



Australian Government

International Air Services Commission

International Air Services Commission | annual report 2004-2005

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annual report 2004–2005

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Australian Government
International Air Services Commission

The Hon Warren Truss MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600

Dear Minister

We are pleased to submit the thirteenth Annual Report of the International Air Services Commission, for the year ended 30 June 2005.

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

Yours sincerely

Handwritten signature of John Martin in black ink.

John Martin
Chairman

Handwritten signature of Michael Lawriwsky in black ink.

Michael Lawriwsky
Commissioner

Handwritten signature of Vanessa Fanning in black ink.

Vanessa Fanning
Commissioner

1st September 2005

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Part 1 — Review by Chairman

I am pleased to be able to report on a substantial year's work by the Commission. Unlike the past several years, our work was carried out against a backdrop of comparative stability in the international aviation operating environment. Aside from the Asian Tsunami in December 2004, which had a localised and short-term impact on aviation travel demand, there were not the major international events of recent years which so significantly reduced traveller numbers. As a result of this relatively stable situation, traffic levels on routes to and from Australia continued the recovery that began in earnest in the second quarter of 2004.

Australian carriers sought to expand operations on a number of routes as traffic volumes strengthened throughout the year. For the Commission, this involved us in dealing with applications from several airlines and a diversity of issues.

The Commission made a number of important determinations in favour of Qantas. Perhaps the most significant was an allocation to that carrier of seven services per week beyond Hong Kong. This enabled Qantas to operate services to the United Kingdom via Hong Kong for the first time. The case was interesting because when Qantas applied for capacity on the route in July 2004, it sought all seven services, even though restrictions under the Australia — Hong Kong air services arrangements meant it could not operate the final three of the seven services before April 2006. The Commission had some concerns about allocating these important and limited capacity entitlements so far in advance of when they could be used. However, after careful deliberation, the Commission assessed that the likelihood was low of another Australian carrier

seeking to use the capacity in the near future. Accordingly, the Commission made the allocation of all seven services to Qantas.

The Commission also allocated to Qantas three services per week of capacity on the United Kingdom route, bringing to 28 the number of weekly services Qantas is permitted to operate on the route. This is all of the capacity available to Australian carriers under Australia's air services arrangements with the United Kingdom. Qantas also received from the Commission allocations of passenger capacity on several other routes, mainly to Asian and European destinations.

The Commission also authorised Qantas to continue code sharing with South African Airways on the South Africa route until mid-December 2006. The Commission looked closely at the arrangement because of our concerns about the limited amount of competition on the route. Sufficient offsetting benefits were found to warrant continued authorisation of the arrangements for a further period. We attached revised conditions to the approval. These were designed to ensure as much competition as possible between Qantas and South African Airways within the framework of the code share agreement.

The Commission facilitated Qantas' continued development of services in international cargo markets. We allocated the airline freight capacity to permit it to operate on the Germany, India, South Africa, and Thailand routes. The rights have provided Qantas with opportunities to continue expanding its network of dedicated freight services, a strategic direction pursued in earnest by the airline in the past couple of years. Qantas uses B747 freighter aircraft wet-leased from Atlas Air to operate its services.

Competition is emerging for Qantas in the pure freight market from another Australian carrier. Following allocations of capacity by the Commission, HeavyLift Cargo Airlines (HeavyLift) started services on a small scale in 2004 on routes in the south-west Pacific region. However, HeavyLift is intending to expand onto long haul routes. Early in 2005, HeavyLift applied to the Commission for capacity on the Netherlands route, an application which was contested by Qantas. Both carriers sought the two weekly freighter services that were available to operate on the route. After a thorough analysis by the Commission of the public benefits likely to be associated with the respective proposals of the two carriers, we allocated the capacity to HeavyLift. A condition of our approval is that the airline is required to fully utilise the capacity by 1 November 2005.

The Commission also granted to HeavyLift allocations of unlimited freight capacity on the United States and China routes. The airline plans to commence twice-weekly services on these routes in conjunction with its operations on the Netherlands route. HeavyLift intends to operate B747 freighter aircraft wet-leased from Kalitta Air, a United States-based aircraft leasing company.

Pacific Blue Airlines (Australia), Virgin Blue's international operating arm, sought to expand its operations in the south-west Pacific region. The Commission made an allocation of capacity to Pacific Blue on the Cook Islands route. This enabled the airline to commence a once weekly B737-800 service between Australia and the Cook Islands. Pacific Blue also received from the Commission additional capacity on the Fiji route, paving the way for an increase in the airline's services to that country.

There was a change in the composition of the Commission during the year. Mr Stephen Lonergan's six-year period of service with the Commission concluded on 31 July 2004. Stephen Lonergan played a substantial and effective role in the work of the Commission and I would like to pay tribute to Stephen for his valuable contribution. I would also like to recognise the contribution of Dr Michael Lawriwsky, who has been a member of the Commission since 1997.

It was a pleasure to welcome Ms Vanessa Fanning to membership of the Commission in November 2004. Ms Fanning was most recently the Managing Director of Health Services Australia. Prior to this, she had extensive senior level experience in transport policy and regulation within the public and private sectors. Vanessa Fanning brings to the Commission an in-depth knowledge of the international aviation regulatory environment.

In closing, I join with my fellow Commissioners, Ms Fanning and Dr Lawriwsky, in congratulating the members of the Secretariat for their proficient advice and technical and administrative support throughout the year. We look forward to another year of interesting work by the Commission.

John Martin
Chairman

Part 2 — Commission overview

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, resulting in:

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

The Commission's role is to serve the object of the Act by allocating capacity entitlements to Australian carriers for the operation of international airline services. The capacity is allocated from entitlements negotiated under air services arrangements between Australia and other countries. The specific functions of the Commission are to:

- make determinations allocating capacity and to renew those determinations
- conduct reviews of determinations
- provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.

A policy statement given to the Commission by the Minister for Transport and Regional Services directs the Commission about the way in which it is to perform its functions under the Act. The policy statement sets out criteria to be applied by the Commission in assessing the benefit to the public in relation to allocations of capacity,

and directs the Commission on related matters. The policy statement is a disallowable instrument under section 11 of the Act. It is reproduced at *Appendix 7*.

On routes where capacity or route rights are restricted, full determinations are granted for a period of five years. Where capacity and route rights are unrestricted, full determinations are issued for a period of 10 years. Alternatively, interim determinations may be issued for three years at the Commission's discretion. Where a carrier requests a determination for a lesser period, the Commission may specify a shorter period.

Carriers will normally wish to renew determinations and the Commission is required to start reviews of these determinations at least one year before they expire. Except for interim determinations, there is a rebuttable presumption in favour of the carrier seeking renewal.

From time to time, carriers apply to the Commission for a variation of a determination. The Commission conducts a review in response to such a request. If the request is agreed to by the Commission, a decision is issued amending the determination. The Commission may itself initiate a review of a determination if it considers that a carrier is or may become in breach of a condition of a determination.

The Commission has published procedures it follows in making determinations. A summary of these procedures is set out at *Appendix 6*. The procedures are intended to ensure that applicants and other interested parties have a clear guide to the Act and policy statement, understand the Commission's decision making processes, and are aware of their rights and obligations.

Executive profile

The Commission comprises a part-time Chairman and two part-time members. The membership of the Commission at 30 June 2005 was as follows:



Mr John Martin, Chairman; Ms Vanessa Fanning, Member and Dr Michael Lawriwsky, Member

Mr John Martin

Mr John Martin, Chairman (appointed in November 2003 for a three year term ending in November 2006). Mr Martin is a Commissioner with the Australian Competition and Consumer Commission (ACCC) where he has responsibility for matters relating to small business and is Chairman of the ACCC Transport Committee. Mr Martin was Executive Director of the Australian Chamber of Commerce and Industry from 1989 until his appointment to the ACCC in June 1999. Previously

Mr Martin had policy management roles in the Commonwealth Treasury and Industry Department and was for several years a regional industrial consultant with the United Nations based in South East Asia. Mr Martin has an Economics degree from the ANU.

Dr Michael Lawriwsky

Dr Michael Lawriwsky, Member (originally appointed in December 1997 and most recently reappointed in December 2003 for a three year term ending in December 2006). Dr Lawriwsky is a Senior Associate of the Allen Consulting Group. Formerly he was a Director-Corporate Finance, at ANZ Investment Bank, and prior to that a Professor of Commerce at La Trobe University, where he is currently an Adjunct Professor in the School of Business.

Ms Vanessa Fanning

Ms Vanessa Fanning, Member (appointed in November 2004 for a three year term ending in November 2007). Ms Fanning was until early 2005 the Managing Director of Health Services Australia. She has vast experience in transport policy and regulation and was the head of the Aviation Policy Division (1992–1995) prior to her appointment as Group Manager, Public Policy with the multinational transport company TNT.

Ms Fanning holds a BA degree from the University of Melbourne and B.Ec from the Australian National University.

The secretariat

The Commission is supported by a secretariat staffed by officers of the Department of Transport and Regional Services (DOTARS). The secretariat is headed by an Executive Director, supported by a Senior Adviser and an Office Manager. These officers provide advice and assistance to the Commissioners on all aspects of the Commission's operations.

Commissioners' attendance at meetings in 2004–2005

COMMISSIONER	NUMBER OF MEETINGS	NUMBER OF MEETINGS ATTENDED
Mr Martin	5	5
Dr Lawriwsky	5	5
Ms Fanning*	3	3
Mr Lonergan**	1	1

* Ms Fanning's term of appointment commenced on 1 November 2004

** Mr Lonergan's term expired on 31 July 2004.



Those pictured from left to right are: Michael Bird, Executive Director; John Martin, Chairman; Roy McAndrew, Senior Adviser; Vanessa Fanning, Member; Michael Lawriwsky, Member and Carolyn Sweeney, Office Manager

Communications with interested parties

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

- the Minister for Transport and Regional Services
- existing and prospective Australian international airlines
- the wider aviation industry, including airport owners, providers of services to airlines, and employee associations
- the tourism and freight industries, including Australian exporters
- Australian and State Government departments and agencies
- aviation industry investors, analysts and journalists
- the travelling public.

The Commission places great importance on maintaining effective relationships with these parties. Account is taken of their views and/or interests in the Commission's decision-making processes.

The role of DOTARS

The Commission works closely with DOTARS, which has responsibilities that are complementary to those of the Commission. DOTARS negotiates Australia's air services arrangements with aeronautical authorities of other nations. These negotiations include agreeing on the capacity entitlements for Australia's carriers on international routes. This capacity becomes available for allocation by the Commission. Available capacity entitlements are recorded in a Register of Available Capacity maintained by DOTARS. The register is updated to reflect determinations allocating capacity made by the Commission and unused capacity handed back to the Commission by airlines from time to time.

The Commission and DOTARS liaise on matters such as whether carriers are likely to be reasonably capable of obtaining the approvals necessary to operate on a route and of implementing their proposals. This is a particularly important process in relation to potential new carriers which do not have an established operational record.

Part 3 — Report on performance

Overview of Commission performance

The level of the Commission's performance can be assessed against three broad criteria. These are whether the Commission has:

- served effectively the object of the Act
- acted in a way which has fairly and appropriately dealt with applicants and other interested parties
- made efficient use of the Government resources available to it.

The Commission considers that it has performed satisfactorily against these criteria. The performance has been assessed against the requirements of the Act and various performance measures adopted by the Commission. A discussion of the results of the assessment follows.

Results against performance targets

Serving the object of the Act

The Commission considers that its primary performance criterion is to serve effectively the object of the Act by making determinations and decisions in accordance with the requirements of the Act and the Minister's policy statement. In the Commission's view, all determinations and decisions were made in accordance with these requirements, including following required notification processes and decision-making criteria.

In the more complex cases, the Commission issued draft determinations to provide an opportunity for interested parties to comment on the Commission's considerations and conclusions,

before the Commission moved to a final determination. No determinations or decisions were challenged through administrative appeal channels and there were no complaints to the Commission about the processes it followed in making determinations or decisions.

The arrangements for the making of determinations and decisions by the Commission's delegate worked well. This was the first full year that provisions of the Act enabling certain powers to be delegated by the Commission were in effect. The protocol between the Commissioners and the delegate (in practice, the Commission's Executive Director) ensured that there was clarity in the process for settling which cases were to be handled by the Commission and by the delegate respectively.

Serving applicants and interested parties — performance against service charter

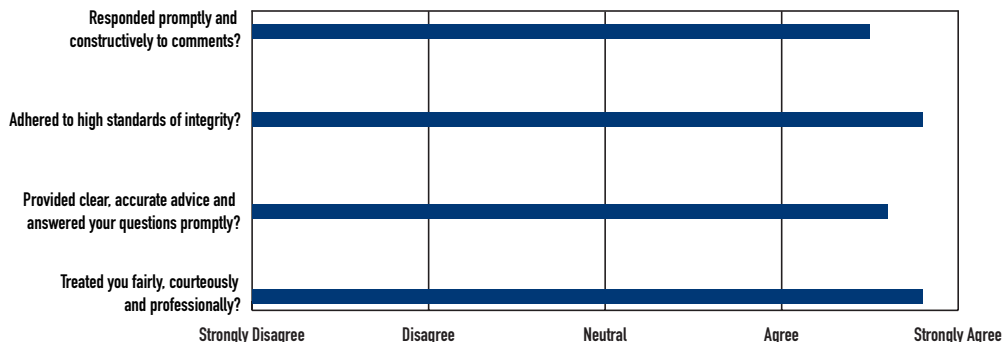
As in previous years, the Commission used the commitments in its service charter as the basis for endeavouring to provide high quality services to applicants for capacity and other interested parties who deal with the Commission. The Commission's commitments to applicants and other interested parties are divided broadly into two groups. The first group of commitments contains specific undertakings about the way in which the Commission aims to deal with those who interact with the Commission. The second category of commitments relate to the manner in which the Commission goes about its decision-making processes.

The Commission surveyed its stakeholders at the end of the financial year about their perceptions of the Commission's performance over the course of the year. The electronic survey method enabled respondents to provide responses anonymously, if preferred. The following two charts set out the aggregate ratings of respondents of the Commission's performance against its commitments. The feedback that was

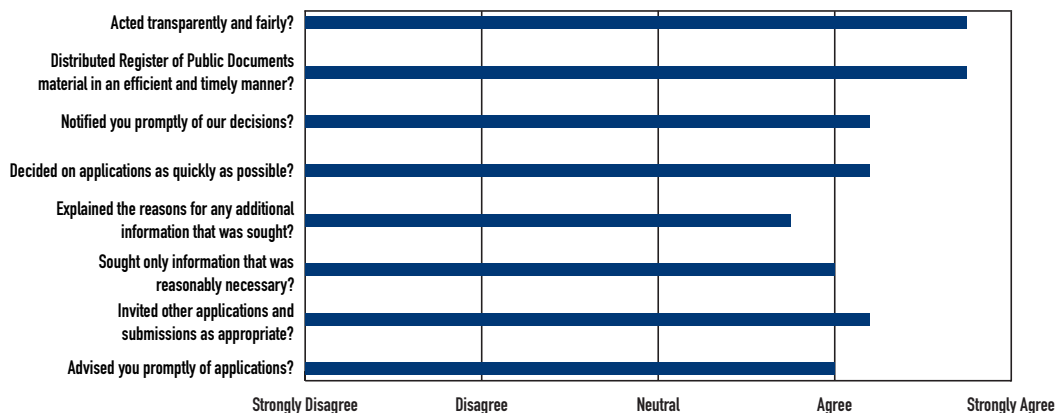
received suggested that the Commission continues to deliver services in a satisfactory manner. However, as only a limited number of responses were received, the results should be regarded as an indicative guide only.

More detailed information about the Commission's performance in the important area of timeliness is set out in the third chart and the discussion which follows it.

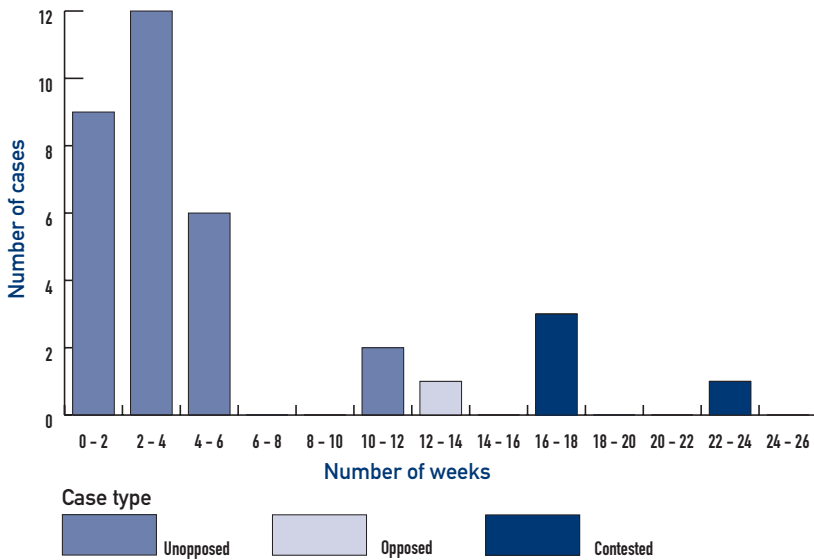
Dealings with stakeholders — Do you agree that we:



Decision making process — Do you agree that we:



Distribution of decision times by type of case



The Commission maintains two benchmarks for measuring the timeliness of its decision making. The first is a standard of four weeks for uncontested and unopposed applications from the date of receipt of an application to the date of publication of determinations or decisions. Uncontested and unopposed applications involve only a single applicant with no submissions opposing the granting of the application.

Usually such cases are relatively straightforward, but this is not always so. As the chart shows, there were two unopposed cases which took significantly longer to finalise than the benchmark times. One of these cases was a Qantas application for capacity on the Hong Kong route involving complex issues about which legal advice was sought by the Commission. The second case involved an application for capacity from HeavyLift on the Solomon Islands route. In this case, the determination was delayed while the Commission awaited additional information sought from HeavyLift.

This year, the average time taken to conclude consideration of uncontested and unopposed applications was 3.3 weeks, considerably better than the four weeks benchmark. This was a good result considering that the two cases mentioned above increased the average time significantly.

The Commission's second timeliness benchmark relates to contested or opposed applications. In these cases, the Commission aims to publish determinations or decisions within 12 weeks. Contested and/or opposed applications involve two or more applicants competing for the same limited capacity, and/or submissions which oppose a proposal. Such cases are usually more complex than the uncontested or unopposed cases. They usually involve the application by the Commission of additional public benefit criteria in order to determine an outcome. The average time taken to deal with contested or opposed cases was 17.3 weeks. Although this was outside the 12 weeks benchmark standard, there were complex issues involved which necessitated the longer than desired completion times.

The Commission averaged 5.4 weeks for all determinations and decisions. This excludes renewal determinations, which are generally initiated by the Commission on a time frame that suits the airlines' requirements.

The Commission appreciates that timely decision making is valued by applicants and this is an important consideration in dealing with applications. However, the Commission's view is that a balance needs to be struck between the primary obligation to make decisions effectively and appropriately and the time taken to make decisions. In certain cases, particularly complex ones like some of those considered this year, decisions may take longer than benchmark times. However, this occurs infrequently and in most cases the decision times are considerably shorter than the benchmarks. The availability of scope for the Commission to delegate many of its decision making powers to a DOTARS officer (the Commission's Executive Director) has helped to speed up decision making in many of the more straightforward cases, as was intended by the Government in amending the Act to incorporate the delegation powers.

The Commission has not adopted a quantity performance target. The number of determinations and decisions made by the Commission fluctuates from year to year for a number of reasons which are unrelated to the Commission's performance. The level of the Commission's output is related principally to the number of applications received from airlines. The volume of airline applications is in turn dependant on a range of factors. These include the rate of growth in world aviation demand, the plans of Australian international airlines, and opportunities negotiated under Australia's air services arrangements with other nations. The varying pattern of the number of determinations expiring from year to year also affects the number of determinations made, with more renewals of determinations being made in some years than others.

Although there is no quantity target, the Commission tracks the number of determinations and decisions produced each year. The figures provide an indicator of the level of output achieved for the amount of Government resources allocated to the Commission, as well as being of interest for comparative purposes with previous years.

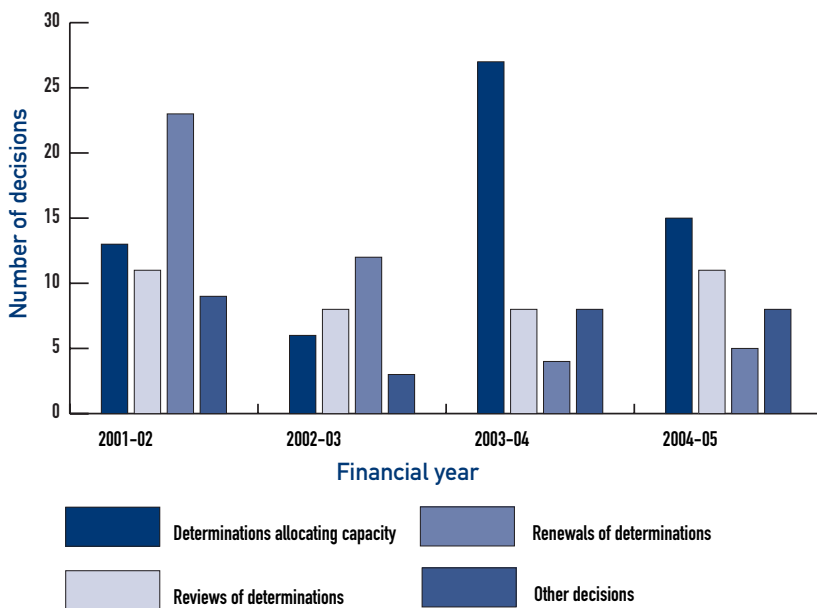


The following graph illustrates the level of activity in the year, compared with the preceding three years. As is evidenced by the graph, the Commission produced somewhat fewer determinations and decisions in total this year (39) compared with 2003–2004 (47), although a greater number of determinations allocating capacity were made than either of the two years prior to last year. This was achieved with a slightly lower level of staffing and financial resources than last year. Further details are set out below.

than the 2.8 full-time equivalent staff in the previous year.

As in previous years corporate overheads and property operating expenditure were paid for by DOTARS — the Commission is located in departmental offices — and are not the Commission's responsibility. Although co-located with DOTARS, the Commission maintains its autonomy.

Historical analysis of determinations and decisions



Use of Government resources

The Commission's funding is provided from within the budget allocation to the Aviation and Airports Business Division of DOTARS. The funding available to the Commission covers salary costs for secretariat staff and the Commission's administrative needs including advertising of determinations, production of the annual report, Commissioners' fees and travel expenses, and general office requirements. The Commission was supported by a secretariat the equivalent of about 2.5 full-time equivalent staff, slightly less

than the 2.8 full-time equivalent staff in the previous year. The Commission's budget at the commencement of the financial year was \$397,000, comprising of \$281,000 for secretariat salaries and \$116,000 for administrative expenses. Following a departmental review during the year, the total amount was adjusted to \$381,000, with the amounts for secretariat salaries and administrative expenses adjusted to \$290,000 and \$91,000 respectively.

Total expenditure was \$366,000, just \$15,000 less than the revised budget and \$14,000 less than expenditure in 2003–04. The slightly lower

than expected expenditure against budget resulted primarily because of reduced members' fees arising from the gap between Mr Lonergan's term expiring at the end of July 2004 and Ms Fanning becoming eligible to receive fees in April 2005, fewer than budgeted Commission meetings, and less travel and training expenditure by secretariat staff than forecast.

The Commission considers that it has employed its resources efficiently this year and is operating with what it regards as about the minimum sustainable resource level consistent with the delivery of high-standard outcomes. DOTARS continued its commitment to make additional staffing resources available to meet the Commission's needs if sought. While this standing offer was not called upon during the year, it is welcomed by the Commission.

Part 5 of the annual report summarises the Commission's financial performance.

Case study — The Netherlands route

Introduction

As with its previous annual reports, the Commission presents an in-depth discussion of one of its cases of particular interest. In last year's report, the Commission highlighted the issues involved in deciding between competing applications for capacity on the United Kingdom route from Qantas and Backpackers Xpress, a prospective start-up passenger airline. This year, the focus is on all-cargo operations. The case in question involved competing applications by Qantas and HeavyLift Cargo Airlines (HeavyLift). Both carriers sought all of the freight capacity available for allocation on the Netherlands route.

The applications

In January 2005, HeavyLift applied for an allocation of two weekly all-cargo services on the Netherlands route. At the same time, HeavyLift

applied for capacity on the China and United States routes. The capacity sought was to enable the airline to operate twice-weekly B747 freighter services between Sydney and Amsterdam via Shanghai, and between Los Angeles and Sydney via Honolulu. The aircraft were proposed to be wet-leased from Kalitta Air, a United States-based air freight services company. Under HeavyLift's plan, Kalitta Air would operate the aircraft in its own right on the sector between the Netherlands and the United States.

Qantas lodged a competing application for the Netherlands capacity in February 2005. Qantas also sought the two weekly all-cargo frequencies available for allocation on the Netherlands route. Qantas planned to fly a circle route from Sydney via Shanghai to Amsterdam, returning via Mumbai and Singapore to Sydney. Qantas proposed to wet-lease B747 freighter aircraft from Atlas Air, a United States company which provides world-wide freight services. Qantas already held allocations of capacity from the Commission for the other routes involved in its proposal.

By operating via China to the Netherlands, both carriers planned to tap into export markets to both nations, but also the large and rapidly growing volume of trade by air between China and the Netherlands. Additionally, both carriers planned to take advantage of excellent ground transport links at Amsterdam to distribute freight to other European points.

The Commission's assessment

Both carriers were found to meet the paragraph 4 criteria of the Minister's policy statement, which concern the ability of applicants to achieve the approvals necessary to operate and to implement their proposals. As a major established operator, a detailed assessment of Qantas' plans against the paragraph 4 criteria was not required. However, because HeavyLift planned to enter long haul routes on a scheduled basis for the first time, the Commission undertook a detailed analysis of the airline's capability of

implementing its proposed services. Previously, HeavyLift's scheduled operations had been confined to short haul routes within the south-west Pacific, although it had operated some longer haul charter services. The Commission found that HeavyLift's plans were sound, with contractual arrangements that would underpin the commercial viability of the proposed services. The arrangements with an established international cargo operator, Kalitta Air, were considered likely to ensure reliable operations.

The Commission assessed and compared the public benefits likely to be generated by the two proposals against the paragraph 5 criteria in the Minister's policy statement. The Commission noted the pre-eminence given in the policy statement to the competition benefits of each application. In addition, paragraph 5 contains certain "other" criteria for assessing public benefits. Of these, the two criteria relevant in the circumstances of the case were those relating to trade benefits and the extent to which the proposals would impact positively on the Australian aviation industry.

The Commission found that HeavyLift's proposal offered greater public benefits against the competition criteria than did that of Qantas. Both carriers' proposals were found to offer significant competition for foreign airlines in the various market segments along the proposed routes. However, HeavyLift would also introduce competition for existing Qantas services to China and compete with Qantas for traffic it distributed to points in Europe from its existing freight services to Frankfurt. Overall, the Commission considered that the entry of HeavyLift onto the Netherlands route would have a significant competitive impact, because it would provide competition in multiple markets, both for Qantas and foreign airlines.

HeavyLift was found to have a cost advantage over Qantas, which meant that HeavyLift was in a position to offer competitive rates in the

market. Although HeavyLift would be operating an older-series B747 with higher fuel costs, this aircraft's lower leasing costs compared with those of the newer aircraft leased by Qantas from Atlas Air formed the main basis of the cost advantage.

Both carriers were found to offer competition benefits through the return legs of their respective proposals. The Qantas services would offer Australian importers additional opportunities to move freight to Australia from the Netherlands, India and Singapore, and introduce competition for foreign carriers. On the other hand, the ability of HeavyLift to operate to the Netherlands would open the way for the introduction of its services from the United States to Australia, bringing competition to Qantas as well as foreign carriers on the route.

Turning to the trade benefits criterion, the Commission found that both carriers' proposals would benefit Australian exporters through the availability of additional cargo space to China, the Netherlands and other points in Europe. Qantas was found to have a modest advantage through the ability of its larger capacity aircraft to carry a slightly greater amount of freight. However, this was offset by the scope for HeavyLift to offer lower rates, as well as an alternative service to exporters. Both airlines had access to good distribution networks in Amsterdam for the on-shipment of freight to other points in Europe and to the United Kingdom.

Against the industry structure criterion, the Commission assessed that the introduction of the Netherlands services by either carrier would be beneficial to the Australian aviation industry. However, the Commission considered that the establishment of long-haul operations by HeavyLift would, over time, produce greater benefits.

The Commission considered the possibility of splitting the capacity between the two applicants.

It would have done so if the benefits were likely to be greater than the benefits expected to arise from allocating the two weekly units of capacity to HeavyLift. However, the Commission found that HeavyLift would have difficulty sustaining a once weekly operation. This was partly because of a lack of scale and in part because it would make it impractical for HeavyLift to introduce its proposed twice-weekly services to China and the United States, as these were linked to the services to the Netherlands. By contrast, a single weekly operation by Qantas would represent an increment to existing long-haul services, including via China to Frankfurt.

The Commission concluded that both weekly units of capacity should be allocated to HeavyLift. The Commission issued a draft determination to give the applicants and other interested parties an opportunity to respond to the proposed allocation to HeavyLift. Qantas responded to the draft and its views were taken into account by the Commission in arriving at the final determination. The Commission confirmed the allocation to HeavyLift. As the case was contested, the Commission issued an interim (three year) determination. Interim determinations provide other carriers with a more open opportunity to compete with the incumbent carrier for the capacity at the renewal stage. By contrast, full five or 10 year determinations favour the incumbent airline in the renewal process.

HeavyLift was granted until 1 November 2005 to commence its operations. The Commission considered this to be a reasonable period from when the determination was made in mid-May 2005 to establish long-haul operations. Given that Qantas stood ready to use the capacity, the Commission did not want a situation to arise in which the capacity might remain unused after 1 November, should HeavyLift prove unable to

establish its operations. The Commission therefore stated that it would monitor closely HeavyLift's preparations for operating the services. The Commission is able to initiate a review process if it becomes concerned that HeavyLift is unlikely to fully use the capacity by the required date.

The Commission also allocated capacity to HeavyLift on the China and United States routes. Together with the capacity on the Netherlands route, these allocations provide HeavyLift with the opportunity to implement its planned operations.

Significant developments post 30 June 2005

There were no significant developments after 30 June 2005.

Outlook

The Commission speculated last year that if demand was depressed in the event of a continuation of the then rising world oil price, this may lead to reduced activity for the Commission. Although the oil price generally remained high throughout the year, activity for the Commission continued at normal levels with the demand for international air travel proving to be resilient. This was evidenced by an increased number of travellers to and from Australia compared with the previous year. Some of this strength in demand can be attributed to the return to a more normal operating environment after the shocks associated with the major events of recent years such as the SARS virus and Iraq war.

The high oil price at year's end showed no signs of abating and continues to impose a significant cost burden on international airlines. Although the

oil situation clouds the outlook for 2005–06, the demand for travel appears to remain strong and the aviation industry continues to be generally competitive with Australian consumers and the tourism and trade industries benefiting as a result.

The continuing aspirations of Australian international airlines to develop services are a positive sign for the health of the industry. New passenger and freight carriers have established operations over the past couple of years following allocations of capacity to them by the Commission. These carriers are likely to seek

to expand their operations as commercial opportunities present themselves. Other prospective new carriers may also apply to the Commission over time. Some of these, such as Australia World Airways which was allocated capacity on a conditional basis by the Commission in the past, continue to advise the Commission of their plans. For its part, Qantas, Australia's largest carrier, continues to expand services in both passenger and freight markets.



Part 4 — Management and accountability

Corporate governance practices

The Commission is a very small organisation and does not require the more complex corporate governance structures typically found in departments and other larger organisations. However, the Commission has corporate governance arrangements appropriate to its role and responsibilities. These arrangements are in two strands.

The first of these strands involves addressing the requirements and responsibilities of the Act. Part 4 of the Act sets out procedures the Commission is required to follow. Principal amongst these are requirements relating to the holding of meetings, including the keeping of minutes. The Commission's procedures adhere strictly to these requirements. Commission meetings are usually held in Canberra at the Commission's offices. Occasionally meetings are conducted by teleconference or email, when relatively straightforward matters are involved, to reduce time and travel costs associated with face-to-face meetings. In all cases, Commission determinations and decisions are finalised only after they are agreed between Commissioners.

During Commission meetings staffing, financial and risk management issues are reviewed regularly with the secretariat. The Commission and the secretariat also communicate regularly by email and telephone about matters requiring the attention of the Commission in periods between meetings.

This was the first full year in which the Commission's powers to delegate authority in certain circumstances were in effect. The protocol developed last year between the Commission and its Executive Director (the Commission's delegate) provided a sound basis for determining whether

cases would be handled by the delegate or by the Commission. Under these arrangements, the Commission was aware of all applications at an early stage and decided how each application should be handled following advice and recommendations from the Executive Director.

Part 5 of the Act deals with the Commission's membership. Commissioners are appointed formally by the Governor-General after approval by Cabinet following its consideration of recommendations by the Minister. The Government's practice has been to appoint Commissioners for periods of three years, although the Act provides that terms of appointment may be for up to five years. Section 47 of Part 5 of the Act requires members to disclose any interest that could conflict with the performance of his or her functions in relation to proceedings conducted by the Commission. Commissioners are fully aware of this obligation. There were no conflict of interest issues during the year. The Remuneration Tribunal determines Commissioners' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

Part 6, 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 and the final report is signed off by the Chairman and delivered to the Minister in accordance with the statutory requirements.

The second element of the Commission's corporate governance arrangements arise from the Commission's links with DOTARS. Secretariat staff members are officers of DOTARS and therefore subject to the responsibilities and obligations applicable to departmental staff including accountability mechanisms put in place under DOTARS' own corporate governance arrangements.

The Commission's Executive Director is responsible for the day to day management and running of the secretariat and its resources, in accordance with DOTARS requirements. These arrangements ensure that there are appropriate controls and safeguards over matters such as expenditure of Commission funds. Secretariat staff members, as members of the Australian Public Service (APS), are also expected to adhere to the APS Values and Code of Conduct.

External scrutiny

There was no formal external scrutiny of the Commission during the year. No determinations or decisions made by the Commission were the subject of judicial or administrative review.

Management of human resources

The average staffing level of the secretariat for the year was slightly less than the previous year, at 2.5 full-time equivalent people, compared with 2.8 in 2003–2004. There are two Executive Level 2 officers (both male, one full-time, one part-time) and one APS 6 officer (female, part-time).

The staffing level remained stable throughout the year. Staff members are experienced officers with a range of skills and abilities between them, providing the capabilities necessary to support effectively the work of the Commission. As DOTARS officers, secretariat staff members' employment conditions are determined by the DOTARS Certified Agreement, except for the Executive Director who has an Australian Workplace Agreement.

DOTARS has undertaken to make additional staffing resources available to the Commission if required from time to time. While no extra staff support was required this year, the understanding by the department about staffing is appreciated by the Commission. The co-operative approach taken by DOTARS has assisted the Commission in the past to maintain adequate support to carry out its functions

effectively. It also forms part of a strategy to manage the risk associated with being dependent on key individuals within the small secretariat.

As DOTARS employees, secretariat officers are subject to the department's human resource management policies and practices. As part of these arrangements, secretariat staff members participate in six monthly discussions about their performance against work objectives and professional development activities undertaken and planned for the future. The Commissioners assist the professional development of secretariat members in a number of ways. Participation in activities such as training courses and conferences is encouraged. Staff members are involved in the Commission's work through the preparation of agenda papers, participation in discussion, and drafting of determinations and decisions for consideration by Commissioners. As the work demands of the Commission's activities allow, secretariat staff are involved from time to time in tasks within DOTARS, as part of the flexible working arrangements between the Commission and DOTARS.

Assets management

Asset management is not a significant aspect of the strategic business of the Commission.

Purchasing

The Commission made no significant purchases during the year.

Consultants and competitive tendering and contracting

The Commission did not engage any consultancy services.

Part 5 — Financial report

Financial report as at 30 June 2005

	(1) 2004–05 BUDGET \$'000	(2) 2004–05 ACTUAL \$'000	(3) VARIATION (COLUMN 2-1) \$'000	(4) 2005–06 BUDGET \$'000
Salaries	290	284	-6	272
Revenue	-	-	-	-2
Supplier expenses	91	82	-9	110
TOTAL	381	366	-15	380
Staff years	2.8	2.5	-0.3	2.5

Explanatory notes

The Commission's financial report is prepared on an accrual budgeting basis.

The Commission's budget is provided from funds allocated to the Aviation and Airports Business Division with DOTARS. The Commission was allocated a total budget at the commencement of the year of \$397,000. This total consisted of \$281,000 for secretariat salaries and \$116,000 for supplier expenses. These amounts were adjusted to those shown in the table after a department-wide review of expenditure and budgets conducted during the course of the year.

As in past years, property operating expenses and some other corporate overheads incurred by the Commission were budgeted and paid for by DOTARS. Property operating expenses include building lease rental costs, repair and maintenance, electrical and cleaning services.

Part 6 — Appendices

Appendix 1 — Determinations and decisions

This table summarises briefly the determinations and decisions issued by the Commission or its delegate during 2004–05. A fuller summary is at *Appendix 2*. Individual determinations and decisions are available for viewing on the Commission’s website at www.iasc.gov.au.

ROUTE	AIRLINE	IASC NUMBER	PUBLICATION DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
China	HeavyLift	[2005] IASC 104	16-May-05	Unlimited freight capacity	Allocation of freight capacity
Cook Islands	Pacific Blue	[2004] IASC 114*	20-Sep-04	180 seats	Allocation of passenger capacity
Fiji	Qantas	[2004] IASC 204*	23-Jul-04	(50 tonnes)**	Revocation of [2002] IASC 125
	Pacific Blue	[2004] IASC 122	20-Dec-04	1,260 seats	Allocation of passenger capacity
France	Qantas	[2004] IASC 211*	26-Oct-04	100 one-way seats	Variation of [2002] IASC 109 to increase allocation to 250 one-way seats and to permit code sharing with Air France
	Qantas	[2004] IASC 212*	01-Nov-04	(Three units)	Revocation of [2003] IASC 106
Germany	Qantas	[2004] IASC 125	20-Dec-04	Unlimited freight capacity	Allocation of freight capacity
Hong Kong	Qantas	[2004] IASC 103	30-Jul-04	Seven services beyond	Allocation of capacity beyond Hong Kong
	Qantas	[2004] IASC 206*	06-Sep-04		Variation of [2000] IASC 106, [2001] IASC 119, [2002] IASC 105, [2002] IASC 122 and [2003] IASC 107 to express capacity in terms of frequencies, rather than seats and frequencies
	Qantas	[2004] IASC 115*	11-Oct-04	Four frequencies	Renewal of [2002] IASC 122
	Qantas	[2004] IASC 116*	11-Oct-04	Seven frequencies	Renewal of [2000] IASC 106

ROUTE	AIRLINE	IASC NUMBER	PUBLICATION DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
	Qantas	[2004] IASC 216*	13-Dec-04	(Two frequencies)	Reduction in capacity allocated by [2000] IASC 106 and [2004] IASC 116
India	Qantas	[2004] IASC 124	20-Dec-04	Unlimited freight capacity	Allocation of freight capacity
Indonesia	Qantas	[2004] IASC 209*	20-Sep-04		Variation of [2001] IASC 106 and [2002] IASC 113 to express capacity in terms of seats alone
	Qantas	[2004] IASC 210*	26-Oct-04	350 seats	Variation of [2002] IASC 113 to increase allocation to 3,390 seats
	Qantas	[2004] IASC 218*	13-Dec-04	(750 seats and one frequency beyond Indonesia)	Reduction in capacity allocated by [2002] IASC 123 to 850 seats and three frequencies beyond Indonesia
Japan	Qantas	[2004] IASC 120	08-Nov-04	Three B767-200 units	Allocation of passenger capacity
Malaysia	Qantas	[2004] IASC 214*	13-Dec-04	(608 seats)	Revocation of [2003] IASC 119
	Qantas	[2005] IASC 203*	18-May-05	(542 seats)	Revocation of [2003] IASC 103
Netherlands	Qantas	[2004] IASC 118*	11-Oct-04	400 seats	Renewal of [2000] IASC 105
	Qantas	[2004] IASC 215*	13-Dec-04	(Two all-cargo frequencies)	Revocation of [2001] IASC 115 and [2004] IASC 111
	HeavyLift	[2005] IASC 103	16-May-05	Two all-cargo services	Allocation of freight capacity
New Zealand	HeavyLift	[2005] IASC 101*	17-Mar-05	Unlimited freight capacity	Allocation of freight capacity
	Norfolk Jet Express	[2004] IASC 205*	03-Sep-04		Variation of [2004] IASC 109 to permit Qantas to code share
	Pacific Blue	[2004] IASC 207*	20-Sep-04		Variation of [2003] IASC 109 to transfer capacity to Pacific Blue (Australia) from Virgin Blue

ROUTE	AIRLINE	IASC NUMBER	PUBLICATION DATE	CAPACITY ALLOCATED (PER WEEK)	COMMENTS
Philippines	Qantas	[2004] IASC 208*	20-Sep-04	50 seats	Variation of [2004] IASC 106 to increase allocation to 279 seats
Singapore	Qantas	[2004] IASC 213	16-Nov-04		Variation of [2003] IASC 120 to permit Air France to code share
Solomon Islands	HeavyLift	[2004] IASC 121	08-Nov-04	25 tonnes	Allocation of freight capacity
South Africa	Qantas	[2004] IASC 119*	11-Oct-04	One frequency	Renewal of [2000] IASC 107
	Qantas	[2004] IASC 123	20-Dec-04	One frequency of dedicated freight capacity	Allocation of freight capacity
	Qantas	[2005] IASC 204	30-Jun-05		Variation of [2000] IASC 107, [2001] IASC 114, [2002] IASC 117, [2003] IASC 108 and [2004] IASC 119 to permit code sharing by SAA until 18 December 2006
Switzerland	Qantas	[2004] IASC 113*	01-Sep-04	14 third-party code share services	Allocation of code share capacity
Thailand	Qantas	[2004] IASC 217*	13-Dec-04	(One third-party code share frequency)	Reduction in capacity allocated by [2003] IASC 118
	Qantas	[2005] IASC 102	17-Mar-05	One all-cargo service	Allocation of freight capacity
	Qantas	[2005] IASC 201*	04-Apr-05		Variation of [2001] IASC 123 to permit Air Malta to code share
United Kingdom	Qantas	[2004] IASC 112	30-Jul-04	Three services	Allocation of passenger capacity
	Qantas	[2005] IASC 202*	04-Apr-05		Variation of [2001] IASC 124 to permit Air Malta to code share
United States	HeavyLift	[2005] IASC 105	16-May-05	Unlimited freight capacity	Allocation of freight capacity
Vanuatu	Qantas	[2004] IASC 117*	11-Oct-04	200 seats	Renewal of [2000] IASC 103

* Delegate determination or decision

** Brackets indicate a reduction in capacity

*** These routes have a regional package in place whereby services to points other than Brisbane, Melbourne, Sydney and Perth have unrestricted capacity entitlements. Refer to the Register of Available Capacity for details.

Appendix 2 — Route by route full summary of Commission determinations and decisions

This appendix contains a detailed summary of the Commission's determinations and decisions for 2004–05. As noted in *Appendix 1*, individual determinations and decisions can be viewed through the Commission's website at www.iasc.gov.au.

China

On 18 January 2005 HeavyLift Cargo Airlines (HeavyLift) applied to the Commission for an allocation of capacity on the China route. HeavyLift planned to operate a twice-weekly cargo service between Sydney and Shanghai utilising wet-leased Kalitta Air B747-200F aircraft. On 16 May 2005, the Commission issued Determination [2005] IASC 104 in favour of HeavyLift allocating unlimited freight capacity and frequency for a period of ten years.

Cook Islands

On 3 September 2004, Pacific Blue applied for an allocation of 180 seats per week on the Cook Islands route. Pacific Blue planned to operate a once weekly service between Australia and the Cook Islands using a B737-800 aircraft. On 20 September 2004, the delegate of the Commission issued Determination [2004] IASC 114 in favour of Pacific Blue, allocating the requested level of capacity. The determination was for a period of five years.

Fiji

Qantas applied to the Commission on 22 July 2004 to revoke Determination [2002] IASC 125, which allocated 50 tonnes per week of freight capacity on the Fiji route. On 23 July 2004, in Decision [2004] IASC 204, the delegate of the Commission revoked the determination.

On 18 November 2004, Pacific Blue applied for an allocation of 1,260 seats per week on the Fiji route. Pacific Blue planned to use the capacity to operate an additional seven services per week between Australia and Fiji. The airline already had an allocation of 1,260 seats per week on the route of which it was utilising 1,080 seats. The new flights were proposed to be operated using B737-800 aircraft with a seating capacity of 180 seats. Pacific Blue proposed to utilise the majority of the additional 1,260 seats from the second quarter of 2005 and to fully utilise the capacity by the second quarter of 2006.

On 20 December 2004, the Commission issued Determination [2004] IASC 122 in favour of Pacific Blue, allocating the capacity requested for five years.

France

On 27 September 2004, Qantas applied to the Commission for a variation of Determination [2002] IASC 109 to increase its existing allocation from 150 one-way seats per day (averaged over 12 months) on France Route 1 to 250 seats, to be used for code sharing on Air France services between Australia and France via Singapore. On 26 October 2004, the delegate of the Commission issued Decision [2004] IASC 211 varying the determination as requested.

Qantas applied on 27 September 2004 to revoke Determination [2003] IASC 106, which allocated three units of capacity per week on the France Route 1. Qantas asked that the revocation take effect after 31 October 2004. On 1 November 2004, in Decision [2004] IASC 212, the delegate of the Commission revoked the determination.

The revocation followed Qantas' decision to code share on Air France services between Australia and France.

Germany

On 30 November 2004, Qantas applied for an allocation of unlimited capacity and frequency for all-cargo services on the Germany route using B747 freighter aircraft wet-leased from Atlas Air. The application was made concurrently with a request for an allocation of unlimited freight capacity on the India route. Qantas planned to introduce in January 2005 a twice-weekly freighter service between Sydney and Frankfurt via Shanghai. One of these services was to return via Mumbai and Singapore, with the second returning via Mumbai and Shanghai.

The Commission issued Determination [2004] IASC 125 in favour of Qantas on 20 December 2004, allocating the capacity sought by the applicant. The determination was for a period of 10 years.

Hong Kong

Qantas applied on 18 May 2004 for an allocation of seven services per week beyond Hong Kong to the United Kingdom (UK). The application followed changes in April 2004 to the air services arrangements between Australia and Hong Kong to permit services beyond Hong Kong to the UK for the first time. Qantas planned to commence operations in November 2004 with three B747-400 services per week between Sydney and London via Hong Kong, increasing to four services per week in November 2005. Qantas intended to expand to daily operations beyond Hong Kong from April 2006. Under the air services arrangements, the final three of the seven weekly services become available for use from the commencement of the Northern Summer 2006 scheduling period.

Qantas also planned to code share with British Airways under the existing code share agreement between the two carriers.

There were no other applicants for the capacity when applications were invited by the Commission in response to the Qantas application. However, the Commission had concerns about the request from Qantas to be allocated some of the capacity (the final three services) well in advance of when they could actually be used — a period of almost two years. The Commission noted that the rights beyond Hong Kong had been agreed only after years of negotiation and there seemed little likelihood of any further expansion of such rights for the foreseeable future.

The Commission was concerned that allocating all of the capacity would preclude any prospective Australian carrier from having the opportunity to seek to compete with Qantas on the UK route via Hong Kong, possibly for a long time. By contrast, there was ample capacity available to other Australian carriers wishing to operate via other intermediate points to the UK, such as Singapore and Bangkok. However, a further constraint was that all of the capacity on the UK route had been allocated to Qantas. Until further capacity was negotiated with the UK authorities, no other Australian carrier could operate on the UK route.

The Commission considered the possibility of not allocating the final three weekly services sought by Qantas. The Commission was of the view that public benefits might eventually be maximised by withholding any allocation of these rights until nearer to the time when they could be used (April 2006). This might create the opportunity for another Australian carrier to compete for the capacity at that later time, or for Qantas to again seek the capacity.

The Commission considered that it was within the scope of its powers under the Act not to allocate

this capacity even though it had otherwise found there to be public benefits from the allocation of the capacity to Qantas. The Commission considered that Qantas' desire to have commercial certainty about the allocation of the final three services needed to be balanced against the potential interests of other carriers which might seek the capacity in the next year or so. The Commission did not want to see established carriers securing capacity well ahead of when it could be used, on the grounds that this was necessary to provide commercial certainty. The Minister's policy statement states that the Commission should specify as short a period for the use of allocated capacity as is reasonable having regard to the steps necessary to commence operations. To do otherwise would limit the scope for entry by new carriers which do not have immediate operating plans but may wish to start services in the medium term.

In the event, the Commission considered that, on the available anecdotal facts, it was unlikely another Australian carrier would seek to enter the Hong Kong – UK route in the near future. The Commission noted that no prospective Australian carrier had responded to the draft determination issued by the Commission in which it canvassed these issues. The Commission therefore decided to allocate the seven weekly services sought by Qantas. On 30 July 2004, the Commission issued Determination [2004] IASC 103 in favour of Qantas. The determination was for a period of five years. Code sharing between Qantas and British Airways was authorised.

On 6 August 2004, Qantas applied to the Commission for a variation of the Determinations [2000] IASC 106, [2001] IASC 119, [2002] IASC 105, [2002] IASC 122 and

[2003] IASC 107, which allocated capacity on the Hong Kong route. The application followed changes in April 2004 to the air services arrangements between Australia and Hong Kong altering the capacity entitlements available to Australian carriers. Under the new arrangements, capacity for services between Sydney/Melbourne/Brisbane/Perth and Hong Kong was expressed in terms of frequencies, rather than seats and frequencies. Qantas requested that all references to seats in the determinations in question be deleted. On 6 September 2004, in Decision [2004] IASC 206, the delegate of the Commission varied the determinations as requested.

Qantas applied on 6 September 2004 for a renewal of Determination [2002] IASC 122, which allocated four frequencies per week on the Hong Kong route. On 11 October 2004, the delegate of the Commission issued Determination [2004] IASC 115 in favour of Qantas. The determination was for a five year period.

Qantas also applied on 6 September 2004 for a renewal of Determination [2000] IASC 106, which allocated seven frequencies per week on the Hong Kong route. The determination had been varied by Decision [2002] IASC 203 to permit a subsidiary of Qantas to use the capacity.

On 11 October 2004, the delegate of the Commission issued Determination [2004] IASC 116 in favour of Qantas, allocating seven frequencies per week with any aircraft type on the Hong Kong route. The determination was for a period of five years.

Qantas applied to the Commission on 3 December 2004 to reduce the capacity allocated by Determinations [2000] IASC 106 and [2004] IASC 116 on the Hong Kong route. Determination [2000] IASC 106 was to expire on 30 June 2005 but had been renewed by [2004] IASC 116 with effect from that time. Qantas requested that the capacity allocated by each determination be reduced from seven to five frequencies per week. On 13 December 2004, the delegate of the Commission issued Decision [2004] IASC 216 reducing the allocations of capacity made to Qantas as requested.

India

On 30 November 2004, Qantas applied for an allocation of unlimited capacity and frequency for all-cargo services on the India route using B747 freighter aircraft wet-leased from Atlas Air. The application was made concurrently with a request for unlimited freight capacity on the Germany route. Qantas planned to introduce a twice-weekly freighter service between Sydney and Frankfurt via Shanghai. One of these services was to return via Mumbai and Singapore, with the second returning via Mumbai and Shanghai.

The Commission issued Determination [2004] IASC 124 in favour of Qantas on 20 December 2004. The determination, allocating unlimited capacity and frequency for all-cargo services, was for a 10 year period.

Indonesia

Qantas applied on 6 September 2004 to vary Determinations [2001] IASC 106 and [2002] IASC 113, which allocated capacity on the Indonesia route. The variation was requested in order to express capacity entitlements in terms of seats alone, to reflect changes in the air services arrangements since the determinations were made.

On 20 September 2004, in Decision [2004] IASC 209, the delegate of the Commission varied the determinations as requested by Qantas.

Qantas applied to the Commission on 27 September 2004 to vary Determination [2002] IASC 113, which allocated 3,040 seats per week between any points in Australia and authorised points in Indonesia. Qantas sought an additional 350 seats per week. On 26 October 2004, the delegate of the Commission issued Decision [2004] IASC 210 varying the determination as requested by Qantas.

On 3 December 2004, Qantas applied to reduce the capacity allocated by Determination [2002] IASC 123 for services beyond Indonesia from 1,600 weekly seats and four frequencies per week to 850 weekly seats and three frequencies per week. On 13 December 2004, the delegate of the Commission issued Decision [2004] IASC 218, varying the determination as requested by Qantas.

Japan

On 12 October 2004, Qantas applied for an allocation of three B767-200 units of weekly capacity on the Japan route. The extra capacity was sought to facilitate Qantas' plans to introduce A330-300 aircraft (1.5 B767-200 units) on selected services between Perth and Tokyo and between Melbourne and Tokyo, replacing B767-300 aircraft (1.2 B767-200 units). The Commission issued Determination [2004] IASC 120 in favour of Qantas on 8 November 2004, allocating the capacity sought. The determination was for a period of five years.

Malaysia

Qantas applied to the Commission on 3 December 2004 to revoke Determination [2003] IASC 119, which allocated 608 seats per week on the Malaysia route.

On 13 December 2004, in Decision [2004] IASC 214, the delegate of the Commission revoked the determination.

Qantas applied to the Commission on 17 May 2005 to revoke Determination [2003] IASC 103, which allocated 542 seats per week on the Malaysia route. On 18 May 2005, in Decision [2005] IASC 203, the delegate of the Commission revoked the determination.

Netherlands

On 6 September 2004, Qantas applied for a renewal of Determination [2000] IASC 105, which allocated 400 seats per week on the Netherlands route. On 11 October 2004, the delegate of the Commission issued Determination [2004] IASC 118 allocating the capacity. The period of the determination was for five years.

On 3 December 2004 Qantas applied to the Commission to revoke Determinations [2001] IASC 115 and [2004] IASC 111, which each allocated one all-cargo service per week on the Netherlands route. On 13 December 2004, in Decision [2004] IASC 215, the delegate of the Commission revoked the determinations.

On 18 January 2005, HeavyLift applied for an allocation of two weekly all-cargo services on the Netherlands route to be operated between Sydney and Amsterdam via Shanghai. HeavyLift

planned to use a B747-200 freighter aircraft wet-leased from Kalitta Air which is based in the United States. Qantas lodged a competing application for the capacity sought by HeavyLift.

The Commission considered the competing applications against the paragraph 4 and 5 criteria in the Minister's policy statement. Both carriers were found to meet the paragraph 4 criteria, which concern whether an applicant is reasonably capable of receiving the approvals necessary to operate and of implementing its proposals. After a detailed comparative analysis of the public benefits likely to arise from the respective proposals, the Commission issued a draft determination proposing to allocate the two weekly all-cargo services to HeavyLift. Qantas made a submission in response to the draft determination. After considering this additional material, the Commission issued a final Determination [2005] IASC 103 on 16 May 2005, allocating two weekly all-cargo services to HeavyLift for a period of three years. Further details about this case are contained in Part 3 of this report.

New Zealand

On 8 February 2005, HeavyLift applied for an allocation of freight capacity on the New Zealand route. HeavyLift proposed to operate four return services per week between Australia and New Zealand using B727-51C freighter aircraft. On 17 March 2005, the delegate on behalf of the Commission, issued Determination [2005] IASC 101 in favour of HeavyLift, allocating unlimited freight capacity for a period of 10 years.

On 17 August 2004, Norfolk Jet Express applied for a variation to Determination [2004] IASC 109 to permit Qantas to code share on Norfolk Jet's

services between Norfolk Island and Auckland. On 3 September 2004, the delegate of the Commission issued Decision [2004] IASC 205, varying the determination as requested.

On 3 September 2004, Virgin Blue applied to transfer to Pacific Blue (Australia) unlimited passenger and freight capacity allocated previously to Virgin Blue on the New Zealand route under Determination [2003] IASC 109. Pacific Blue planned to commence services between Australia and the Cook Islands via Christchurch.

On 20 September 2004, in Decision [2004] IASC 207, the delegate of the Commission varied Determination [2003] IASC 109 as requested.

Philippines

Qantas applied to the Commission on 6 September 2004 to vary Determination [2004] IASC 106, which allocated 229 seats per week on the Philippines route. Qantas sought an allocation of a further 50 seats per week. On 20 September 2004, the delegate of the Commission issued Decision [2004] IASC 208 varying the determination as requested by Qantas.

Singapore

On 25 October 2004, Qantas applied to the Commission to vary Determination [2003] IASC 120 to allow Air France to code share on a number of Qantas services between Singapore and Australia. These services connected with daily Air France flights between Paris and Singapore, services on which Qantas code shared. On 16 November 2004, the Commission issued Decision [2004] IASC 213, authorising the code share arrangements.

Solomon Islands

On 16 August 2004, HeavyLift applied to the Commission for an allocation of 25 tonnes of freight capacity per week on the Solomon Islands route. HeavyLift advised that its existing capacity allocation of 75 tonnes per week was not sufficient to meet demand for services on the route. On 8 November 2004, the Commission issued Determination [2004] IASC 121, allocating the capacity sought by the airline, for a period of five years.

South Africa

On 6 September 2004, Qantas applied for a renewal of Determination [2000] IASC 107, which allocated one frequency per week on the South Africa route. The Determination had been varied subsequently by Decisions [2000] IASC 217, [2001] IASC 206, [2002] IASC 212 and [2003] IASC 204 to permit code sharing with South African Airways (SAA). On 11 October 2004, the delegate of the Commission issued Determination [2004] IASC 119, renewing the determination as requested.

On 30 November 2004, Qantas applied for an allocation of one frequency per week of dedicated cargo capacity on the South Africa route. Qantas proposed operating from 30 March 2005 a once weekly service between Sydney/Perth and Johannesburg using a B747 freighter aircraft wet-leased from Atlas Air. On 20 December 2004, the Commission issued Determination [2004] IASC 123, allocating the requested capacity to Qantas for a period of five years.

Qantas applied to the Commission on 31 March 2005 to vary IASC Determinations [2000] IASC 107, [2001] IASC 114, [2002] IASC 117, [2003] IASC 108 and [2004] IASC 119 to allow SAA to continue code sharing on Qantas services for a further two years from 1 July 2005 until 30 June 2007. The code share arrangement was originally authorised by the Commission in December 2000 and had been extended in subsequent Commission decisions. The Commission highlighted the issues associated with an earlier re-authorisation of the code share arrangement in a case study in its 2002–03 annual report.

Under the arrangements, SAA operated five A340-200 services per week between Johannesburg and Perth, while Qantas operated four B747-400 services between Sydney and Johannesburg. Each carrier purchased a block of seats on the flights of the other carrier.

Qantas advised in its application that all conditions of the Commission's authorisation of the code sharing had been met by itself and SAA. Qantas sought no change to the conditions. The key conditions were that the two airlines must together operate at least 2,680 seats per week between them (in practice this equated to nine services per week), they must withdraw from relevant tariff co-ordination activities of the International Air Transport Association and they must price and sell their capacity independently of one another.

Qantas noted that the South African Competition Commission's approval of the code share arrangement expired on 18 December 2005. Qantas planned to seek extension of that authorisation later in 2005.

Several submissions were received about the Qantas application. The ACCC opposed a continuation of authorisation on the basis of competition concerns in a situation where the

code share partners were the only direct operators and had high market shares, with the only competition being from indirect operators with long flying times via intermediate points. The ACCC argued that there was little prospect of direct competition from a new entrant and that fare levels may be consistent with a lack of competition. The ACCC did not foresee the situation worsening in the absence of the code share approval, arguing that the airlines would probably continue with their current level of services and fares were unlikely to increase given the presence of the indirect operators.

In response to the ACCC, Qantas argued that the airlines were in no better position to take advantage of the characteristics of the South Africa route than they had been in previous times. Qantas claimed that there had been an increase in competition from the indirect operators, reflected in a decline in the Qantas/SAA market share.

The West Australian Government supported an extension of the code share arrangements. It argued that the code share provided the best means of developing financially sustainable direct services and expressed concern about the effect on Perth services in its absence. The WA Government considered that frequency levels to Perth may be reduced without the code share.

The Commission found that there had been some positive developments for consumers and the airlines since the time of the previous review in mid-2003. SAA had introduced modern A340 aircraft, replacing the older B747-200 aircraft which had previously served Perth. A fifth weekly service had been added by SAA with the change to the smaller aircraft. Qantas had introduced improved services to business class passengers by the addition of Skybeds in that class. These developments had improved benefits to the travelling public.

Airline profitability had improved due to several factors, the most significant being the cost reductions associated with the introduction of the A340 onto the Perth route. Perth services had become profitable for Qantas for the first time and its profits on the Sydney route had strengthened.

On the other hand, the Commission found that there was evidence of a lack of competition on the route, reflected in high fares and high load factors on many flights, particularly for Sydney services. Although third-country carriers had slightly increased their market share, this was still relatively small compared with Qantas and SAA. The long flying times of the indirect operators were unattractive to business travellers and of limited appeal to most leisure travellers. There was little scope for additional competition on the route as all of the available Australian capacity had been allocated to Qantas. This situation could not change until additional capacity was negotiated under the air services arrangements between Australia and South Africa.

The Commission was unable to determine with certainty the commercial outcome if its approval of the code share was to be withdrawn. One possibility was the development of monopolies on the Perth sector by SAA and on the Sydney sector by Qantas. This might result in the loss of the limited competitive tension between Qantas and SAA under the code share. The result could be that consumers would be no better off.

The Commission decided to extend the code share authorisation until 18 December 2006. This was one year on from the expiry of the current authorisation given by the South African authorities. The Commission planned to liaise with the South African competition authorities during the conduct of their review later in 2005.

The Commission also made approval conditional upon the operation by the carriers of additional capacity from early December 2005. Qantas had

agreed to introduce a fifth weekly service between Sydney and Johannesburg at that time. Together the carriers would be required to maintain 10 services per week on the South Africa route. The Commission considered that the extra capacity would be of benefit to the public through an extra choice of day of travel, and would place some pressure on the airlines to compete to sell the additional seats.

On 30 June 2005, the Commission issued Decision [2005] IASC 2004 authorising a continuation of the code share arrangement until 18 December 2006. Aside from the changes to the condition of approval concerning the minimum level of operations, all other previous conditions of approval remained unchanged.

Switzerland

Qantas applied on 6 August 2004 for an allocation of 14 third-party code share services on the Switzerland route. Qantas already code shared, on a daily basis, on British Airways services between London and Geneva and proposed code sharing on two additional daily services between those cities. The first of these daily services was proposed to be introduced in the current Northern Summer scheduling period and the other from the beginning of the Northern Winter scheduling period at the end of October 2004.

On 1 September 2004, the delegate of the Commission issued Determination [2004] IASC 113 in favour of Qantas, allocating the capacity sought. The determination was for a period of five years.

Thailand

Qantas applied to the Commission on 3 December 2004 to reduce the capacity allocated by Determination [2003] IASC 118 from seven to six third-party code share services per week. On 13 December 2004, the delegate

of the Commission issued Decision [2004] IASC 217 varying the allocation of capacity as requested by Qantas.

On 2 March 2005, Qantas applied for an allocation of one all-cargo service per week on the Thailand route. Qantas intended to commence operating a weekly freighter service on a routing of Sydney/Shanghai/Frankfurt/Mumbai/Bangkok/Sydney, using a B747 freighter aircraft wet-leased from Atlas Air. On 17 March 2005, the Commission issued Determination [2005] IASC 102 in favour of Qantas, allocating one all-cargo service per week as requested. The duration of the determination was five years.

On 9 March 2005, Qantas applied to permit Air Malta to code share on daily Qantas services between Australia and Thailand. The code share services were planned to connect with services operated by Air Malta between London and Malta. The code share agreement between Qantas and Air Malta was for passenger traffic only. On 4 April 2005, the delegate of the Commission issued Decision [2005] IASC 201 varying Determination [2001] IASC 123 as requested by Qantas.

United Kingdom

On 17 February 2004, Qantas had applied for an allocation of seven services per week on the United Kingdom (UK) route. Qantas planned to commence three B747 services per week between eastern Australia and London in November 2004, with further flights to be added during 2005 so that all of the capacity would be fully utilised by November of that year. Qantas also sought permission for British Airways to code share on the proposed services.

On 24 March 2004, a competing application had been received from Backpackers Xpress, seeking an allocation of three services per week. This prospective airline proposed to commence services from November 2004.

Several submissions about the applications were received. All were supportive of the Backpackers Xpress application.

The Commission allocated to Qantas four of the seven services per week it had sought, before the end of the 2003–04 year. The relevant determination is discussed in the Commission's annual report for that financial year. The remaining three services sought by both Qantas and Backpackers Xpress were subject to assessment against the relevant criteria in paragraph 7 of the Minister's policy statement, which relate to the start-up phase on a route. The criteria apply when there is an incumbent on the route (in this case Qantas), an initial new carrier is seeking to enter the route and capacity is limited. In these circumstances, the Commission should allocate to the new entrant sufficient capacity to develop an efficient and commercially sustainable operation.

The Commission found that three services per week represented sufficient capacity for Backpackers Xpress to develop an efficient and commercially viable operation. It also considered that Backpackers Xpress' tariff (air fare) and service proposals would improve competition on the route. The Commission also found that the Backpackers Xpress proposal would not result in decreased inbound tourism or a reduction in benefits to Australian consumers or reduced trade.

However, the Commission was unable to find that Backpackers Xpress had demonstrated that it was reasonably capable of obtaining the necessary approvals and of commencing operations as proposed by November 2004. Important elements of the applicant's business plan had not been finalised. The Commission found therefore

that Backpackers Xpress did not meet the paragraph 7 requirements. It noted that Qantas, an established applicant, would be able to use the capacity if allocated. The Commission considered that allocating the capacity to Qantas would generate less competition and other public benefits than would have arisen if Backpackers Xpress had been capable of implementing its proposal. However, Qantas could be expected to deliver public benefits with a high level of certainty, compared with the uncertain outcome associated with an allocation of capacity to Backpackers Xpress.

On 30 July 2004, the Commission issued Determination [2004] IASC 112 allocating to Qantas three services per week on the United Kingdom route. Two of the three services were required to be utilised from 1 November 2004, and the capacity was to be fully utilised from 1 November 2005. The Commission authorised code sharing by British Airways on the Qantas services.

On 9 March 2005, Qantas applied to permit Air Malta to code share on daily Qantas services between Australia and the United Kingdom. The code share services were to connect with services operated by Air Malta between London and Malta. The code share agreement between Qantas and Air Malta was a free-sale arrangement involving passenger traffic only. On 4 April 2005, the delegate of the Commission issued Decision [2005] IASC 202 varying Determination [2001] IASC 124 as requested by Qantas.

United States

On 18 January 2005, HeavyLift applied for an allocation of capacity on the United States route. HeavyLift planned to operate a twice-weekly cargo service between the United States and Sydney utilising wet-leased Kalitta Air B747-200F aircraft. On 16 May 2005, the Commission issued Determination [2005] IASC 105 in favour of HeavyLift, allocating unlimited all-cargo capacity and frequency on the United States (all-cargo) route. The determination was for a period of ten years.

Vanuatu

Qantas applied to the Commission on 6 September 2004 for a renewal of Determination [2000] IASC 103, which allocated 200 seats per week on the Vanuatu route. On 11 October 2004, the delegate of the Commission issued Determination [2004] IASC 117 in favour of Qantas.

Appendix 3 — Summary of total capacity allocated and available for all routes (third/fourth freedom capacity)

Passenger capacity as at 30 June 2005*

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Argentina	Nil	2,800 seats
Austria	Nil	2,800 seats
Bahrain	Nil	12 frequencies**
Brunei Darussalam	Nil	Nine B747s or 18 B767s**
Burma	Nil	Two B747s
Canada	Nil	3,000 seats
Chile	Nil	2,000 seats
China	2,135 seats	6,365 seats**
Cook Islands	180 seats	320 seats
Czech Republic	Nil	Seven services**
Denmark	Nil	2,800 seats
Egypt	Nil	Three B747s
Fiji	2,520 seats	2,480 seats**
Finland	Nil	2,800 seats
France	Route 1 = 250 code share seats; Route 2 = two units; Route 3 = 2.5 units (one unit = 400 seats)	Route 1 = three units and 150 code share seats; Route 2 = 2.5 units; Route 3 = nil
Germany	Seven frequencies	18 frequencies
Greece	200 third-party code share seats	2,100 seats and 600 third-party code share seats
Hong Kong	32 frequencies	23 frequencies**
India	2,100 seats	2,400 seats
Indonesia	4,410 seats	6,390 seats**
Ireland	Nil	Seven services**
Italy	600 third-party code share seats	Seven frequencies and 400 third-party code share seats
Japan	68.6 units for the Northern Summer Scheduling Period and 71 for the Northern Winter Scheduling Period (one unit = one B767–200 equivalent)	10.4 units for the Northern Summer Scheduling Period and 8.0 units for the Northern Winter Scheduling Period

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Jordan	Nil	Three frequencies
Korea	500 seats	7,000 seats
Kuwait	Nil	Two frequencies
Lebanon	Nil	Two B767s terminating in Lebanon, or three B767s transiting Lebanon
Luxembourg	Nil	Nil
Macau	Nil	Three frequencies
Malaysia	Nil	20,650 seats**
Malta	Nil	Three frequencies
Mauritius	Nil	Three frequencies
Mexico	Nil	Four frequencies to certain points, unrestricted to other points
Nauru	One frequency	Two frequencies
Netherlands	400 seats	2,800 seats
New Zealand	Unlimited	Unlimited
Niue	Nil	500 seats
Norway	Nil	2,800 seats
Pakistan	Nil	Three services
Papua New Guinea	1,000 seats	2,200 seats
Philippines	1,366 seats	Route 1 = 1,134 seats, regional development route = 400 seats
Poland	Nil	2,800 seats**
Qatar	Nil	Three frequencies
Russian Federation	Nil	Three frequencies
Samoa	Nil	1,000 seats
Singapore	Unlimited	Unlimited
Solomon Islands	Nil	850 seats
South Africa	Five frequencies	Nil
Sri Lanka	Nil	3,500 seats**
Sweden	Nil	2,800 seats
Switzerland	21 third-country code share frequencies	2,800 seats**
Taiwan	Nil	4,000 seats

ROUTE	PASSENGER CAPACITY ALLOCATED (PER WEEK)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Thailand	Seven B747 and 20 third-country	28 B747s and eight third-country code share frequencies
Tonga	Nil	600 seats
United Arab Emirates	Nil	53 frequencies**
United Kingdom	28 services	Nil
United States	Capacity on South Pacific route in accordance with air transport arrangements	South Pacific route = minimum of four frequencies, North Pacific route = minimum of three frequencies, Guam & Northern Mariana Islands route = four DC10s
Vanuatu	1,020 seats	380 seats
Vietnam	Nil	Seven frequencies**
Zimbabwe	Nil	1,600 seats



Freight capacity as at 30 June 2005*

ROUTE	FREIGHT CAPACITY ALLOCATED (PER WEEK)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Argentina	Nil	Seven frequencies
Austria	Nil	Unlimited
Bahrain	Nil	Unlimited
Brunei Darussalam	Nil	Unlimited
Burma	Nil	Not specified†
Canada	Nil	Converted from seats at the rate of 40 seats for each 10 tonnes or part thereof
Chile	Nil	Unlimited
China	Unlimited	Unlimited
Cook Islands	Nil	Unlimited
Czech Republic	Nil	Unlimited
Denmark	Nil	Unlimited
Egypt	Nil	Not specified†
Fiji	Nil	70 tonnes
Finland	Nil	Unlimited
France	Route 1 = Nil; Route 2 = Nil; Route 3 = one B737 freighter	Route 1 = not specified; Route 2 = not specified; Route 3 = Nil
Germany	Unlimited	Unlimited
Greece	Nil	250 tonnes
Hong Kong	Nil	Two frequencies** (note: in addition, passenger capacity may be converted to freight capacity and vice versa)
India	Nil	Unlimited
Indonesia	Nil	Three frequencies
Ireland	Nil	Unlimited
Italy	Nil	Not specified†
Japan	Nil	Not specified†
Jordan	Nil	Not specified†
Korea	Nil	Unlimited

ROUTE	FREIGHT CAPACITY ALLOCATED (PER WEEK)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Kuwait	Nil	One frequency
Lebanon	Nil	Not specified†
Luxembourg	Nil	Unlimited
Macau	Nil	Not specified†
Malaysia	Nil	Unlimited
Malta	Nil	Not specified†
Mauritius	Nil	Unlimited
Mexico	Nil	Four frequencies to certain points, unrestricted to other points (capacity may be used for passenger and cargo or dedicated cargo services)
Nauru	Nil	Not specified†
Netherlands	Two frequencies	Nil
New Zealand	Unlimited	Unlimited
Niue	Nil	Unlimited
Norway	Nil	Unlimited
Pakistan	Nil	One frequency
Papua New Guinea	98.5 tonnes	One point five tonnes
Philippines	Nil	Not specified†
Poland	Nil	Unlimited
Qatar	Nil	Not specified†
Russian Federation	Nil	Not specified†
Samoa	Nil	Unlimited
Singapore	Unlimited	Unlimited
Solomon Islands	100 tonnes	Nil
South Africa	One frequency	Nil
Sri Lanka	Nil	Unlimited
Sweden	Nil	Unlimited
Switzerland	Nil	Unlimited

ROUTE	FREIGHT CAPACITY ALLOCATED (PER WEEK)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (PER WEEK)
Taiwan	Nil	Unlimited
Thailand	One frequency	Six frequencies
Tonga	Nil	Unlimited
United Arab Emirates	Nil	Unlimited
United Kingdom	Nil	Three frequencies
United States	Unlimited	Unlimited
Vanuatu	50 tonnes	50 tonnes
Vietnam	Nil	Not specified†
Zimbabwe	Nil	100 tonnes

* The purpose of these tables is to provide an overview only of the quantum of passenger capacity and freight specific capacity allocated and remaining available for allocation. The tables do not purport to provide a detailed or comprehensive statement of rights allocated by the International Air Services Commission, nor of the capacity entitlements or related matters (such as code sharing) described in the Register of Available Capacity. Interested parties should contact the International Air Services Commission or the Department of Transport and Regional Services to obtain full information about any route. The Register of Available Capacity is available for public viewing on the department's internet site at www.dotars.gov.au/avnapt/downloads/register_available_capacity.pdf

** These routes have a regional package in place whereby services to points other than Brisbane, Melbourne, Sydney and Perth have unrestricted capacity entitlements. Refer to the Register of Available Capacity for details.

† On these routes, freight capacity is not separately specified in the Register of Available Capacity. However, freight capacity may be available. Interested parties should contact the Department of Transport and Regional Services.

Appendix 4 — Other information

Occupational health and safety

As the staff members of the secretariat are employees of DOTARS, they are subject to the same occupational health and safety arrangements as departmental officers. The department's annual report contains details of those arrangements.

Freedom of information

The *Freedom of Information Act 1982* (the FOI Act) requires Australian Government agencies to publish a statement setting out their role, structure, functions, documents available for public inspection and access to such documents. Section 8 of the FOI Act requires each agency to publish detailed information on the way it is organised, its powers, decisions made and arrangements for public involvement in the work

of the agency. The information contained in this report meets this requirement. Refer to *Appendix 5* for further details.

No Freedom of Information requests were received this financial year.

Advertising and market research

For newspaper advertising of applications for capacity made by Australian airlines to the Commission, the Commission paid \$11,330 to HMA Blaze. The Commission is required by the Act to advertise applications received.

Ecologically sustainable development and environmental performance reporting

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



Appendix 5 — Freedom of information schedule

Item	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information Act 1982</i> (FOI) might not be required because information or documents may be readily available through the Commission's public register process. Formal requests under the FOI Act must be made in writing to the Executive Director of the Commission.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are at page ii of this report. 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 section 6(4) of the Act to perform its functions. 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 is held by the Chairman. On 5 September 1994, the Chairman authorised the Executive Director to exercise the Chairman's powers and functions under the FOI Act.
Documents available for inspection	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.
Functions of the Commission	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 internet home page. The Commission provides facilities for examining and copying publicly available documents at its offices. Documents may also be obtained by facsimile or by email. Operational files are maintained on all the Commission's activities and are stored at the offices of the Commission. These files are not open to public access. 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 internet home page. The Commission provides facilities for examining and copying publicly available documents at its offices. Documents may also be obtained by facsimile or by email. Operational files are maintained on all the Commission's activities and are stored at the offices of the Commission. These files are not open to public access. The functions of the Commission, as set out in section 6 of the Act, are to: (a) make determinations (b) conduct reviews of those determinations (c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.
How the Commission is organised	The organisation of the Commission is described in Part 2 of this report.
Location	The Commission's offices are located at 1st Floor, ATSB Building, 15 Mort Street, Canberra ACT 2600.

Appendix 6 — 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 Act and with the principles of natural justice. They are intended to give applicants and other interested parties procedural fairness, ensure that the Commission's processes are as open as possible and provide guidance to anyone wishing to apply for, or make submissions about, an allocation of route capacity.

The Commission's procedures incorporate the following main steps:

- Create a Register of Public Documents for each route and make available for viewing by any interested person. 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. This material is held on the Commission's confidential register. Electronic distribution of all public documents is the Commission's normal practice.
- Decide the criteria under which applications are to be assessed and, where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.
- Assess whether the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- Conduct a hearing if further information is needed to establish the nature and extent of a proposal's public benefit and, in the case of two or more competing applications, decide which application would be of the greatest benefit to the public.
- Publish draft determinations in the case of competing applications, or if it is proposed to reject all or part of 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 proposed allocation and any proposed terms and conditions prior to the issuing of a final determination. In other cases the Commission proceeds directly to a final determination.
- The Commission periodically updates its procedures. They are available from the Commission's home page at www.iasc.gov.au, or upon request to the Commission.



Appendix 7 — Minister's policy statement

Policy Statement No 5 dated 19 May 2004.

SECTION 11 POLICY STATEMENT

Background

The *Aviation Legislation Amendment Act 2002 (AVLA)* inserted Part 3A into the *International Air Services Commission Act 1992*. It permits the International Air Services Commission to delegate some of the Commission's powers and functions regarding the allocation of capacity in the operation of international air services to an Australian Public Service employee in the Department of Transport and Regional Services. The *International Air Services Commission Amendment Regulations 2003* specify the circumstances in which the Commission may delegate those powers and functions.

The effect of these amendments is to streamline the procedures for considering applications from Australian carriers for a determination granting capacity.

References to the Commission in this instrument include the Delegate of the Commission unless expressly excluded.

1. CITATION

- 1.1 This instrument may be referred to as the International Air Services Policy Statement No 5. This policy statement replaces the policy statement made under section 11 of the International Air Services Commission Act 1992 by the instrument dated 23 April 1997 (as amended on 9 March 1999).

2. DEFINITIONS

- 2.1 In this policy statement, unless the contrary intention appears:

'Act' means the *International Air Services Commission Act 1992* (as amended)

'commercially sustainable level of capacity' means the minimum capacity necessary to permit the development of efficient commercially sustainable operations on a route.

'Commission' means the International Air Services Commission, unless otherwise specified.

'Delegate' means a person exercising the powers and functions of the Commission pursuant to section 27AB of the Act.

'new entrant' means, in relation to a route, an Australian carrier that has not previously been allocated a commercially sustainable level of capacity in relation to that route.

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

‘start-up phase’ means, in relation to any route, the period from 1 July 1992, or from such later date as a particular bilateral arrangement becomes subject to the Act in order that available capacity under that arrangement may be allocated by the Commission, until the date on which a determination has been made under the section 7 or 8 of the Act allocating a commercially sustainable level of capacity on the route to a new entrant.

3. GENERAL

- 3.1 This policy statement sets out the criteria to be applied by the Commission in performing its functions in relation to allocations of capacity to Australian carriers:
- in particular types of circumstances where the Commission is not obliged to apply the full range of criteria set out in paragraphs 4 and 5 below;
 - during the start up phase on a route;
 - when considering the renewal of determinations including interim determinations; and
 - when considering the review of determinations including variation and transfer applications.
- 3.2 The Commission should, in any adjudication of applications for capacity allocation, seek to maximise the benefits to the public to be gained from the operation of the capacity, assessed in accordance with the Act and against applicable criteria set out in this policy statement. When calling for applications, the Commission may set out matters it considers particularly important and the weighting that it is likely to give each of those matters.
- 3.3 In general, where capacity is subject to competing applications, the Government considers that own aircraft operations deliver greater benefits per unit of capacity used than code share operations involving arrangements for marketing seats on international carriers operated by another carrier or carriers.
- 3.4 In allocating capacity between competing applicants, the Commission may specify points to be served on the route when the criteria in paragraph 5 below are being applied. In other cases the Commission is to provide the carrier with flexibility to distribute capacity allowed to it among some or all of the combinations available on the route. However, in circumstances where, under a particular bilateral arrangement, limitations apply which prevent the same amount of capacity from being operated over the entire route, the Commission is to apply the provisions of paragraphs 4, 5 and 6 below as appropriate to the allocation of that limited capacity.
- 3.5 Subject to paragraphs 4, 5, 6 and 7 below, in allocating capacity on a route, the Commission will have regard to the objective of providing reasonable growth in entitlements to all Australian carriers operating on that route.

- 3.6 Where capacity that can be used for code share operations is available under air services arrangements, including where foreign airlines have rights to code share on services operated by Australian carriers, the Commission would generally be expected to authorise applications for use of capacity to code share. However, if the Commission has serious concerns that a code share application (or other joint service proposal) may not be of benefit to the public, it may subject the application to more detailed assessment using the additional criteria set out in paragraph 5 (whether the application is contested or not). Before doing so, the Commission will consult with the Australian Competition and Consumer Commission.
- 3.7 Where the Commission authorises a carrier to utilise allocated capacity to provide joint services with another carrier, the Commission will include a condition in all relevant determinations and decisions that the Australian carrier concerned should take all reasonable steps to ensure that passengers are informed, at the time of booking, that another carrier may operate the flight.
4. GENERAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC
- 4.1 Subject to paragraph 6 below, the general criteria against which the benefit to the public is to be assessed by the Commission in considering an allocation of capacity or the renewal or review of a determination allocating capacity to an Australian carrier are set out below:
- (a) Subject to (b), the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public.
 - (b) It is not of benefit to the public for the Commission to allocate capacity to Australian carriers unless such carriers:
 - (i) are reasonably capable of obtaining the necessary approvals to operate on the route; and
 - (ii) are reasonably capable of implementing their applications.
- 4.2 The Delegate of the Commission must refer any applications back to the members of the Commission where the Delegate has doubts that the applicant carrier satisfies the requirements of paragraph 4.1 (b).
5. ADDITIONAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC
- 5.1 The following additional criteria are applicable in assessing the benefit to the public in all circumstances other than is provided in relation to particular circumstances set out in paragraph 6 below.

Competition Benefits

- (a) In assessing the extent to which applications will contribute to the development of a competitive environment for the provision of international air services, the Commission should have regard to:
- the need for Australian carriers to be able to compete effectively with one another and the carriers of foreign countries;
 - the number of carriers on a particular route and the existing distribution of capacity between Australian carriers;
 - prospects for lower tariffs, increased choice and frequency of service and innovative product differentiation;
 - the extent to which applicants are proposing to provide capacity on aircraft they will operate themselves;
 - the provisions of any commercial agreements between an applicant and another carrier affecting services on the route but only to the extent of determining comparative benefits between competing applications;
 - any determinations made by the Australian Competition and Consumer Commission or the Australian Competition Tribunal in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route; and
 - any decisions or notifications made by the Australian Competition and Consumer Commission in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route.

Other Benefits*Tourism Benefits*

- (b) In assessing the extent to which applications will promote tourism to and within Australia, the Commission should have regard to:
- the level of promotion, market development and investment proposed by each of the applicants; and
 - route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

Consumer Benefits

- (c) In assessing the extent to which the applications will maximise benefits to Australian consumers, the Commission should have regard to:
- the degree of choice (including, for example, choice of airport(s), seat availability, range of product);
 - efficiencies achieved as reflected in lower tariffs and improved standards of service
 - the stimulation of innovation on the part of incumbent carriers; and
 - route service possibilities to and from points beyond the Australian gateway(s) or beyond the foreign gateway(s).

Trade Benefits

- (d) In assessing the extent to which applications will promote international trade, the Commission should have regard to:
- the availability of frequent, low cost, reliable freight movement for Australian exporters and importers.

Industry Structure

- (e) The Commission should assess the extent to which applications will impact positively on the Australian aviation industry.

Other Criteria

- (f) The Commission may also assess applications against such other criteria as it considers relevant.

- 5.2 The Commission is not obliged to apply all the criteria set out in paragraph 5.1, if it is satisfied that the criteria relevant to the application have been met. In applying all criteria, the Commission should take as the pre-eminent consideration, the competition benefits of each application.

6. CRITERIA APPLICABLE IN PARTICULAR CIRCUMSTANCES

Where capacity is not limited

- 6.1 In circumstances where capacity is not limited under a bilateral agreement, only the criteria in paragraph 4 are applicable.

Where there is only one applicant or sufficient available capacity

- 6.2 In circumstances where:
- (a) there is only one applicant (or where more than one application is made but all except one are withdrawn) for allocation of capacity on a route; or
 - (b) there is more than one applicant but the amount of available capacity is equal to or exceeds the total amount of capacity applied for:

only the criteria in paragraph 4 are applicable.

Variations of existing Determinations

- 6.3 Subject to paragraph 6.4, when the Commission is required to assess the benefit to the public, in circumstances where:
- (a) a carrier requests a variation of a determination to allow it flexibility in operating its capacity, including to use Australian capacity in a code share arrangement with a foreign carrier; and
 - (b) no submission is received about the application

only the criteria in paragraph 4 are applicable.

- 6.4 The Commission may apply the additional criteria set out in paragraph 5 where submissions are received about the application for variation, provided those criteria were considered when the original application for allocation of capacity was made, or in the circumstances set out in paragraph 3.6 above including where no submissions are received.
- 6.4 In circumstances where a carrier requests a variation of a determination to allow it flexibility in operating capacity allocated to it to include a condition of the type referred to in section 15(2)(ea) of the Act, the criteria set out in paragraph 4 above are applicable to any persons of the description used in that section.

7. ALLOCATION CRITERIA — START UP PHASE

- 7.1 Where capacity is limited under a bilateral arrangement, during the start up phase in relation to any route on which an Australian carrier is already operating scheduled international services, the pre-eminent consideration is to introduce competition on the route through the allocation to an initial new entrant of sufficient capacity to develop an efficient and commercially sustainable operation. The Commission should therefore allocate such capacity to an initial new entrant, providing it is satisfied that:
- (a) the level of capacity available and in prospect is sufficient to support efficient, commercially sustainable operations by both a new entrant and an incumbent Australian carrier;
 - (b) the new entrant's tariff and service proposals would enhance competition on the route;
 - (c) approval would not result in a decrease in inbound tourism to Australia or to Australian consumer benefits or trade; and
 - (d) the new entrant is reasonably capable of obtaining the necessary approvals and commencing operations as proposed.
- 7.2 Where a bilateral arrangement provides for dedicated freight capacity in addition to other capacity (whether that other capacity is for passenger services alone or in combination with, or convertible to, freight services (however described), the start-up phase will be applied separately in relation to:
- (a) capacity involving the operation of passenger services (even if freight is also carried on those services); and
 - (b) capacity for the operation of dedicated freight services, (irrespective of whether this would involve the use of dedicated freight capacity or the use of dedicated freight capacity in combination with other capacity under a bilateral arrangement):

and the application of the start up phase criteria in the case of either (a) or (b) above will not end the start up phase in the case of the other.

- 7.3 An Australian carrier seeking an allocation of capacity, or which may be permitted to use capacity allocated to an incumbent Australian carrier, will not be taken to be a new entrant if it is a subsidiary or a holding company of an incumbent Australian carrier operating on the route or if there is another substantial connection between the two carriers in relation to ownership and control.
- 7.4 Where there are applications for capacity on a route during the start up phase by two or more prospective new entrants, the criteria set out in paragraphs 4 and 5 are to be applied in selecting one of those applicants as the initial new entrant to be allocated the level of capacity referred to in paragraph 7.1.
- 7.5 Where the Commission invites applications for capacity on a route during the start up phase and none of the applications received are from new entrants, the criteria in paragraph 4 and, subject to paragraph 6.2, in paragraph 5 above are to be applied in considering an allocation.
- 7.6 In considering determinations during the start up phase, the Commission shall have particular regard to the possible use of interim determinations to facilitate the introduction of competition on the route without any unnecessary delay in the use of capacity.

8. RENEWAL OF DETERMINATIONS

- 8.1 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of the renewal of determinations, other than interim determinations, are set out below. The criteria reflect a presumption in favour of the carrier seeking renewal which may be rebutted only by application of the criteria in the circumstances described:
- (a) During the start up phase on the route:
- the start up phase allocation criteria set out in paragraph 7 apply in relation to that part of the capacity which is reasonably necessary for a level of scheduled international services necessary to permit the development of efficient commercially sustainable operations; and
 - the criteria set out in paragraph 8.1(b) below apply to the balance of the capacity.
- (b) After the start up phase on the route:
- whether the carrier seeking renewal has failed to service the route effectively; and
 - whether use of the capacity in whole or part by another Australian carrier that has applied for the capacity would better serve the public having regard to the criteria set out in paragraphs 4 and 5.

In relation to subparagraph (b), the Commission should issue a fresh determination allocating the capacity to the carrier seeking renewal unless both the criteria are met, in which case all or part of the capacity can be reallocated.

Renewal of Interim Determinations

- 8.2 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations are:
- (a) during the start up phase on the route
 - the criteria set out in paragraph 7 as applicable.
 - (b) after the start up phase on the route
 - the criteria set out in paragraphs 4 and 5.
9. THE 'USE IT OR LOSE IT' PRINCIPLE
- 9.1 For the purposes of specifying a period within which capacity allocated to an Australian carrier must be fully used, the Commission should specify as short a period as is reasonable having regard to the steps required to commence operations. Except in exceptional circumstances, the Commission should not specify a period longer than 3 years.
- 9.2 When seasonal variations in demand are a feature of a route or code share arrangements between airlines and cause temporary minor variations in capacity usage, or unforeseen conditions outside the control of operating international airlines cause temporary suspension of services, the Commission may take these circumstances into account when interpreting the term 'fully used' in section 15(2)(c) of the Act.
10. APPROVAL OF TRANSFER APPLICATIONS
- 10.1 For the purposes of considering transfer applications the Commission should take into account that approvals which encourage speculative activity would not be of benefit to the public. Except in exceptional circumstances, approvals should not be given that would have the effect of allowing a carrier that has never exercised an allocation or has only exercised it for less than a reasonable period, to transfer that allocation.
- 10.2 A period of 6 months would usually represent a reasonable period for the purposes of subparagraph 10.1.

11 PERIOD FOR WHICH A DETERMINATION IS IN FORCE

11.1 The period for which a determination is to be in force is:

(a) on routes where either capacity or route rights are restricted:

(i) if the determination is an interim determination — 3 years; or

(ii) if the determination is not an interim determination — 5 years

unless a carrier applies in writing requesting that a determination be for a lesser period than stipulated in (a) or (b). In these circumstances, the Commission may specify a lesser period in any determination relating to the application. In considering the renewal of a determination made in these circumstances, paragraph 8 will not apply.

(b) on routes where capacity and route rights are unrestricted:

(i) if the determination is an interim determination — 3 years; or

(ii) if the determination is not an interim determination — 10 years.



Appendix 8 — Service charter 2003–2005

Who we are and our role

The Commission is an independent statutory authority, established under the provisions of the *International Air Services Commission Act 1992* (the Act). The Commission is comprised of a Chairperson and two Members. Our role is to allocate capacity to existing and prospective Australian international airlines so that they may operate air services between Australia and other countries. We do this by making formal determinations. These are made following an assessment of applications from airlines for capacity available under Australia's air services arrangements with other nations. We make our assessments using public benefit criteria set out in a policy statement issued to us by the Minister for Transport and Regional Services.

The role of the Department of Transport and Regional Services (the Department)

The Act provides for us to delegate many of our powers and functions to an officer of the department, in certain circumstances. We will delegate the relevant powers and functions to our executive director, who is also a departmental officer. This will give you a single point of contact and should ensure that the administration of Commission and departmental decision making is harmonised. The delegate will adopt the standards set out in this charter, so you will receive the same level of service in all cases.

In practical terms, the Commission will determine the more complex cases, such as where there are competing applications for capacity, a carrier is new to a route, or there are serious competition concerns about a proposal. Our delegate will deal with straightforward applications.

The people and organisations with an interest in what we do

Existing and prospective airlines are the organisations mainly affected by Commission decisions. However, our decisions are relevant to many other people and organisations. 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 Transport and Regional Services
- Australian and State Government departments and agencies.

Our commitment to you

We aim to provide you with the highest standard of service possible. We endeavour to achieve this through fostering professional relationships, and by an accessible, fair and prompt decision making process. Where possible, we have measurable standards against which our service can be judged. Specifically:

In our dealings with you, we will

- treat you fairly, courteously and professionally
- provide clear, accurate advice and answer your questions promptly
- respond constructively to your feedback
- include contact names and phone numbers in our correspondence
- answer phone calls by name and return any missed calls within 24 hours if you leave a message.

In our decision making processes, we will

- inform you directly within five working days of receiving an application for capacity
- follow our published procedures for handling cases (available on our website or upon request)
- seek only information which is reasonably necessary for us to best carry out our functions, and explain the reasons for seeking any additional information
- be transparent and fair, with a minimum of confidentiality consistent with the legitimate protection of commercial interests
- make decisions about uncontested applications within three weeks of receipt and contested applications within 12 weeks, or inform you if issues arise which will extend the decision time
- finalise the renewal of existing determinations as quickly as possible and, in the case of contested renewals, at least six months prior to the expiry date

- notify applicants within 24 hours of a decision being made, and other interested parties within three working days.

What we ask of you

To assist us to provide the best service possible, we ask you to provide timely, comprehensive and accurate information and to be honest and fair in your dealings with us.

Accessibility

We keep you informed quickly and as comprehensively as you wish about our activities. We also endeavour to make contacting us as easy as possible. Contact details conclude this charter.

We provide information about current cases directly to interested parties by email. There are two levels of information provided. The first is simple notification, which advises when applications have been received, and when Commission decisions are made. More detailed



information is provided if you wish to receive copies of all relevant documents directly. This second service is provided for a small annual fee. Documents are provided in pdf format. Contact us if you wish to be added to either notification list.

Our internet site at www.iasc.gov.au provides ready access to all aspects of the Commission's business. It includes direct links to the Act, the Minister's policy statement, Commission procedures, information about current cases, and decisions.

If you do not have access to email or our internet site, notifications and copies of documents can be provided to you by facsimile or post, or if you visit our office.

Monitoring and review

We will monitor our performance against the commitments we have made in this service charter. We encourage you to comment on our performance and to suggest ways to improve our service. If you are dissatisfied with any aspect of our service, it is important that you tell us so we can address your concerns. Comments should be provided to the Commission's executive director by mail, facsimile, email or telephone.

At the end of each year we will assess how we have performed against the standards we have set ourselves. We may invite your comments on our service performance, such as through a brief questionnaire. The results of the assessment will be set out in our annual report. If you wish to receive a copy of the report, let us know and we will post it to you. Alternatively, the report can be found on our internet site.

We will also review annually the service charter itself, to ensure that it is meeting your requirements. This may include arranging an independent review from time to time.

Contact details

Telephone: (02) 6267 1100
Facsimile: (02) 6267 1111
Email: iasc@dotars.gov.au
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15 Mort Street, Canberra

Appendix 9 — Commission office holders, 1992–2005

The following tables set out the Chairmen and Members of the Commission, and its Executive Directors, over the 13 years since the Commission was founded.

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 the present

MEMBERS	PERIOD
Brian Johns	July 1992 to June 1997
Russell Miller	July 1992 to June 1998
Michael Lawriwsky	December 1997 to the present
Stephen Lonergan	August 1998 to August 2004
Vanessa Fanning	November 2004 to the present

EXECUTIVE DIRECTORS	PERIOD
Tony Slatyer	July 1992 to November 1992
Ian Rischbieth	December 1992 to July 1995
Anne Buttsworth	August 1995 to October 1995
Neil Ada (acting)	October 1995 to May 1996
Danny Scorpecci	May 1996 to October 1997
Chris Samuel	October 1997 to February 2001
Michael Bird	February 2001 to the present

Appendix 10 — Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act (1992)</i> as amended.
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 an amount of capacity.
Australian carrier	means a person who <ul style="list-style-type: none"> • 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.
Blocked space	a form of code sharing involving one airline purchasing a “block” of seats on another airline’s services, which it is then able to sell to the travelling public.
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 arrangement between two carriers. It involves one carrier selling 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.
Contested application	involves two or more applicant carriers seeking an allocation of the same limited amount of capacity.

Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Delegate	an employee in the Department (in practice, the Commission's Executive Director) to whom specified powers and functions have been delegated by the Commission under section 27AB of the Act.
Determination	allocates capacity to an Australian carrier, usually for a period of five years, but in some cases for three years (an interim determination), or for ten years (where capacity is not limited under the air services arrangements in question).
DOTARS (the department)	in this report, means the Department of Transport and Regional Services.
Fifth freedom rights	are traffic rights enabling an airline to pick up and set down passengers between a bilateral partner nation and a third country.
Financial viability test	is a test applied to prospective new airlines by the Commission as part of its responsibility to ensure that capacity is allocated to an Australian carrier only if the carrier can demonstrate that it is reasonably capable of implementing its proposals.
Free-sale arrangement	a form of code sharing involving one airline selling seats on another airline's services and paying that other airline only for the cost of seats actually sold.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Handback	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
Interim determination	is a determination that is in force for three years, rather than the five (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.
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	in this report, means a member of the Commission.
Minister's policy statement	is a written instrument made by the Minister for Transport and Regional Services 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.
Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Register of Available Capacity	sets out the amount of capacity under each of Australia's air services arrangements available for allocation, after deducting allocations made by the Commission. DOTARS maintains the Register.
Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may involve updated terms and conditions at the Commission's discretion.
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.
Third/fourth freedom rights	are traffic rights granted reciprocally between two nations, permitting their respective airlines to pick up traffic in one nation and set it down in the other and vice versa.
Use it or lose it	a principle requiring allocated capacity to be used, or else be returned to the Commission for reallocation.
Variation	a decision amending a determination, including conditions attached to it.

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