wet-lease arrangement with Alliance Airlines) configured with 97 seats. During periods of peak demand in Northern Winter 2024, Qantas will operate up to 5 services per week, with plans to increase the services to daily from Northern Summer 2025, using Embraer E190 aircraft configured with 97 seats. From December 2024, Qantas' wholly-owned subsidiary, Jetstar, plans to operate up to 4 services per week between Sydney and Port Vila using Airbus A321 NEO aircraft configured with 232 seats.

Qantas also sought additional capacity on several routes including: Indonesia, Korea, Philippines, Samoa, Solomon Islands and Tonga. With the additional capacity allocated, Qantas sought to operate an additional 3 services per week between Brisbane and Honiara (Solomon Islands) from October 2023, using Embraer E190 aircraft configured with 94 seats; and sought to launch 4 direct services per week between Brisbane and Manila (Philippines) from October 2024, using Airbus A330 aircraft configured with 297 seats. The carrier further expanded its services on the Solomon Islands route by receiving an allocation of 97 seats of passenger capacity in April 2024, to operate one additional weekly passenger service between Brisbane and Honiara (Solomon Islands) from June 2024 using Embraer E190 aircraft.

The additional capacity issued to Qantas on the Korea route provides permission for Qantas' wholly-owned subsidiary, Jetstar, to utilise the capacity to operate 3 services per week between Brisbane and Seoul (Incheon) from February 2024 using Boeing 787 aircraft configured with 335 seats, and an additional fourth service per week to be operated between Sydney and Seoul (Incheon) from February 2024, using Boeing 787 aircraft configured with 335 seats.

On the Samoa route, Qantas was issued an additional allocation of capacity to operate up to 3 services per week between Brisbane and Apia, using Boeing 737 aircraft configured with 174 seats. Qantas was also allocated additional capacity on the Tonga route, to expand its services by operating one additional service per week between Sydney and Nuku'alofa, using Boeing 737 aircraft configured with 174 seats.

Virgin Australia sought and was issued an additional 1,304 seats of passenger capacity on the Vanuatu route, to operate an additional 2 services per week from Brisbane to Port Vila, and 3 services per week from Sydney to Port Vila, increasing to up to 5 services per week from Northern Winter 2024-25. The services will be operated using Boeing 737 aircraft configured with 182 seats.

On 17 November 2023, Qantas applied for an allocation of 2,320 seats of capacity on the Indonesia route with the intention for its wholly-owned subsidiary, Jetstar, to operate an additional 10 services per week, using Airbus A321LR aircraft configured with 232 seats. On 12 December 2023, Virgin Australia lodged a competing application for an allocation of 2,464 seats to operate an additional 14 services per week on the Indonesia route, using Boeing 737 aircraft configured with 176 seats. As there were competing applications for the same limited capacity, the Commission invited the airlines to address the additional public benefit criteria in support of their applications. The Commission then invited submissions about the 2 applications, receiving 6.

In parallel, the Commission consulted extensively with Virgin Australia and the department between February and July 2024 on the use of the capacity in line with the Australia-Indonesia bilateral air services arrangements.

On 12 June 2024, the Commission issued a draft determination proposing to allocate the capacity in the manner requested by Qantas, and a draft decision proposing not to issue a determination allocating capacity in the manner requested by Virgin Australia. The Commission invited submissions on the draft determination and draft decision. No submissions were received. On 25 June 2024, the Commission issued the determination and decision.

For freight services, the Commission issued to Tasman Cargo Airlines 6 frequencies per week on the Hong Kong route for the operation of freight services between Sydney and Hong Kong.

Renewal of existing capacity allocations

Virgin Australia sought and was granted renewal of capacity allocations on the Fiji and Japan (Tokyo-Haneda) routes.

Qantas applied for and was granted renewal of capacity allocations on the following routes: Canada, Chile, Cook Islands, Fiji, Indonesia, Japan (Tokyo-Haneda), New Zealand and Papua New Guinea.

Variations of Determinations

Code share applications remained a significant part of the Commission's work. During the financial year, Virgin Australia applied for and was granted variation of a determination on the Japan (Tokyo-Haneda) route to permit the use of the capacity for code sharing with Air Canada and Qatar Airways.

Qantas sought and was granted the following variations:

- ▶ variation of a determination on the Hong Kong route to permit the use of the capacity for code sharing between Qantas and KLM Royal Dutch Airlines;
- ▶ one determination on the Indonesia route to permit Qantas' wholly-owned subsidiary, Jetstar, to use the capacity for code sharing with KLM Royal Dutch Airlines;
- ▶ one determination on the Japan (Tokyo-Haneda) route to permit Qantas to code share with LATAM Airlines Group S.A.;
- ▶ 3 determinations on the Korea route to permit Jetstar to code share with Finnair; and
- ▶ one determination on the Singapore route to permit Qantas to code share with Indian carrier IndiGo.

In response to Qantas' application to code share with Garuda Indonesia, after conducting a detailed review, on 24 April 2024 the Commission issued a draft decision proposing not to vary the determinations in the manner requested by Qantas. Due to a change in operational circumstances since the application was submitted, on 9 May 2024 Qantas withdrew its application.

Qantas also varied its capacity allocation on the Papua New Guinea route to hand back 322 seats of passenger capacity and its capacity allocation on the Hong Kong route to hand back 5 frequencies per week.

Revocation of capacity allocations

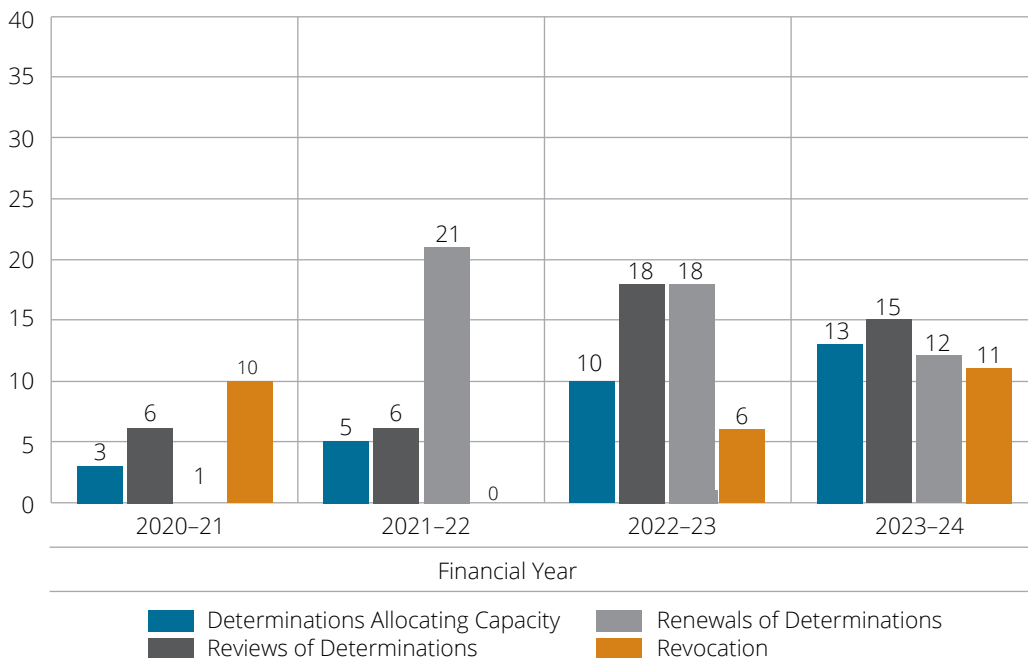
For airlines operating passenger services, Qantas applied to revoke 2 of its determinations on the Korea route (allocating unrestricted passenger capacity and unlimited all-cargo capacity, respectively) and one determination on the Chile route allocating 337 seats of passenger capacity. Virgin Australia requested a revocation of a determination allocating unlimited capacity on the United States route.

For airlines operating freight services, Worrells¹⁷, applying on behalf of Pacific Air Express, requested the revocation of all freight capacity allocations issued by the Commission to Pacific Air Express as follows: China, Hong Kong, Nauru, Papua New Guinea and Vanuatu.

Resolutions extending the date of capacity utilisation

Upon the application of AERgO, the Commission issued, on 21 February 2024, Resolution [2024] IASC R01 varying Determination [2023] IASC 117 to extend the date of utilisation of capacity allocated from no later than 27 March 2024 to 31 October 2024, due to the airline requiring time to finalise remaining approvals by foreign governments necessary for it to operate the scheduled freight services.

The graph below shows comparative data for the current reporting period with the 3 preceding years.



A brief summary of all determinations and decisions for 2023-24 is at Appendix 1. A detailed description of each case is provided at Appendix 2.

The Commission's full determinations in these cases are available from its website, www.iasc.gov.au.

¹⁷ Insolvency, Liquidation, Restructuring and Turnaround Services

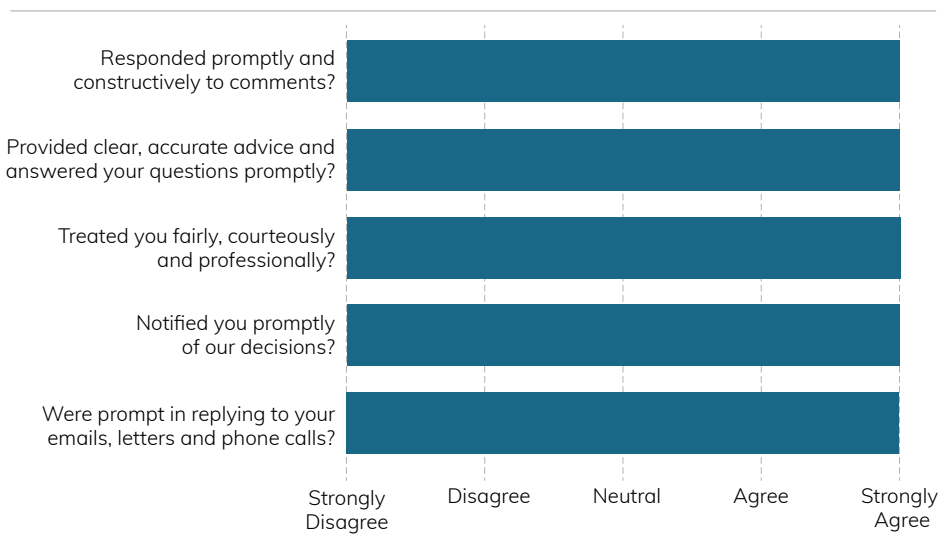
Serving applicants and interested parties

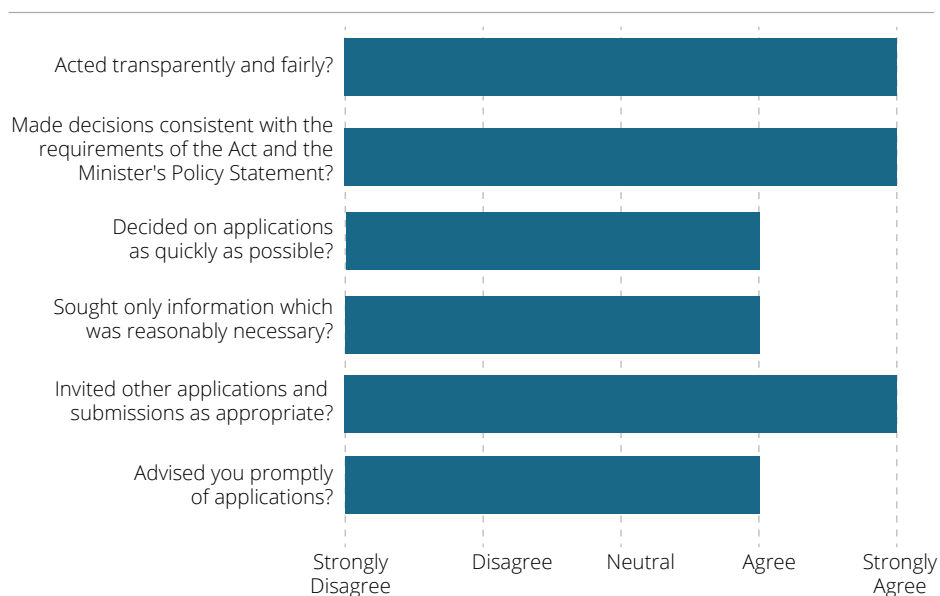
The Commission uses the detailed commitments set out in its client service charter as the framework for assessing its service performance. The specific undertakings in the service charter encompass both the ways in which the Commission engages with interested parties and how it makes its decisions. This framework provides the basis for an objective assessment of the Commission's performance.

As in previous years, stakeholders were invited to assess the Commission's performance by completing an online questionnaire that allows respondents to evaluate how well the Commission performed against each undertaking in the charter. Questionnaire responses may be made anonymously, although some of those responding chose to disclose their identity. The Commission appreciates the detailed responses offering views on its performance.

Respondents' scores against each criterion are aggregated and averaged. For financial Year 2023–24, the Commission's overall performance was rated above average, which indicates that stakeholders continue to rate the Commission's performance favourably.

The following charts summarise the feedback from stakeholders of the Commission's service performance during the year:





Decision times

The Commission records the time taken to make each of its decisions, and considers timeliness to be an important performance benchmark. The Commission's service charter indicates that the Commission will endeavour to make decisions about uncontested and unopposed applications within 4 weeks after the end of the notification period, and on contested or opposed applications within 12 weeks, or inform the airline(s) involved if there are reasons why a decision may take longer than this. In the case of contested renewal applications, the Commission will make decisions at least 6 months prior to the expiry date of the determination, circumstances permitting. The timeframes are applicable where the Commission has received all the necessary information from the airline(s) as well as other stakeholders, in order to make a decision. The Commission will notify applicants by email within one working day of a decision being made, and other interested parties by email and on its website as soon as practicable thereafter.

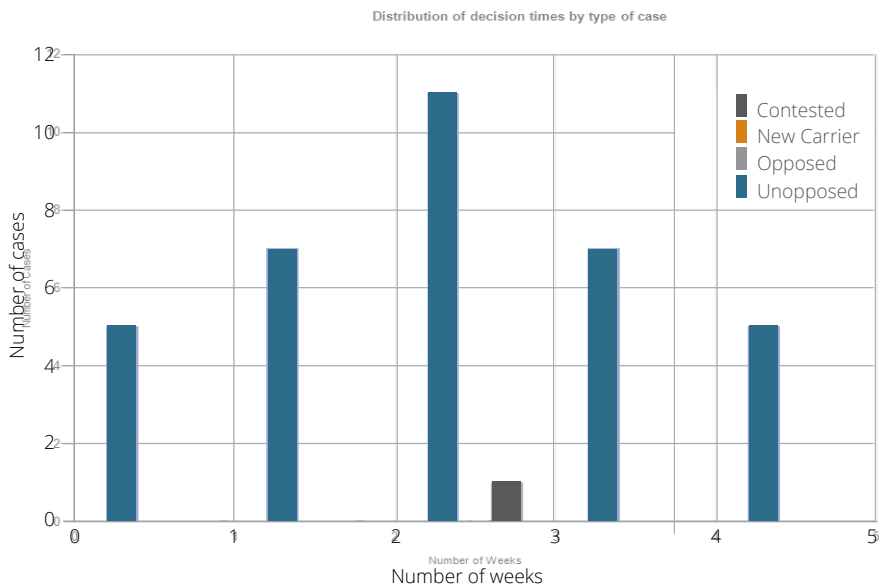
Throughout the financial year the Commission considered a range of matters, including 2 complex matters – one contested application (Qantas and Virgin Australia applying for the same limited capacity available on the Indonesia route) and an opposed application (Qantas requesting to vary multiple determinations on the Indonesia route to permit utilisation of the capacity to code share with Garuda Indonesia). While the Commission endeavours to finalise decisions on matters without delay, due to the nature and complexity of some matters, at times the Commission is required to request and consider additional information from the applicant carrier or other stakeholders (such as government agencies) in order to make a decision. For opposed and contested matters, the Commission may also receive submissions from interested parties.

For example, for Qantas' opposed application to vary several determinations on the Indonesia route to permit Qantas to use the capacity to code share with Garuda Indonesia, the application required careful and detailed consideration by the Commission. The process involved 3 public notification periods, consideration of information provided by Qantas to address the additional public benefit criteria, consideration of submissions received from members of the public and other government agencies, such as the Australian Competition and Consumer Commission. To ensure procedural fairness, the Commission also provided Qantas with time to consider whether it would address any submissions received in response to its application. The Commission also issued a draft decision to give the applicant and submitters an opportunity to comment before a final decision on the matter was issued. While the process for the Commission to consider this complex matter took longer than 12 weeks (from the end of the notification period), the Commission made and issued its draft decision on the matter within 4 weeks following receipt of all information it required to make a decision.

For the competing applications for the same limited capacity on the Indonesia route made by Qantas and Virgin Australia, this matter also required careful and detailed consideration by the Commission due to the nature of the 2 proposals, which used different aircraft types and served a range of points in Australia, and the requirements of the Australia-Indonesia bilateral air services arrangements on the operation of the capacity. The process involved 2 public notification periods, consideration of information provided by Qantas and Virgin Australia addressing the additional public benefit criteria in support of their applications, review of submissions from interested parties and extensive correspondence and discussions with the department and Virgin Australia. While the process for the Commission to consider this complex matter also took longer than 12 weeks (from the end of the notification period), the Commission made and issued its draft determination and decision, and final determination and decision on the matter within 4 weeks following receipt of all information it required to make a decision.

Longer decision times also occurred in 2023–24 in some instances where the Commission was awaiting information and documentation required from airline/s in order to make a decision.

Detailed information about the Commission’s timeliness performance is contained in the following chart.



*Timeframes recorded from the date of receipt of all necessary information for the Commission to make a decision

Efficiency of financial resources

The Commission’s total expenditure for 2023–24 was \$165,469.

The Commission’s expenditure relates to the fees paid to the Commission members (including superannuation), expenses in connection with the Commissioners’ small amount of domestic travel to attend meetings, and the production of the annual report.

These funds are provided by the department.

The department’s expenditures that supported the Commission’s operations during 2023–24 covering the salary and superannuation of up to 2 departmental officers from the International Aviation, Technology and Services Division, corporate overheads and property operating expenditure, are captured as part of the department’s budget.

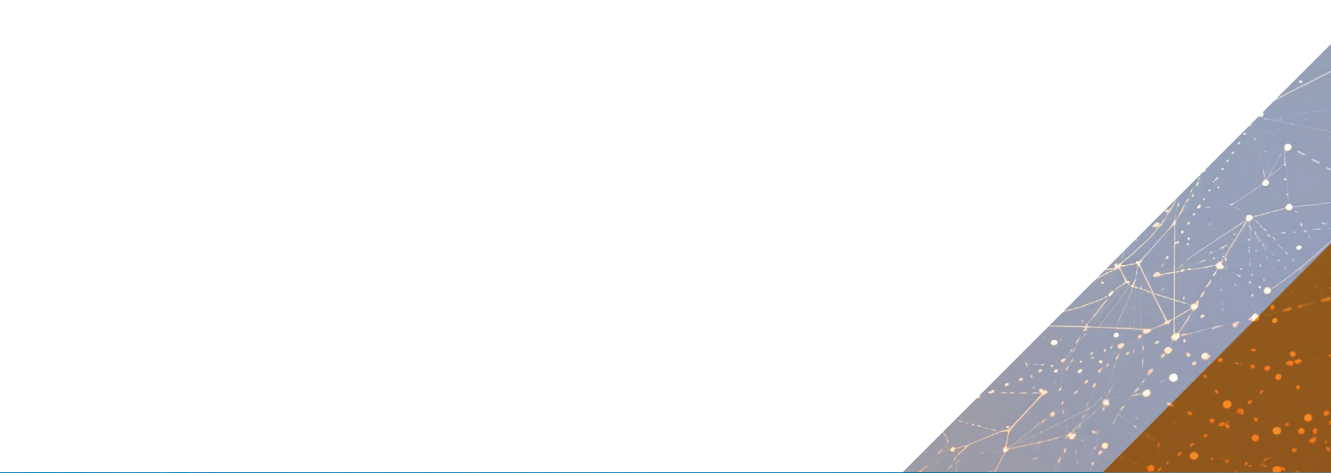


Photo © Virgin Australia

PART 4

Management and accountability

Corporate governance practices

As the Commission is a small organisation, it requires less complex corporate governance structures than those of larger bodies such as Government departments. The Commission considers its corporate governance arrangements to be appropriate for its small size and consistent with its statutory role and responsibilities. There are 2 parts to the governance arrangements. The first of these addresses the Commission's responsibilities under the *International Air Services Commission Act 1992* (the Act). The second part of the governance structure concerns staffing of the Commission's Secretariat and the expenditure of the Commission's budget.

Part 4 of the Act sets out procedures with which the Commission must comply. The Commission considers that it meets these requirements in full. The most significant of the requirements concerns the holding of meetings. The Commission usually meets at its offices in Canberra. However, when urgent issues arise and it is not practicable to have a face-to-face meeting in Canberra, the Commission conducts meetings by video or teleconference. The use of electronic media for conducting meetings reduces travel costs associated with face-to-face meetings, representing a saving to the Commission's budget. A quorum of 2 members is present at all meetings and minutes are kept of proceedings at all of its meetings.

During its meetings, the Commission discusses the applications from carriers and makes determinations and decisions in accordance with the Act and the Policy Statement. Additionally, administrative issues such as staffing, financial and risk management issues, as appropriate, are discussed at these meetings. Commissioners and the Secretariat maintain regular contact via email and telephone about matters requiring the Commission's attention in the periods between meetings.

Part 4 of the Act enables the Commission to hold hearings at its discretion. No hearings were held this year.

Part 5 of the Act deals with the membership of the Commission. The Chairperson and members are appointed by the Governor-General. A member may be appointed on a full-time or part-time basis and the Minister may determine the terms and conditions of appointment on matters not provided under the Act. Ms Genevieve Butler was appointed by the Governor-General as Chairperson of the Commission for a three-year term commencing on 5 August 2021. Ms Jane McKeon was appointed by the Governor-General as Commissioner, pursuant to Section 40 of the Act, for a three-year term commencing 16 December 2021.

The Remuneration Tribunal sets the Chair and Members' remuneration and travel entitlements pursuant to the *Remuneration Tribunal Act 1973*.

Section 47 of the Act requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners disclose potential conflicts of interest at every Commission meeting.

Section 53 of the Act requires the Commission to prepare and give to the Minister a report of its operations for the financial year. The Commissioners review drafts of the annual report during its preparation. The final report is cleared and signed off by all Commissioners and is provided to the Minister in accordance with the requirements of the Act. The report is tabled in both Houses of Parliament.

The second part of the Commission's corporate governance arrangements arises from the Commission's relationship with the department. Secretariat staff members are officers of the department and are subject to the same responsibilities and obligations applying to all departmental staff. The Commission's Director is responsible for the day-to-day management of the Secretariat, in accordance with these obligations and responsibilities.

External scrutiny

There was no formal external scrutiny of the Commission and no determinations or decisions made by it were the subject of judicial (or administrative) review.¹⁸

Management of human resources

As at 30 June 2024, the Secretariat was comprised of one full-time Executive Level 2 officer as Director of the Secretariat.

As officers of the department, Secretariat staff members are subject to the Australian Public Service Values and the Australian Public Service Code of Conduct (as set out in the *Public Service Act 1999*) and all other relevant public service terms and conditions.

18 Decisions made by the Commission are not subject to merits review by the Administrative Appeals Tribunal.



Photo © Qantas Airways Limited

The Secretariat staff members are responsible directly to the Commissioners on Commission matters. Secretariat staff support the Commission's work through the preparation of briefing and agenda papers for meetings; preparing all Commission meeting requirements; drafting determinations and decisions for consideration by Commissioners; responding to queries from the public; and providing advice to the Commissioners and other external stakeholders.

Asset management

Asset management is not a prominent aspect of the business of the Commission and is managed in accordance with departmental policies and procedures.

Purchasing

The Commission made no significant purchases during the year.

Consultants, contractors and competitive tendering

During the reporting period, the Commission did not engage the services of consultants or contractors and did not engage in a competitive tender process.



Photo © Tasman Cargo

APPENDIX 1

Determinations and Decisions

This table summarises briefly the determinations and decisions issued during 2023–24. A full summary is at Appendix 2. Individual determinations, decisions and renewals may be viewed on the Commission's website at www.iasc.gov.au

Route	Airline	IASC Number	Date Issued	Capacity Allocated (per week)	Comment
Canada	Qantas	[2023] IASC 133	06 Dec 23	708 seats	Renewal of Determination [2018] IASC 121
Chile	Qantas	[2023] IASC 125	28 Jul 23	337 seats	Renewal of Determination [2019] IASC 109
China, Hong Kong, Nauru, Papua New Guinea, Vanuatu	Pacific Air Express	[2023] IASC 210*	16 Oct 23	-	Revocation of Determinations [2013] IASC 136, [2020] IASC 102, [2019] IASC 117, [2019] IASC 104, [2019] IASC 127, [2017] IASC 109 and [2017] IASC 111
Cook Islands	Qantas	[2023] IASC 124	20 Jul 23	372 seats	Renewal of Determination [2019] IASC 107
Fiji	Qantas	[2023] IASC 128	20 Jul 23	528 seats	Renewal of Determination [2019] IASC 112
Fiji	Virgin Australia	[2024] IASC 101	27 Feb 24	1,260 seats	Renewal of Determination [2018] IASC 118

Route	Airline	IASC Number	Date Issued	Capacity Allocated (per week)	Comment
Fiji	Qantas	[2024] IASC 106	28 Mar 24	Allocation of unlimited passenger capacity between points in Australia except Sydney, Melbourne, Brisbane and Perth.	Renewal of Determination [2015] IASC 101
France	Qantas	[2023] IASC 134	29 Nov 23	2.0 units	Determination allocating capacity
Hong Kong	Tasman Cargo Airlines	[2023] IASC 130	07 Sep 23	5 frequencies	Determination allocating freight capacity
Hong Kong	Qantas	[2023] IASC 214*	30 Nov 23	-	Variation of [2019] IASC 129 to reduce capacity by 5 frequencies, leaving 23 frequencies per week allocated under the Determination
Hong Kong	Qantas	[2023] IASC 217	04 Dec 23	-	Variation of Determination [2019] IASC 129 to permit Qantas to code share with KLM Royal Dutch Airlines
Hong Kong	Tasman Cargo Airlines	[2024] IASC 119	26 Jun 24	1 frequency	Determination allocating freight capacity
Indonesia	Qantas	[2023] IASC 127	20 Jul 23	284 seats	Renewal of Determination [2019] IASC 106
Indonesia	Qantas	[2023] IASC 131	08 Sep 23	Allocation of unlimited passenger capacity between points in Australia except Sydney, Melbourne, Brisbane and Perth.	Renewal of Determination [2013] IASC 135
Indonesia	Qantas	[2023] IASC 132	08 Sep 23	774 seats	Renewal of Determination [2019] IASC 116

Route	Airline	IASC Number	Date Issued	Capacity Allocated (per week)	Comment
Indonesia	Qantas	[2024] IASC 203	05 Apr 24	-	Variation of Determination [2020] IASC 101 to permit Jetstar to code share with KLM Royal Dutch Airlines
Indonesia	Qantas	[2024] IASC 110	15 Apr 24	670 seats	Renewal of Determination [2020] IASC 101
Indonesia	Qantas	[2024] IASC 113	25 Jun 24	2,320 seats	Determination allocating capacity
Indonesia	Virgin Australia	[2024] IASC 114	25 Jun 24	-	Decision to not issue a Determination
Japan	Virgin Australia	[2023] IASC 212	16 Nov 23	-	Variation of Determination [2019] IASC 119 to permit Virgin Australia to code share with Air Canada and Qatar Airways
Japan	Virgin Australia	[2024] IASC 102	21 Feb 24	1 daily frequency	Renewal of Determination [2019] IASC 119
Japan	Qantas	[2024] IASC 202	27 Feb 24	-	Variation of Determination [2019] IASC 118 to permit Qantas to code share with LATAM Airlines Group S.A.
Japan	Qantas	[2024] IASC 107	16 Apr 24	7 frequencies	Renewal of Determination [2019] IASC 102
Japan	Qantas	[2024] IASC 108	16 Apr 24	1 daily frequency	Renewal of Determination [2019] IASC 118
Korea	Qantas	[2023] IASC 122	07 Jul 23	1,005 seats	Determination allocating capacity
Korea	Qantas	[2023] IASC 129	28 Jul 23	335 seats	Determination allocating capacity
Korea	Qantas	[2024] IASC 201	11 Jan 24	-	Variation of Determinations [2022] IASC 113, [2023] IASC 122 and [2023] IASC 129 to permit Jetstar to code share with Finnair
Korea, Chile	Qantas	[2023] IASC 213*	29 Nov 23	-	Revocation of Determinations [2019] IASC 111, [2020] IASC 106, [2019] IASC 109 and [2023] IASC 125
New Zealand	Qantas	[2023] IASC 123	06 Dec 23	Unlimited	Renewal of Determination [2014] IASC 102
Papua New Guinea	Qantas	[2023] IASC 215*	28 Nov 23	-	Variation of [2019] IASC 108 to reduce capacity allocated by 322 seats, leaving 566 seats per week allocated under the Determination

Route	Airline	IASC Number	Date Issued	Capacity Allocated (per week)	Comment
Papua New Guinea	AERGO	[2024] IASC R01	21 Feb 24	-	Resolution extending utilisation date of Determination [2023] IASC 117
Papua New Guinea	Qantas	[2024] IASC 112	04 Jun 24	566 seats	Renewal of Determination [2019] IASC 108
Philippines	Qantas	[2024] IASC 118	26 Jun 24	1,188 seats	Determination allocating capacity
Samoa	Qantas	[2024] IASC 104	21 Feb 24	450 seats	Determination allocating capacity
Singapore	Qantas	[2023] IASC 211	25 Oct 23	-	Variation of Determination [2017] IASC 131 to permit Qantas to code share with InterGlobe Aviation Limited (IndiGo)
Solomon Islands	Qantas	[2023] IASC 121	10 Jul 23	282 seats	Determination allocating capacity
Solomon Islands	Qantas	[2023] IASC 216	29 Nov 23	9 seats (increase from 282 seats to 291 seats of total passenger capacity)	Variation of Determination [2023] IASC 121 to increase capacity allocated by 9 seats
Solomon Islands	Qantas	[2024] IASC 109	15 Apr 24	97 seats	Determination allocating capacity
Tonga	Qantas	[2024] IASC 103	21 Feb 24	174 seats	Determination allocating capacity
United States	Virgin Australia	[2023] IASC 209*	17 Aug 23	-	Revocation of Determination [2017] IASC 114
Vanuatu	Virgin Australia	[2024] IASC 111	28 May 24	1,304 seats	Determination allocating capacity
Vanuatu	Qantas	[2024] IASC 117	18 Jun 24	1,798 seats	Determination allocating capacity

* Indicates a determination or decision made by the Commission's delegate.

APPENDIX 2

Route-by-route summary of Commission determinations, decisions and resolutions in financial year 2023–24

This appendix provides a summary of the Commission’s determinations and decisions for financial year 2023–24. Full determinations and decisions can be viewed on the Commission’s website at www.iasc.gov.au.

Canada

Upon the application of Qantas, the Commission issued, on 6 December 2023, **Renewal Determination [2023] IASC 133**, renewing Determination [2018] IASC 121. The Determination allocates to Qantas 708 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas to provide code share services with American Airlines, Alaska Airlines and WestJet Airlines. The Determination is valid for 5 years from 25 September 2024.



Chile

Upon the application of Qantas, the Commission issued, on 28 July 2023, **Renewal Determination [2023] IASC 125**, renewing Determination [2019] IASC 109. The Determination allocates to Qantas 337 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar and may be used by Qantas to provide code share services with LATAM Airlines. The Determination is valid for 5 years from 14 June 2024.

Upon the application of Qantas, the Commission’s Delegate issued, on 29 November 2023, **Decision [2023] IASC 213**, revoking Determination [2019] IASC 109 and its Renewal Determination [2023] IASC 125.



China

Upon the application of Pacific Air Express, the Commission’s Delegate issued, on 16 October 2023, **Decision [2023] IASC 210**, revoking Determination [2017] IASC 111.



Cook Islands

Upon the application of Qantas, the Commission issued, on 20 July 2023, **Renewal Determination [2023] IASC 124**, renewing Determination [2019] IASC 107. The Determination allocates to Qantas 372 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 2 April 2024.



Fiji

Upon the application of Qantas, the Commission issued, on 20 July 2023, **Renewal Determination [2023] IASC 128**, renewing Determination [2019] IASC 112. The Determination allocates to Qantas 528 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 11 June 2024.

Upon the application of Virgin Australia, the Commission issued, on 27 February 2024, **Renewal Determination [2024] IASC 101**, renewing Determination [2018] IASC 118. The Determination allocates to Virgin Australia 1,260 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 20 September 2024.

Upon the application of Qantas, the Commission issued, on 28 March 2024, **Renewal Determination [2024] IASC 106**, renewing Determination [2015] IASC 101. The Determination allocates unlimited passenger capacity between points in Australia except Sydney, Melbourne, Brisbane and Perth, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 99 years from 6 January 2025.



France

Upon the application of Qantas, the Commission issued, on 29 November 2023, **Determination [2023] IASC 134**, allocating to Qantas 2.0 units of capacity, subject to certain conditions. The Determination is valid for 5 years from 29 November 2023.

Hong Kong

Upon the application of Tasman Cargo, the Commission issued, on 7 September 2023, **Determination [2023] IASC 130**, allocating 5 frequencies of freight capacity, subject to certain conditions. The Determination is valid for 5 years from 7 September 2023.

Upon the application of Pacific Air Express, the Commission's Delegate issued, on 16 October 2023, **Decision [2023] IASC 210**, revoking Determination [2019] IASC 127.

Upon the application of Qantas, the Commission's Delegate issued, on 30 November 2023, **Decision [2023] IASC 214**, varying Determination [2019] IASC 129 to reduce the capacity allocated by 5 frequencies.

Upon the application of Qantas, the Commission issued, on 4 December 2023, **Decision [2023] IASC 217**, varying Determination [2019] IASC 129 to permit Qantas to code share with KLM Royal Dutch Airlines, subject to certain conditions. The permission is valid for the duration of the Determination.

Upon the application of Tasman Cargo, the Commission issued, on 26 June 2024, **Determination [2024] IASC 119**, allocating one frequency of freight capacity, subject to certain conditions. The Determination is valid for 5 years from 26 June 2024.



Indonesia

Upon the application of Qantas, the Commission issued, on 20 July 2023, **Renewal Determination [2023] IASC 127**, renewing Determination [2019] IASC 106. The Determination allocates to Qantas 284 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar and may be used by the latter to provide code share services with KLM Royal Dutch Airlines. The Determination is valid for 5 years from 25 March 2024.

Upon the application of Qantas, the Commission issued, on 8 September 2023, **Renewal Determination [2023] IASC 131**, renewing Determination [2013] IASC 135. The Determination allocates to Qantas unlimited passenger capacity between points in Australia except Sydney, Melbourne, Brisbane and Perth, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar and may be used by the latter to provide code share services with KLM Royal Dutch Airlines. The Determination is valid for 99 years from 5 August 2024.

Upon the application of Qantas, the Commission issued, on 8 September 2023, **Renewal Determination [2023] IASC 132**, renewing Determination [2019] IASC 116. The Determination allocates to Qantas 774 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar and may be used by the latter to provide code share services with KLM Royal Dutch Airlines. The Determination is valid for 5 years from 16 August 2024.

Upon the application of Qantas, the Commission issued, on 5 April 2024, **Decision [2024] IASC 203**, varying Determination [2020] IASC 101 to permit Jetstar to code share with KLM Royal Dutch Airlines, subject to certain conditions. The permission is valid for the duration of the Determination.

Upon the application of Qantas, the Commission issued, on 15 April 2024, **Renewal Determination [2024] IASC 110**, renewing Determination [2020] IASC 101. The Determination allocates to Qantas 670 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar and may be used by the latter to provide code share services with KLM Royal Dutch Airlines. The Determination is valid for 5 years from 21 January 2025.

Upon the application of Qantas, the Commission issued, on 25 June 2024, **Determination [2024] IASC 113**, allocating to Qantas 2,320 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The capacity must be operated via or beyond to a point in Australia other than Sydney, Melbourne (including Avalon), Brisbane or Perth. The Determination is valid for 5 years from 25 June 2024.

Upon the application of Virgin Australia, the Commission issued, on 25 June 2024, **Decision [2024] IASC 114**, deciding not to issue a determination allocating capacity to Virgin Australia.



Japan

Upon the application of Virgin Australia, the Commission issued, on 16 November 2023, **Decision [2023] IASC 212**, varying Determination [2019] IASC 119 to permit Virgin Australia to code share with Air Canada and Qatar Airways, subject to certain conditions. The permission is valid for the duration of the Determination.

Upon the application of Virgin Australia, the Commission issued, on 21 February 2024, **Renewal Determination [2024] IASC 102**, renewing Determination [2019] IASC 119. The Determination allocates to Virgin Australia one daily frequency to service Tokyo Haneda Airport, subject to certain conditions. The capacity may be used by Virgin Australia to offer code share services with Air Canada, All Nippon Airways and Qatar Airways, subject to certain conditions. The Determination is valid for 5 years from 28 October 2024.

Upon the application of Qantas, the Commission issued, on 27 February 2024, **Decision [2024] IASC 202**, varying Determination [2019] IASC 119 to permit Qantas to code share with LATAM Airlines Group S.A, subject to certain conditions. The permission is valid for the duration of the Determination.

Upon the application of Qantas, the Commission issued, on 16 April 2024, **Renewal Determination [2024] IASC 107**, renewing Determination [2019] IASC 102. The Determination allocates to Qantas 7 frequencies of passenger capacity to service Tokyo Haneda Airport, subject to certain conditions. The capacity to be used by either Qantas or its wholly-owned subsidiary, Jetstar, and for Qantas to offer code share services with LATAM Airlines Group S.A. The Determination is valid for 5 years from 16 December 2024.

Upon the application of Qantas, the Commission issued, on 16 April 2024, **Renewal Determination [2024] IASC 108**, renewing Determination [2019] IASC 118. The Determination allocates to Qantas one daily frequency to service Tokyo Haneda Airport, subject to certain conditions. The capacity may be used by Qantas to offer code share services with LATAM Airlines Group S.A. The Determination is valid for 5 years from 28 October 2024.



Korea

Upon the application of Qantas, the Commission issued, on 7 July 2023, **Determination [2023] IASC 122**, allocating to Qantas 1,005 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 7 July 2023.

Upon the application of Qantas, the Commission issued, on 28 July 2023, **Determination [2023] IASC 129**, allocating to Qantas 335 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 28 July 2023.

Upon the application of Qantas, the Commission's Delegate issued, on 29 November 2023, **Decision [2023] IASC 213**, revoking Determinations [2019] IASC 111 and [2020] IASC 106.

Upon the application of Qantas, the Commission issued, on 11 January 2024, **Decision [2024] IASC 201**, varying Determinations [2022] IASC 113, [2023] IASC 122 and [2023] IASC 129 to permit Jetstar to code share with Finnair, subject to certain conditions. The permission is valid for the duration of the Determinations.



Nauru

Upon the application of Worrells, acting on behalf of Pacific Air Express, the Commission's Delegate issued, on 16 October 2023, **Decision [2023] IASC 210**, revoking Determination [2017] IASC 109.



New Zealand

Upon the application of Qantas, the Commission issued, on 6 December 2023, **Renewal Determination [2023] IASC 123**, renewing Determination [2014] IASC 102. The Determination allocates to Qantas unlimited passenger and freight capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The capacity may also be used by Qantas to provide code share services with Alaska Airlines, Air Tahiti Nui, American Airlines, British Airways, China Airlines, China Eastern Airlines, China Southern Airlines, Emirates, Finnair, Japan Airlines, LATAM Airlines and Sri Lankan Airlines. The capacity may be used by Jetstar to provide code share services with Emirates and LATAM Airlines. The Determination is valid for 99 years from 13 March 2024.



Papua New Guinea

Upon the application of Worrells, acting on behalf of Pacific Air Express, the Commission's Delegate issued, on 16 October 2023, **Decision [2023] IASC 210**, revoking Determinations [2019] IASC 104, [2019] IASC 117 and [2020] IASC 102.

Upon the application of Qantas, the Commission's Delegate issued, on 28 November 2023, **Decision [2023] IASC 215**, varying Determination [2019] IASC 108 to reduce the capacity allocated by 322 seats.

Upon the application of Qantas, the Commission issued, on 4 June 2024, **Renewal Determination [2024] IASC 112**, renewing Determination [2019] IASC 108. The Determination allocates to Qantas 566 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 24 March 2025.

Upon the application of AERgO, the Commission issued, on 21 February 2024, **Resolution [2024] IASC R01** varying Determination [2023] IASC 117 to extend the date of utilisation of capacity allocated from no later than 27 March 2024 to 31 October 2024, due to the airline requiring time to finalise remaining approvals by foreign governments necessary for it to operate the scheduled freight services.



Philippines

Upon the application of Qantas, the Commission issued, on 26 June 2024, **Determination [2024] IASC 118**, allocating to Qantas 1,188 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 26 June 2024.



Samoa

Upon the application of Qantas, the Commission issued, on 21 February 2024, **Determination [2024] IASC 104**, allocating to Qantas 450 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 21 February 2024.



Singapore

Upon the application of Qantas, the Commission issued, on 25 October 2023, **Decision [2023] IASC 211**, varying Determination [2017] IASC 131 to permit Qantas to code share with InterGlobe Aviation Limited (IndiGo), subject to certain conditions. The permission is valid for the duration of the Determination.



Solomon Islands

Upon the application of Qantas, the Commission issued, on 10 July 2023, **Determination [2023] IASC 121**, allocating to Qantas 282 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 10 July 2023.

Upon the application of Qantas, the Commission issued, on 29 November 2023, **Decision [2023] IASC 216**, varying Determination [2023] IASC 121 to increase capacity allocated to Qantas by 9 seats, subject to certain conditions. The Decision is valid for the duration of the Determination.

Upon the application of Qantas, the Commission issued, on 15 April 2024, **Determination [2024] IASC 109**, allocating to Qantas 97 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 15 April 2024.



Tonga

Upon the application of Qantas, the Commission issued, on 21 February 2024, **Determination [2024] IASC 103**, allocating to Qantas 174 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 21 February 2024.



United States

Upon the application of Virgin Australia, the Commission's Delegate issued, on 17 August 2023, **Decision [2023] IASC 209**, revoking Determination [2017] IASC 114.



Vanuatu

Upon the application of Pacific Air Express, the Commission's Delegate issued, on 16 October 2023, **Decision [2023] IASC 210**, revoking Determination [2013] IASC 136.

Upon the application of Virgin Australia, the Commission issued, on 28 May 2024, **Determination [2024] IASC 111**, allocating to Virgin Australia 1,304 seats of passenger capacity, subject to certain conditions. The Determination is valid for 5 years from 28 May 2024.

Upon the application of Qantas, the Commission issued, on 18 June 2024, **Determination [2024] IASC 117**, allocating to Qantas 1,798 seats of passenger capacity, subject to certain conditions. The capacity may be used by Qantas or its wholly-owned subsidiary, Jetstar. The Determination is valid for 5 years from 18 June 2024



Photo © Qantas Airways Limited

APPENDIX 3

Other information

Workplace health and safety

As the staff members of the Secretariat are employees of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department), they are subject to the same workplace health and safety arrangements as departmental officers. The department's Annual Report contains details of those arrangements.

Freedom of information

The International Air Services Commission (the Commission) is an agency subject to the *Freedom of Information Act 1982* (the FOI Act). Major reforms of the FOI Act in 2011 required relevant agencies to comply with the Information Publication Scheme (IPS) set out in Part II of the FOI Act. In compliance with the IPS requirements, the Commission has established an Information Publication Plan which is available on its website (<http://www.iasc.gov.au/foi/ipp.aspx>). The Commission received no requests under the FOI Act during the reporting period. The Commission publishes its FOI Disclosure log (https://www.iasc.gov.au/foi/disclosure_log).

The Commission also makes available on its website information about its organisational structure; the membership of the Commission including biographical notes of the current Members of the Commission; its functions including its decision-making powers and other powers affecting the public; copies of its annual reports; its legislative framework and its guidelines and procedures; copies of all determinations and decisions issued; applications including submissions in relation to the applications (if any); contact details of the Commission and its Director; and the Commission's operational information. Operational information refers to the information held by the Commission to assist it in performing or exercising its functions or powers in making decisions or recommendations affecting the public.

The information contained in this report meets the requirements of the FOI Act. Refer to Appendix 4 for further details.



Photo © Virgin Australia

Advertising and market research

The Commission does not advertise its functions and services. During the reporting period, the Commission did not pay any person for advertising or for performing any market research.

The Commission maintains its own website <www.iasc.gov.au> which provides details about its functions, the applications it receives and determinations/ decisions it has issued, among other matters. The Commission updates its website on a regular basis.

Ecologically sustainable development and environmental performance reporting

The Commission's offices and Secretariat staff are located within the department's buildings and as such are covered by the department's processes in this area.

APPENDIX 4

Freedom of information schedule

Item	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information Act 1982</i> (the FOI Act) might not be required because information or documents may be readily available on the Commission's website. Formal requests under the FOI Act must be made in writing to the Director, FOI contact officer, of the Commission. The Commission maintains a dedicated FOI page on its website which sets out the information required to be published under section 8 of the FOI Act.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Director of the Commission whose details are listed below. The Commission welcomes views and comments from members of the public and bodies outside the Commonwealth concerning its functions.
Commission powers	The Commission exercises decision-making powers under the Act. It has the power to do everything necessary or convenient to be done for, or in connection with, performing those functions. The Commission has a range of specific powers that include convening public hearings and summoning witnesses.
Decision process	The general power to grant or refuse access to Commission documents under the FOI Act is held by the Chairperson of the Commission.

Item	Information
Documents available for inspection	<p>The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.</p> <p>The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines are available on request or from the Commission's website. Documents may also be obtained from the Secretariat of the Commission via email. Operational files are maintained on all the Commission's activities and are stored at the office of the Commission. These files are not open to public access.</p>
Functions of the Commission and how it is organised	<p>The functions of the Commission, as set out in section 6 of the <i>International Air Services Commission Act 1992</i>, are to:</p> <ul style="list-style-type: none"> (a) make determinations; (b) conduct reviews of those determinations; and (c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations. <p>The organisation of the Commission is described in Part 2 of this report.</p>
FOI Contact Officer	<p>The Director, and in his/her absence, the Senior Adviser is the Commission's FOI contact officer. Any request or query on FOI matters may be directed to the:</p> <p>International Air Services Commission GPO Box 630 Canberra ACT 2601 Australia Phone: (612) 6267 1100 Email: contact@iasc.gov.au</p>

APPENDIX 5

Commission procedures

The Commission has published procedures for making determinations allocating available capacity. The procedures are designed to be consistent with the requirements of the *International Air Services Commission Act 1992* (the Act), its implementing regulations, administrative law principles and the International Air Services Commission Policy Statement 2018 (Policy Statement) which complements the Act. The Commission's procedures are intended to ensure procedural fairness for both the applicants and other interested parties; ensure the Commission's processes are open and transparent; and provide guidance to anyone wishing to apply for, or make submissions about, matters being considered by the Commission. The Secretariat provides further individual guidance to applicants for capacity and other stakeholders when requested.

The Commission's procedures incorporate the following main steps:

- ▶ All public documents are published on the Commission's website and are distributed electronically to all stakeholders in its mailing list. Any member of the public may request to be included in the Commission's mailing list. The Commission requires a public version of all applications for, and submissions about, an allocation of capacity to be made available. A small amount of information received by the Commission is of a commercial-in-confidence or confidential nature and is held on the Commission's confidential register.
- ▶ The Commission will publish a notice inviting other applications for capacity in response to an initial application for capacity, and submissions about applications where required by the Act and Policy Statement.
- ▶ The Commission will assess the application in accordance with the relevant criteria set out in the Policy Statement. More complex public benefit criteria may be applied in cases where there are 2 carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established carrier.
- ▶ Where relevant, the Commission will invite the applicant(s) to submit further information addressing public benefit criteria.



Photo © Tasman Cargo

- ▶ The Policy Statement requires the Commission to ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- ▶ A hearing may be conducted by the Commission if further information is needed to establish the nature and extent of a proposal's public benefit and, in the case of 2 or more competing applications, decide which application would be of the greatest benefit to the public.
- ▶ The Commission will publish a draft determination in the case of competing applications or if it is proposed to reject an application, or where non-standard conditions are being proposed. This provides applicants and other interested parties with an opportunity to comment on the Commission's proposal prior to the issuing of a final determination. In other cases the Commission will proceed directly to a final determination.

The Commission regularly updates its procedures. They are available from the Commission's website at www.iasc.gov.au or upon request to the Commission.

APPENDIX 6

Policy Statement

NOTE: The following policy statement was issued on 20 March 2018 by the then Deputy Prime Minister and Minister for Infrastructure and Transport and it came into force and effect from 28 March 2018.

International Air Services Policy Statement 2018
made pursuant to section 11 of the
International Air Services Commission Act 1992

Part 1—Preliminary

1 Name

This instrument is the International Air Services Commission Policy Statement 2018.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1 The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 11 of the *International Air Services Commission Act 1992*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:

- (a) Australian carrier;
- (b) available capacity;
- (c) bilateral arrangement;
- (d) capacity;
- (e) code sharing;
- (f) Commission;
- (g) determination;
- (h) interim determination;
- (i) joint international air services;
- (j) transfer application.

In this instrument:

ACCC means the Australian Competition and Consumer Commission.

Act means the *International Air Services Commission Act 1992*.

additional criteria: see section 9.

applicant means an Australian carrier that has applied to the Commission for a determination allocating capacity, or for the renewal or review of such a determination.

reasonable capability criterion: see section 8.

route relates to the full set of entitlements available to Australian carriers under a particular bilateral arrangement. All combinations of origin, destination, intermediate and beyond points available to Australian carriers under the bilateral arrangement constitute a single route.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Object

- (1) This instrument is a policy statement intended to provide guidance about the way in which the Commission is to perform its functions.
- (2) The Commission is to perform its functions in a way that will achieve the object of the Act (that is, to promote economic efficiency through competition in the provision of international air services) by fostering, encouraging and supporting competition in the provision of international air services by Australian carriers.

Part 2—Criteria for assessing benefit to the public

7 Explanatory outline of this Part

The Act requires the Commission to assess the **benefit to the public** of allocations of capacity when deciding whether to make, renew or vary a determination. This Part sets out criteria that the Commission is to have regard to in assessing the benefit to the public of allocations of capacity in particular circumstances.

There are two main sets of criteria that the Commission is to have regard to in assessing the benefit to the public: the 'reasonable capability criterion' and the 'additional criteria'. When and how the Commission is to have regard to the criteria is set out in Part 3.

In certain circumstances specified in Part 3, the Commission is to have regard to other criteria which are not set out in this Part. These include, for example, the matters referred to in paragraph 18(2)(b) or subsection 16(2) of this instrument.

The criteria set out in this Part apply equally in assessing the benefit to the public of allocations to be exercised through own aircraft operations, code share arrangements and other joint international air services.

8 Reasonable capability criterion

Reasonable capability criterion means 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.

Note: To avoid doubt, this criterion relates to all carriers that are, or would be, permitted to use the capacity allocated under a determination, including all carriers that would be entitled to use the capacity because of a condition imposed by the Commission pursuant to paragraph 15(2)(ea) of the Act.

9 Additional criteria

Additional criteria means the following criteria:

Competition criteria

- (a) the desirability of fostering an environment in which Australian carriers can effectively compete with each other and with foreign carriers on the route in question;

- (b) the number of carriers operating on the route in question and the existing distribution of capacity among Australian carriers (including through code sharing and other joint international air services);
- (c) the likely impact on consumers of the proposed allocation, including on costs of airfares, customer choice, product differentiation, stimulation of innovation by incumbent carriers, and frequency of service;
- (d) the desirability of fostering own aircraft operations by Australian carriers over code share or other joint international air services involving the marketing, by an Australian carrier, of seats on flights operated by foreign carriers;
- (e) the benefits presented by allocating the capacity to a given applicant over other competing applicants, having regard to any commercial arrangements that may be in place with other carriers;
- (f) any determinations, decisions or notifications made by the ACCC, or any determinations made by the Australian Competition Tribunal, in relation to an Australian carrier using capacity in all or part of the route;
- (g) any determinations, decisions or notifications made by a foreign agency that performs a comparable function to the ACCC or the Australian Competition Tribunal, or by a foreign aeronautical authority, in relation to a carrier using entitlements under a bilateral arrangement on all or part of the route;

Tourism and trade criteria

- (h) the level of promotion, market development and investment proposed by each of the applicants;
- (i) route service possibilities to and from points beyond Australian or foreign gateways;
- (j) the availability of frequent, low cost, reliable air freight movements for Australian importers and exporters;

Relevant information obtained from Government agencies

- (k) any information that the Commission has obtained from Australian Government agencies or statutory authorities that the Commission considers to be relevant;

Any other relevant consideration

- (l) any other matter or consideration that the Commission considers to be relevant.

Part 3—How the Commission is to assess benefit to the public

Division 1—Outline

10 Explanatory outline of this Part

This Part sets out how the Commission is to assess the benefit to the public of allocations of capacity in particular circumstances.

There are broadly 3 types of decision that the Commission can make under the Act:

- ▶ Making a determination allocating available capacity (see section 7 and Division 1 of Part 3 of the Act);
- ▶ Renewing a determination by making a fresh determination (see section 8 and Division 2 of Part 3 of the Act);
- ▶ Varying a determination (see section 10 and Division 3 of Part 3 of the Act).

Depending on which type of decision is being made, and the circumstances of the decision, the Commission is to apply the criteria set out in Part 2, and certain criteria specified in this Part, differently.

Division 2 sets out the criteria applicable where the Commission is proposing to make a determination that allocates available capacity under section 7 of the Act:

- ▶ Where there is unlimited available capacity, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (section 11);
- ▶ Where there is sufficient available capacity for all applications and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 12(2));
- ▶ However, where the Commission receives one or more adverse submissions, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 12(3));
- ▶ In all other cases, the Commission is to have regard to the reasonable capability criterion and to relevant additional criteria (section 13).

Division 3 sets out the criteria applicable where the Commission is considering renewing a determination that allocates capacity under section 8 of the Act:

- ▶ Paragraph 8(2)(a) of the Act provides a presumption in favour of renewing a determination. However, the Commission may decline to do so if it is satisfied that the determination is no longer of benefit to the public. In deciding this, the Commission is to have regard to the matters set out in section 14 of this instrument;
- ▶ If the Commission declines to renew a determination, it may make a different determination. In doing so, it is to have regard to the reasonable capability criterion and to relevant additional criteria (section 15).

Division 4 sets out the criteria applicable where the Commission is considering whether to vary a determination in a way that varies, or has the effect of varying, an allocation of capacity:

- ▶ If the Commission has initiated the review, and the reason for variation relates to the condition that allocated capacity be fully used, the Commission is to have regard to the criteria set out in paragraphs 24(3)(a)-(d) and need not have regard to any other matter (subsection 16(2));
- ▶ If the Commission has initiated the review for any other reason, and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 16(3));
- ▶ In all other cases where the Commission has initiated the review, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 16(4));
- ▶ If the carrier has applied for a variation, and the Commission does not receive any adverse submissions, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter (subsection 17(2));
- ▶ In all other cases where the carrier has applied for a variation, the Commission is to have regard to the reasonable capability criterion and may have regard to relevant additional criteria (subsection 17(3));
- ▶ Where a carrier has submitted a transfer application, the Commission is to have regard to the reasonable capability criterion and to the matters set out in paragraph 18(2)(b) (as relevant), and may have regard to relevant additional criteria (section 18).

The provisions in this Part apply equally in assessing the benefit to the public of allocations to be exercised through own aircraft operations, code share arrangements and other joint international air services.

Division 2—Determinations allocating capacity

11 Available capacity not limited

- (1) This section applies where the Commission proposes to make a determination allocating available capacity on a route under section 7 of the Act, and available capacity on the route is not limited under the relevant bilateral arrangement.
- (2) In assessing the benefit to the public of the allocation of available capacity under the proposed determination, the Commission:
 - (a) have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.

12 One or more applicants and sufficient available capacity

- (1) This section applies where:
 - (a) the Commission has received one or more applications for determinations allocating available capacity on a route under section 7 of the Act; and
 - (b) there is sufficient available capacity on the route for the Commission to make the determinations sought in all of the applications; and
 - (c) section 11 of this instrument does not apply.
- (2) If the Commission does not receive any submissions:
 - (a) opposing the allocation of the capacity under any of the determinations sought in the applications; or
 - (b) requesting or opposing the inclusion of a specified condition in any of the determinations;then, in assessing the benefit to the public of an allocation of available capacity under the determinations, the Commission:
 - (c) is to have regard to the reasonable capability criterion; and
 - (d) need not have regard to any other matter.
- (3) In all other cases, in assessing the benefit to the public of an allocation of available capacity under a proposed determination, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

13 All other cases (including two or more applicants and insufficient capacity)

- (1) This section applies where:
 - (a) the Commission proposes to make a determination allocating available capacity on a route under section 7 of the Act; and
 - (b) sections 11 and 12 of this instrument do not apply.

Note: For example, this section will apply where the Commission has received two or more applications for determinations allocating available capacity under section 7 of the Act, and there is insufficient available capacity for the Commission to make the determinations sought in all of the applications.

- (2) In assessing the benefit to the public of an allocation of capacity under a proposed determination, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to any of the additional criteria that it considers to be relevant.

Division 3—Renewal of determinations

14 Presumption in favour of making the same allocation of capacity

- (1) This section applies where:
 - (a) the Commission is proposing, while a determination is in force, to make a fresh determination allocating the capacity to which the original determination relates under section 8 of the Act; and
 - (b) the Commission is considering whether the allocation of capacity in the original determination is no longer of benefit to the public for the purpose of subparagraph 8(2)(a)(i) of the Act.
- (2) Without limiting the matters to which the Commission may have regard, an allocation is generally no longer of benefit to the public if:
 - (a) the carrier seeking renewal has failed to service the route effectively; and
 - (b) there are other applications for some or all of the capacity; and
 - (c) the Commission, having regard to the reasonable capability criterion and any of the additional criteria that it considers relevant, is satisfied that a different allocation of the capacity would be of greater benefit to the public.

Note: In accordance with paragraph 8(2)(a) of the Act, the Commission must make the same allocation of capacity as the original determination unless it is satisfied that the allocation is no longer of benefit to the public. This operates as a presumption in favour of the incumbent carrier.

15 Making a different allocation of capacity

- (1) This section applies where, in the course of considering the renewal of a determination, the Commission is satisfied, for the purposes of subparagraph 8(2)(a)(i) of the Act, that the allocation of capacity in the original determination is no longer of benefit to the public.
- (2) In assessing whether an allocation of capacity made by a fresh determination is of benefit to the public for the purpose of subsection 8(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to any of the additional criteria that it considers to be relevant.

Division 4—Review of determinations

16 Variations on review for cause

- (1) This section applies where:
 - (a) the Commission has conducted a review for cause in relation to a determination pursuant to section 10 of the Act; and
 - (b) the Commission is considering making a decision to vary the determination under paragraph 23(1)(b) of the Act in a way that varies, or has the effect of varying, an allocation of capacity.
- (2) If the grounds on which the review was initiated relate to a condition imposed under paragraph 15(2)(c) of the Act, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) may have regard to the criteria set out in paragraphs 24(3)(a) to (d) of this instrument; and
 - (b) need not have regard to any other matter.

Note: Paragraph 15(2)(c) of the Act allows for the imposition of a condition that capacity be fully used.

- (3) If the review was initiated on any other grounds, and the Commission does not receive submissions opposing the variation being considered by the Commission, then in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.
- (4) In all other cases, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 23(3) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

17 Variations on application

- (1) This section applies where:
 - (a) the Commission has conducted a review to decide an application (other than a transfer application) for a determination to be varied; and
 - (b) the Commission is considering making a decision to vary the determination under paragraph 24(1)(b) of the Act in a way that varies, or has the effect of varying, an allocation of capacity.

- (2) If the Commission does not receive submissions opposing the variation requested in the application then, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 24(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) need not have regard to any other matter.
- (3) In all other cases, in assessing whether the allocation, as so varied, would be of benefit to the public for the purpose of subsection 24(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) may have regard to any of the additional criteria that it considers to be relevant.

18 Transfer applications

- (1) This section applies where:
 - (a) the Commission has conducted a review to decide a transfer application; and
 - (b) the Commission is considering making a decision to vary the determination concerned in a way that gives effect to the variation requested in the transfer application; and
 - (c) the Commission's decision to vary the determination would vary, or have the effect of varying, an allocation of capacity.
- (2) In assessing whether the allocation, as so varied, would not be of benefit to the public for the purpose of subsection 25(2) of the Act, the Commission:
 - (a) is to have regard to the reasonable capability criterion; and
 - (b) is to have regard to the following matters to the extent that they are relevant to the variation under consideration:
 - (i) the undesirability of approving a transfer where doing so will, or is reasonably likely to, permit or encourage any form of speculative activity, including trading in capacity allocations for commercial benefit;
 - (ii) the undesirability, other than in exceptional cases, of approving a transfer application made by a carrier that has never exercised an allocation, or has only exercised an allocation for a period of less than 6 months; and
 - (c) may have regard to any of the additional criteria that it considers to be relevant.

Part 4—Duration and types of determinations

19 Explanatory outline of this part

This Part sets out how the Commission is to fix the periods during which determinations are to be in force, and in what circumstances the Commission should make interim determinations.

20 Fixing periods during which determinations to be in force

- (1) This section sets out how the Commission is to fix the period during which a determination is to be in force.
- (2) If a determination would allocate capacity on a route where capacity is not limited under the relevant bilateral arrangement, the period during which the determination is to be in force should be fixed at 99 years.
- (3) If a determination relates to an application in which a carrier has requested that the period during which the determination is to be in force be fixed at:
 - (a) if the determination is an interim determination—less than 3 years; or
 - (b) if the determination is not an interim determination—less than 5 years;the period during which the determination is to be in force should be fixed at the period requested in the carrier's application.
- (4) In all other cases, the period during which a determination is to be in force should be fixed at:
 - (a) if the determination is an interim determination—3 years; or
 - (b) if the determination is not an interim determination—5 years.

21 Interim determinations to be made only in exceptional circumstances

The Commission should make interim determinations only in exceptional circumstances.

Part 5—Inclusion, variation and revocation of conditions in determinations

22 Explanatory outline of this part

This Part sets out matters relating to the inclusion of conditions in determinations, and the variation or revocation of such conditions.

Section 23 deals with additional conditions the Commission should include in a determination if it intends to include a condition that allows joint international air services.

Section 24 deals with how the Commission should impose conditions relating to the full use of capacity, and how the Commission should proceed if it has undertaken a review of a determination on the grounds that an Australian carrier has not complied with such a condition.

23 Conditions relating to joint international air services

If the Commission intends to include a condition in a determination that allows joint international air services pursuant to paragraph 15(2)(e) of the Act, the Commission should also include a condition requiring the Australian carrier to take reasonable steps to ensure that passengers are informed at the time of booking that one or more other carriers may operate the flight.

24 Conditions relating to the full use of capacity

- (1) For the purpose of specifying a period during which capacity need not be fully used pursuant to subparagraph 15(2)(c)(i) of the Act, the Commission:
 - (a) should specify as short a period as is reasonably possible, having regard to the full range of things necessary to be done by the Australian carrier in order to commence operating under the determination; and
 - (b) should not specify a period of more than 2 years other than in exceptional circumstances.
- (2) Where the Commission has commenced a review process under sections 10 and 23 of the Act because an Australian carrier has not complied with a condition that capacity be fully used, the Commission may have regard to the criteria set out in subsection (3) for the following purposes:
 - (a) deciding whether to confirm, vary, suspend or revoke the determination under subsection 23(1) of the Act;
 - (b) assessing whether the allocation, as varied, is of benefit to the public under subsection 23(3) of the Act, in accordance with subsection 16(2) of this instrument.

- (3) The criteria which the Commission may have regard to for the purposes specified in subsection (2) are:
 - (a) whether, at the time of the review, there exists an application from another Australian carrier for an allocation of capacity on the route, and the unused portion of the capacity allocated under the reviewed determination prevents the making of a determination in favour of the competing applicant; and
 - (b) whether there is seasonal variation in demand on the route in question; and
 - (c) whether the carrier was prevented from fully using the capacity by circumstances that could not reasonably have been foreseen; and
 - (d) any other matter that the Commission considers to be relevant.

Part 6—Application and Transitional provisions

25 Explanatory outline of this part

This Part sets out application and transitional provisions.

Section 26 deals with the application of this instrument and sets out transitional provisions relating to applications received by the Commission prior to the commencement of this instrument.

26 Application and transitional provisions

- (1) The Commission is to apply this instrument in deciding:
 - (a) an application for a determination allocating capacity; or
 - (b) an application for renewal of a determination; or
 - (c) an application for variation of a determination;that is received by the Commission on or after the commencement of this instrument.
- (2) Despite the repeal of the International Air Services Policy Statement No.5 by Schedule 1, the Commission is to apply that Policy Statement in deciding
 - (a) an application for a determination allocating capacity; or
 - (b) an application for renewal of a determination; or
 - (c) an application for variation of a determination;that is received by the Commission before the commencement of this instrument as if that repeal had not happened.

Schedule 1—Repeals

International Air Services Policy Statement No.5

1 The whole of the instrument

Repeal the instrument.

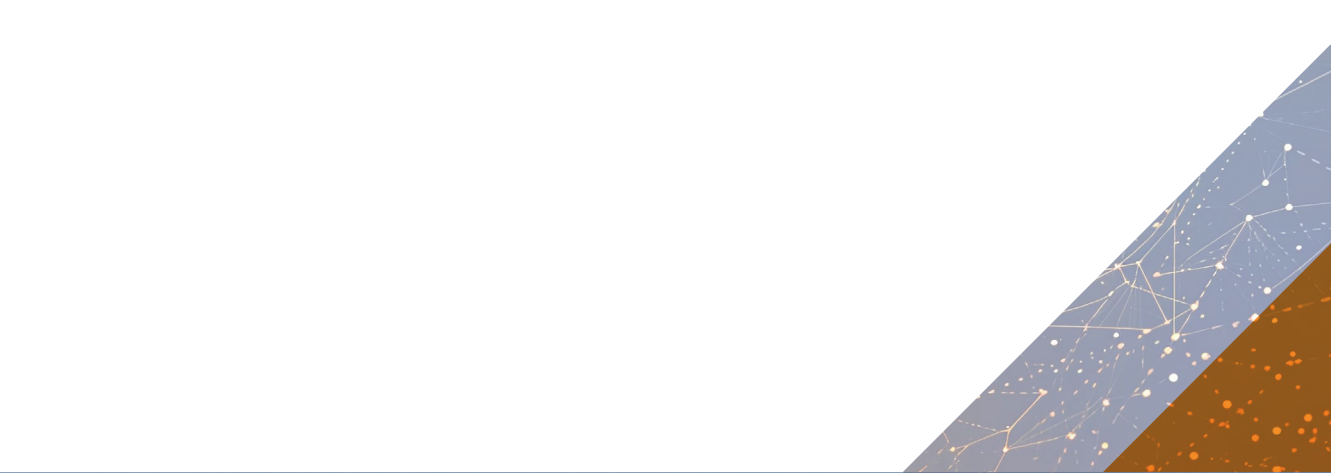


Photo © Qantas Airways Limited

The header graphic features a dark, textured background with geometric shapes in shades of blue and black. On the right side, there is a network diagram with nodes and connecting lines, and a small white airplane icon flying towards the right.

APPENDIX 7

Service Charter

From the Chairperson

This Service Charter (Charter) sets out the standards of service that you can expect from the International Air Services Commission and its staff. These standards apply to how we make decisions and to how we deal with you. We want to give you the best service possible and we welcome your ideas for helping us do so.

Ms Genevieve Butler
Chairperson

About the Commission

The Commission is an independent statutory authority comprised of 3 part-time Commissioners – a Chairperson and 2 members – supported by a small secretariat. It is established under the *International Air Services Commission Act 1992* (the Act). The aim of the Act is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services.

Our role is to allocate capacity available under Australia's bilateral air services agreements to Australian airlines so they can operate these international air services. We assess applications for capacity from airlines, using the criteria provided in the Act, its implementing regulations and the policy statement given to us by the Minister for Infrastructure, Transport, Regional Development and Local Government. If an application meets the criteria, we make a determination granting capacity to the airline concerned. We also decide on airlines' applications to vary determinations, usually to allow for code sharing, and to renew determinations.

Making an application

If you wish to apply for capacity, or make a submission when we have invited these in certain cases, procedures for doing so can be found on our website at www.iasc.gov.au. We suggest that prospective new airlines first contact the Commission's Director.

Our clients

In the broadest sense, the Australian community is our primary client because competitive air services promote the welfare of Australians. At a practical level though, airlines are the clients most directly affected by our decisions. However, our work is also relevant to many other parties. These include:

- ▶ the travelling public;
- ▶ the tourism and air freight industries, including Australian exporters;
- ▶ the wider aviation industry, including airport owners, providers of services to airlines, and employee associations;
- ▶ the Minister for Infrastructure, Transport, Regional Development and Local Government;
- ▶ Australian and State government departments and agencies; and
- ▶ the aviation industry media and analysts.

Our services to you

We aim to provide you with the highest standards of service, both in the way we deal with you and in making our decisions. We make these commitments to you:

In our dealings with you, we will

- ▶ act with as little formality as possible;
- ▶ treat you courteously and professionally;
- ▶ provide you with clear and accurate advice;
- ▶ include contact names and phone numbers in our correspondence;
- ▶ answer phone calls promptly by name or return any missed calls within one working day if you leave a message;
- ▶ reply to your emails within 2 working days;
- ▶ reply to your letters within 10 working days; and
- ▶ respond constructively to your suggestions for improving our service.

In our decision-making processes, we will:

- ▶ notify you within 5 working days of receiving an application for capacity;

- ▶ follow our published procedures for handling applications – the procedures are on our website or we will post, email or fax them to you upon request;
- ▶ seek only information that we consider is reasonably necessary for us to best carry out our functions;
- ▶ protect information you provide to us in confidence (although we prefer to keep confidential information to a minimum to ensure transparent decision making);
- ▶ make our decisions consistent with the requirements of the Act and the Policy Statement;
- ▶ make decisions about uncontested applications, including renewals within 4 weeks after the end of the notification period and contested or opposed applications within 12 weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this. In the case of contested renewals, the Commission will make decisions at least 6 months prior to the expiry date, circumstances permitting. These timeframes are applicable where the Commission has received all the necessary information from the airline/s as well as other stakeholders, in order to make a decision; and
- ▶ notify applicants by email within one working day of a decision being made, and other interested parties by email and on our website as soon as practicable thereafter.

What we ask of you

We ask you to:

- ▶ provide comprehensive and accurate information within the required timeframe and by the due date;
- ▶ be open and straightforward in your dealings with us;
- ▶ cooperate fully in response to requests for information that we think is relevant to a matter before us; and
- ▶ be courteous and respectful towards our staff and work with us to resolve issues and problems.

Accessibility

We will keep you informed quickly and comprehensively about our activities. We also endeavour to make contacting us as easy as possible. Contact details can be found at the conclusion of this charter.

Our primary method of communication is by email. We provide information about current cases directly to interested parties who ask for it by this means. We advise you of applications received, and Commission decisions about those applications. We can email copies of these documents to you, or provide links to the documents on our website. Please contact us if you wish to be added to either notification list.

Our website at www.iasc.gov.au provides up-to-date information about the Commission's business. It includes applications received, documents relating to current cases and all Commission determinations and decisions. Other important documents are on the site, including the Act and the policy statement, as well as the Commission's procedures.

Feedback and improving our service

We will monitor our performance against our service commitments. We encourage you to comment on our performance, including suggesting ways in which we can improve our service. Comments should be provided to the Commission's Director by mail, email or telephone.

At the end of each year we will assess how we have performed against our service standards. We will invite your comments on our service performance through a brief confidential questionnaire. The aggregated results of the assessments will be summarised in our annual report.

Making a complaint

We regard complaints as part of the feedback process which helps us improve our performance.

If you are dissatisfied with any aspect of our service, it is important that you tell us so we can address your concerns. If you have a complaint you should first try to resolve the issue with the secretariat staff member you dealt with. If you are still not satisfied you should contact the Director.

Review

We will review this charter through an ongoing consultative process with our stakeholders to ensure that it is meeting your requirements.

Contact details

International Air Services Commission

Telephone: (02) 6267 1100
Email: contact@iasc.gov.au
Website: www.iasc.gov.au
Postal address: GPO Box 630, Canberra ACT 2601
Premises: Level 4, 111 Alinga Street
Canberra, ACT

APPENDIX 8

Commission office holders since 1992

The following tables set out the Chairpersons and Members of the Commission since the Commission was established in 1992.

Chairs	Period
Stuart Fowler	July 1992 to April 1993
James Bain	July 1993 to June 1998
Russell Miller	July 1998 to January 2000
Michael Lawriwsky and Stephen Lonergan (Members presiding at alternate meetings)	January 2000 to August 2000
Ross Jones	August 2000 to August 2003
John Martin	November 2003 to November 2009
Philippa Stone and Ian Smith (Members presiding at alternate meetings)	November 2009 to June 2010
Ian Smith and Stephen Bartos (Members presiding at alternate meetings)	July 2010 to February 2011
Jill Walker	9 February 2011 to 11 August 2014
Ian Douglas and John King (Members presiding at alternate meetings)	August 2014 to November 2015
Ian Douglas (Acting)	8 November 2015 to May 2016
Ian Douglas	5 May 2016 to 5 August 2021
Genevieve Butler	5 August 2021 to present



Members	Period
Brian Johns	July 1992 to June 1997
Russell Miller	July 1992 to June 1998
Michael Lawriwsky	December 1997 to February 2007
Stephen Lonergan	August 1998 to August 2004
Vanessa Fanning	November 2004 to November 2007
Philippa Stone	July 2007 to July 2010
Ian Smith	November 2007 to February 2011
Stephen Bartos	1 July 2010 to 30 June 2013
Ian Douglas	8 November 2012 to 8 November 2015
John King	1 July 2013 to 31 December 2016
Jan Harris	24 November 2016 to 1 September 2019
Karen Gosling	1 November 2017 to 29 October 2021
Genevieve Butler	14 May 2021 to 5 August 2021
Jane McKeon (Acting)	1 October 2021 to 16 December 2021
Jane McKeon	16 December 2021 to present

APPENDIX 9

Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act 1992</i> , as amended.
AERgO	means AERgO International Australia.
Air services arrangement	is a set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier, Carrier	means a person who conducts, or proposes to conduct, an international airline service to and from Australia; and under the air services arrangements to which the capacity applies, may be permitted to carry passengers or freight, or both passengers and freight, under that arrangement as an airline designated, nominated or otherwise authorised by Australia.
Available capacity	means that an operational decision is not in force in relation to an amount of capacity available under air services arrangements, so an Australian carrier may seek an allocation of some or all of that capacity.
Benefit to the public	occurs if the Australian carrier to whom the capacity is allocated uses that capacity.
BITRE	means the Bureau of Infrastructure, Transport and Research Economics.

Capacity	is an amount of space available on an aircraft for the carriage of passengers and/or freight. It may be expressed within air services arrangements in various ways, such as in number of seats, units of capacity, or frequency of service, usually per week, in each direction on a route.
Code sharing	is a form of joint service between 2 carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.
Commission	means the International Air Services Commission, established by section 6 of the Act.
Commissioner	means a member of the Commission including the Chairperson.
Contested application	involves 2 or more applicants seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Delegate	refers to the IASC Director who has been given delegation to perform certain functions of the Commission.
Determination	allocates capacity to an Australian carrier, usually for a period of 5 years, but in some cases for 3 years (an interim determination), or for 10 or 99 years (where capacity is not limited under the air services arrangements in question).
Department	means the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Hand-back	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.

IASC	means the International Air Services Commission, established by section 6 of the Act.
IATA	means the International Air Transport Association.
Interim determination	is a determination that is in force for 3 years, rather than the 5 (or in some cases 10) years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that usually attaches to a standard determination at the renewal stage.
Jetstar	means Jetstar Airways Pty Limited.
Joint service	an arrangement entered into by an Australian carrier with another carrier to operate services on a joint basis. It may take different forms such as one or more of code sharing, joint pricing, or revenue and/or cost sharing or pooling. Australian carriers must receive approval from the Commission before using allocated capacity in joint services.
Member	means a member of the Commission.
Minister's policy statement	is a written instrument made by the then Minister for Transport and Regional Services on 20 March 2018 under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
Opposed application	a situation in which an interested party makes a submission arguing that an application from a carrier should not be granted by the Commission.
Qantas	means Qantas Airways Limited.
Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may include updated terms and conditions at the Commission's discretion.



Photo © Qantas Airways Limited

Review	involves an examination of an existing determination, either at the request of a carrier which wishes to vary the determination, or on the Commission's initiative if it is concerned that a carrier has or will breach a condition of the determination. In the case of a carrier-initiated review, the Commission may either vary the determination as requested by the carrier or confirm the determination. For a Commission-initiated review, the Commission may decide to confirm, vary, suspend or revoke the determination.
Revocation	a decision by the Commission to revoke (cancel) a determination.
Route	is the combination of origin, destination, intermediate and beyond points (cities) which an Australian carrier may serve under an air services arrangement.
Tasman Cargo	means Tasman Cargo Airlines.
Variation	a decision amending a determination, including conditions attached to it.
Virgin Australia	refers to Virgin Australia International Airlines Pty Ltd and/ or Virgin Australia Airlines (SE Asia) Pty Ltd.

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