



**Australian Government**  
**International Air Services Commission**

ANNUAL REPORT

**2007-08**

For more information visit [www.iasc.gov.au](http://www.iasc.gov.au)

International Air Services Commission  
ANNUAL REPORT  
2007-08



**International Air Services Commission**





**Australian Government**  

---

**International Air Services Commission**

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

Dear Minister

We are pleased to submit the sixteenth Annual Report of the International Air Services Commission, for the year ended 30 June 2008.

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 Philippa Stone in black ink.

Philippa Stone  
Commissioner

Handwritten signature of Ian Smith in black ink.

Ian Smith  
Commissioner

12 September 2008



## PART 1

### Review by Chairman

1 **Management and Accountability** 18

## PART 2

### Commission Overview

Role and functions of the Commission	4	Corporate governance practices	18
Executive Profile	4	External scrutiny	19
Mr John Martin	5	Management of human resources	19
Ms Philippa Stone	5	Assets management	20
Mr Ian Smith	6	Purchasing	20
Ms Vanessa Fanning	6	Consultants and competitive tendering and contracting	20
Commissioners' attendance at meetings in 2007–08	6		
The Secretariat	7		
Communications with interested parties	7		
The role of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department)	8		

## PART 3

### Report on Performance

Overview of Commission performance	9	<b>APPENDICES</b>	
Results against performance targets	9	<b>Appendix 1</b> Determinations and decisions	22
Serving the object of the Act	9	<b>Appendix 2</b> Route by route summary of Commission determinations and decisions in 2007–08	27
Serving applicants and interested parties – performance against service charter	9	<b>Appendix 3</b> Summary of total capacity allocated and available for all routes (third/fourth freedom capacity)	40
Dealings with stakeholders	10	<b>Appendix 4</b> Other information	48
Decision-making process	10	<b>Appendix 5</b> Freedom of information schedule	49
Distribution of decision times	12	<b>Appendix 6</b> Commission procedures	50
Historical numbers of determinations and decisions	13	<b>Appendix 7</b> Minister's policy statement	51
Summary of expenditure	14	<b>Appendix 8</b> Service charter 2006–2008	60
Case study – The Solomon Islands route	14	<b>Appendix 9</b> Commission office holders 1992–2008	64
Introduction	14	<b>Appendix 10</b> Glossary of terms	65
The applications	14		
The Commission's assessment	15		
Significant developments post – 30 June 2008	17		
Outlook for the industry	17		

## PART 4

### Management and Accountability

Corporate governance practices	18
External scrutiny	19
Management of human resources	19
Assets management	20
Purchasing	20
Consultants and competitive tendering and contracting	20

## PART 5

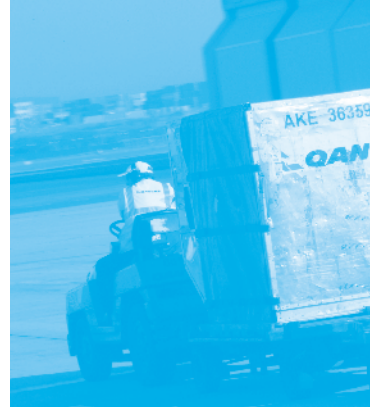
### Financial Report

Financial report as at 30 June 2008 21

## APPENDICES

<b>Appendix 1</b> Determinations and decisions	22
<b>Appendix 2</b> Route by route summary of Commission determinations and decisions in 2007–08	27
<b>Appendix 3</b> Summary of total capacity allocated and available for all routes (third/fourth freedom capacity)	40
<b>Appendix 4</b> Other information	48
<b>Appendix 5</b> Freedom of information schedule	49
<b>Appendix 6</b> Commission procedures	50
<b>Appendix 7</b> Minister's policy statement	51
<b>Appendix 8</b> Service charter 2006–2008	60
<b>Appendix 9</b> Commission office holders 1992–2008	64
<b>Appendix 10</b> Glossary of terms	65

**INDEX** 68



# PART 1

## Review by Chairman

It is my pleasure to report on the Commission's results for 2007–08, the sixteenth year of Commission operations. The year featured a variety of interesting cases, with highlights including the allocation of capacity to three new Australian airlines (most notably on the United States route) and in-depth reviews of several code share arrangements.

The Commission flagged in last year's annual report that Virgin Blue International Airlines (VBIA) had applied early in 2007–08 for an allocation of capacity on the Australia – United States route. In July 2007, the Commission was pleased to grant VBIA capacity to introduce daily B777–300 services in this important market. The airline's operating name is V–Australia. For many years, the United States route has seen limited competition and comparatively high fares. The introduction of V–Australia's services in December 2008 will give travellers a new choice of carrier and a wider range of fares than previously available.

The Commission resolved competing applications for capacity on the Solomon Islands route by dividing the limited available capacity between the two applicants; a new Australian operator, Sky Air World and Pacific Blue Australia. Sky Air World introduced five weekly Brisbane–Honiara services early in April 2008, flying new Embraer jet aircraft. As at 30 June, Pacific Blue Australia had not started its services, but has until late 2009 to do so under the conditions of the Commission's approval.

Ozjet was the third new airline for the year to receive capacity from the Commission. In February 2008, Ozjet was granted capacity to operate passenger services on the Indonesia and New Zealand routes. The airline planned to fly B737 aircraft three times per week between Perth and Denpasar, replacing its charter services between the two cities. On the New Zealand route, Ozjet proposed to fly six B737 services per week between Brisbane and Palmerston North in New Zealand. In May 2008, Ozjet was sold to new Australian owners (HeavyLift Cargo Airlines) with the Commission's approval. In June, Ozjet applied for passenger capacity on the Nauru and New Caledonia (France–Route 3) routes. The Commission issued determinations enabling Ozjet to operate one B737 service per week on the Nauru route and two B737 services per week to New Caledonia. Ozjet's services are expected to commence during the course of 2008.

Qantas, Australia's largest airline, received allocations of new capacity on five routes. Perhaps the most notable was the Commission's allocation to Qantas on the Argentina route to enable the airline to introduce three B747 services per week between Sydney and Buenos Aires from late 2008.

The Commission granted Qantas more capacity on the Hong Kong route, allowing it to introduce an extra weekly A330 service between Melbourne and Hong Kong from April 2008. Qantas also received an allocation of two extra frequencies per week enabling Jetstar to increase its number of services on the Vietnam route to five per week. On the important United States route, the Commission issued a fresh determination to Qantas, allocating unlimited passenger and cargo capacity. This new determination followed the conclusion of revised air services arrangements between Australia and the United States which removed restrictions on capacity, frequency and routes.

Qantas continued to expand its presence in international cargo markets. The Commission allocated the airline thirty-four tonnes of cargo capacity per week for the operation of two B737 freighter services each week between Cairns and Port Moresby. The services are flown by Express Freighters Australia, a wholly-owned Qantas subsidiary. At the same time, the Commission allocated twenty-six tonnes of capacity per week to HeavyLift Cargo Airlines (HeavyLift) on the Papua New Guinea route. Together with existing capacity, this meant that HeavyLift could operate three B727 freighter services per week on the route. The presence of both operators creates a competitive situation, beneficial to trade between Australia and Papua New Guinea and other countries.

Consideration of code sharing applications continued as an important component of the Commission's work. Three major decisions were made authorising code sharing by Qantas with other airlines. Qantas and South African Airways (SAA) were permitted to continue code sharing for a one year period to the end of 2008. The Commission reported in depth on this code share arrangement in last year's annual report. In the second half of 2008, the Commission will again analyse the public benefit issues associated with code sharing between Qantas and SAA. A significant development since the last review was the expansion in June 2008 of capacity entitlements on the South Africa route. All of the previously available capacity has been used for some time by Qantas and SAA.

The Commission also completed a comprehensive review of the Qantas/Air Niugini code share arrangements on the Papua New Guinea (PNG) route. A continuation of code sharing was authorised until the end of 2009. The Commission carried out this review in conjunction with PNG's Independent Consumer and Competition Commission (ICCC) but with the two Commissions reaching independent decisions in accordance with their specific statutory requirements. This collaboration was very effective and the Commission thanks the ICCC Commissioners and staff for their co-operative and capable approach to this work.

The final major code share decision was to permit continued code sharing by Qantas and Japan Airlines on certain sectors of the Australia-Japan route. The route has experienced declining traffic levels for some time and this was a factor in the Commission's decision. Late in the financial year Qantas announced that it would withdraw a substantial number of services from the Japan route in the second half of 2008.



The Commission also authorised new code sharing arrangements between Qantas and several other airlines. A number of routes to Europe and Asia were involved.

Other decisions were made reducing or revoking capacity allocations on a number of routes, in response to requests by the airlines concerned. The Commission also renewed sixteen determinations allocating capacity on a range of routes.

Ms Vanessa Fanning's term of appointment with the Commission concluded in November 2007. The Commission benefited greatly from the knowledge and professionalism of Vanessa Fanning during her three-year term. She made a considerable contribution to the Commission's work. We were pleased to welcome Mr Ian Smith upon his appointment to the Commission in late 2007. I am sure Ian Smith, with his considerable practical background in aviation matters, will make a very positive contribution to the Commission's work.

In concluding, I join with my fellow Commissioners, Philippa Stone and Ian Smith, in thanking the staff of the secretariat for their professional advice and assistance during the year. We look forward to an interesting and challenging year ahead.

A handwritten signature in black ink, appearing to read 'John Martin', with a stylized, flowing script.

**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; and
- the maintenance of Australian carriers capable of competing effectively with airlines of foreign countries.

The Commission's main responsibility is to serve the object of the Act by allocating capacity entitlements to Australian airlines for the operation of international airline services. The capacity allocated by the Commission is drawn from entitlements available to Australian carriers under air services arrangements between Australia and other countries. More particularly, the functions of the Commission are to:

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

A policy statement from the Minister instructs the Commission about the way in which it is to perform its functions. It specifies the criteria to be applied by the Commission in various circumstances. The policy statement also provides guidance to the Commission on related matters. The policy statement is a disallowable instrument under section 11 of the Act and is reproduced at Appendix 7.

Determinations are generally made for a period of five years for routes where capacity or route entitlements are restricted. In cases where capacity entitlements and route rights are unrestricted, determinations may be issued for a period of ten years. In either case, the Commission has the discretion to make interim determinations, which are for a period of three years. Where an applicant requests that a determination be made for a shorter period, the Commission has the option to agree to this.

Carriers normally wish to renew determinations as they come towards their expiry date. 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.

Carriers often apply to the Commission to vary determinations, such as to authorise use of the capacity to code share with another airline. The Commission conducts a review in response to such requests. If the Commission agrees to a request, it makes a decision which varies the determination. The Commission itself may initiate a review of a determination if it considers that there may be grounds for varying, suspending or revoking a determination.

The Commission has published procedures it follows in making determinations. A summary of these procedures is at Appendix 6. The procedures aim to ensure that applicants and other interested parties understand the requirements for making applications, are familiar with 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 2008 was as follows:



From left:  
**Philippa Stone** Member  
**John Martin** Chairman  
**Ian Smith** Member

### Mr John Martin

Mr John Martin, Chairman (appointed in November 2003 for a three-year term and reappointed for a second three year term ending in November 2009). 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 Regulated Access, Pricing and Monitoring 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.

### Ms Philippa Stone

Ms Philippa Stone, Member (appointed in July 2007 for a three-year term ending in July 2010) is a partner in international legal firm Freehills, specialising in equity raisings, mergers and acquisitions and listed company reconstruction. She has been involved in a number of Australia's largest equity raisings and landmark privatisations and financial services sector acquisitions over the past twenty years, and heads Freehills' Equity Capital Markets Group. Ms Stone advised the Commonwealth Government on the sale of Sydney Airport and acted on airport transactions involving the Northern Territory, Adelaide, Townsville, Mt Isa, Bankstown, Camden, Hoxton Park and Hobart airports. She is a member of the Australian Stock Exchange's Listing Appeals Committee.

### Mr Ian Smith

Mr Ian W Smith, Member (appointed in November 2007 for a three-year term ending in November 2010). Mr Smith has an extensive background in aviation and commerce particularly in the last twenty-five years in aviation insurance broking where he has held Managing Director roles with several international aviation brokers. He has experience as a Company Director, currently being the Chairman of Aerospace Maritime and Defence Foundation of Australia, and Chairman of Aviation Development Australia Limited (ADAL), with ADAL running the Australian International Airshow. Also, Mr Smith is a Board Member of Aviation Australia Ltd, Maritime Australia Ltd, and the Regional Aviation Association of Australia. He has also been a consultant to the Department of Defence on aviation insurance matters.

### Ms Vanessa Fanning

Ms Vanessa Fanning's three year term of appointment concluded in November 2007.

## Commissioners' attendance at meetings in 2007-08

Commissioner	Number of meetings possible	Number of meetings attended
Mr Martin	10	10
Ms Stone	10	10
Mr Ian Smith	4	4
Ms Vanessa Fanning	6	6

## The Secretariat

The Commission is supported by a secretariat staffed by officers of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department). 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.



From left:  
**Philippa Stone** Member  
**Michael Bird** Executive Director  
**John Martin** Chairman  
**Anita Robinson** Office Manager  
(front) **Ian Smith** Member  
**Dilip Mathew** Senior Analyst

## Communications with interested parties

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

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

The Commission places great importance on maintaining effective relationships with these parties. Account is taken of the views and/or interests of these parties in the Commission's decision-making processes. Regular electronic notification of applications and the Commission's determinations and decisions ensures that interested parties are kept up to date with the Commission's activities.



## The role of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department)

The Commission works closely with the Department, which has complementary responsibilities to those of the Commission. The Department negotiates Australia's air services arrangements with the aeronautical authorities of other countries. These arrangements include entitlements for Australia's carriers to operate specified amounts of capacity on agreed routes. This capacity is available for allocation by the Commission to airlines which apply to use it. Available capacity entitlements are recorded in a Register of Available Capacity maintained by the Department. These entitlements are adjusted when determinations allocating capacity are made by the Commission, when unused capacity is handed back by airlines, or when the Department negotiates new capacity entitlements.

The Commission and the Department liaise on matters such as whether prospective new airlines are likely to be reasonably capable of obtaining the approvals necessary to operate and of implementing their proposals.

The Department is also responsible for designating and licensing Australian airlines to operate regular scheduled international services. A carrier must hold an allocation of capacity from the Commission before it can be licensed.

# PART 3

## Report on Performance

### Overview of Commission performance

The Commission has evaluated its performance for the year against three sets of criteria. These cover the extent to which the Commission has:

- served the object of the Act effectively;
- dealt fairly and appropriately with applicants and other interested parties; and
- made efficient and effective use of its financial resources.

The Commission's approach to measuring its performance against these criteria is to assess how well it has met the requirements of the Act and specific standards it has set for itself, primarily within its client service charter. The Commission considers that it has performed well against the criteria, as discussed in detail below.

### Results against performance targets

#### Serving the object of the Act

The Commission considers its most important performance criterion to be serving the object of the Act effectively and this is achieved when the Commission makes its determinations and decisions in accordance with the requirements of the Act and the Minister's policy statement. In the Commission's view, all of the determinations and decisions this year were made in line with these requirements. No interested parties raised concerns with the Commission about its decision-making processes.

The Commission has delegated its decision-making powers to allow determinations and decisions to be made by the delegate on behalf of the Commission in more straightforward cases. The delegate confers with the Commission in each case to ensure it is appropriate for the decision to be taken by the delegate. These arrangements continued to work smoothly this year, with about fifty-five percent of determinations and decisions made by the delegate.

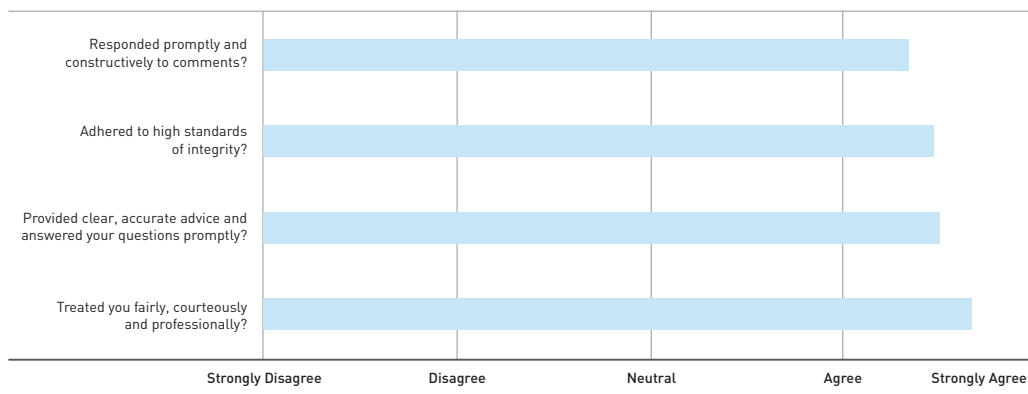
#### Serving applicants and interested parties – performance against service charter

The Commission uses the commitments in its service charter as the benchmarks for assessing its performance in service delivery to applicants for capacity and other interested parties. The Commission's service undertakings are in two groups. The first group covers the ways in which the Commission wants to relate to those who interact with it. The second set of commitments deals with the way in which the Commission aims to make its decisions.

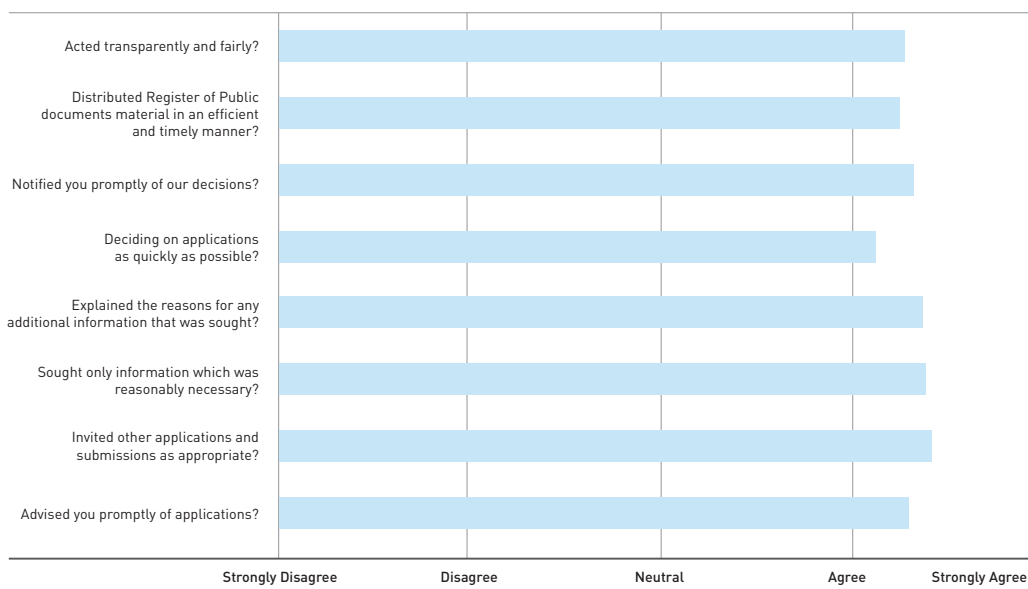
Each year, the Commission’s clients are invited to comment on the Commission’s performance by completing a brief questionnaire. The questions relate to the service charter commitments. Responses to the questionnaire can be submitted anonymously, or contact details provided if respondents wish to discuss their responses. The Commissioners thank those people who took the time to provide feedback about our performance.

The average of the ratings against each measure is set out in the following two charts.

**Dealings with stakeholders – Do you agree that we:**



**Decision-making process – Do you agree that we:**





The Commission is pleased to report that the feedback was positive. This suggests that our clients are satisfied with the Commission's performance.

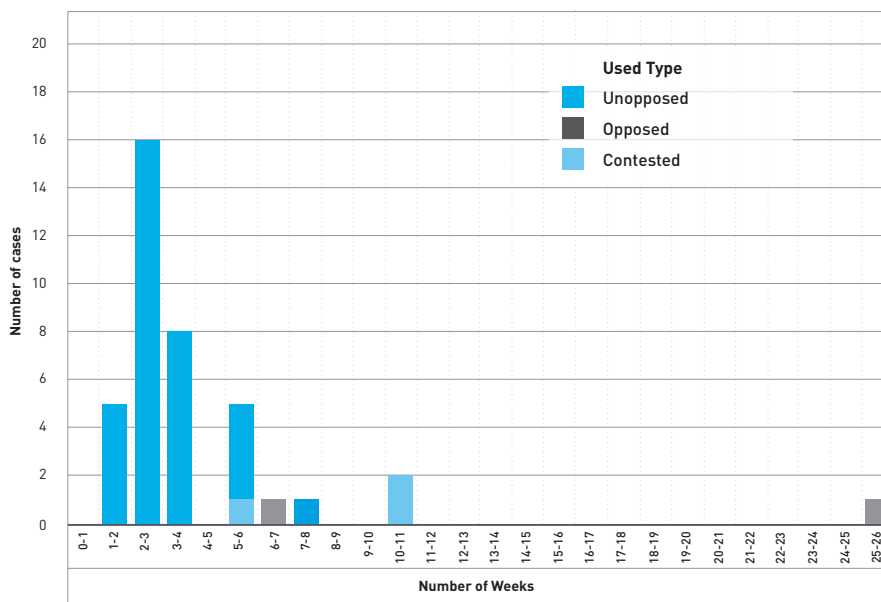
In addition to client feedback, the Commission monitors its performance in the important area of the timeliness of its decision making. Detailed information about the Commission's performance is contained in the chart below. The Commission has two benchmarks which apply to simpler and more complex cases respectively.

The first target is to decide on uncontested and unopposed applications within four weeks of receiving an application. These cases involve a single applicant with no submissions opposing the granting of the application. They are usually straightforward. However, if the applicant is a prospective new operator, additional time is usually required.

This year, the average time taken to conclude consideration of uncontested and unopposed applications was 3.2 weeks, bettering the four-week benchmark. The result compares with an average time of 2.8 weeks in 2006–07. Only four cases in this category took longer than four weeks to decide. None exceeded eight weeks. There were somewhat more complicated cases this year than last year, which contributed to the slightly longer average decision-making time this year.

For contested or opposed applications, the Commission aims to publish determinations or decisions within twelve weeks from the date of application. There were five applications in this category this year. The average time taken to decide these cases was 11.7 weeks. Four of the five cases were concluded within the twelve weeks benchmark. The one case which significantly exceeded the benchmark time frame was a review of the code share arrangements between Qantas and Air Niugini, conducted in conjunction with Papua New Guinea's Independent Consumer and Competition Commission (ICCC). This was a very complex case requiring co-ordination with the ICCC and consideration of a large amount of material. The Commission provided interim approval to Qantas to continue code sharing, pending the conclusion of the detailed review with the ICCC. Details of this case are contained in Appendix 2.

## Distribution of decision times



Note: The chart does not include renewal determinations. These are initiated by the Commission on a time frame that suits airlines' requirements.

Turning to the number of determinations and decisions made for the year, the Commission reports this information but does not set a quantity performance target. The number of determinations and decisions issued varies each year for a range of reasons unrelated to the Commission's performance, so a quantity performance target would have little or no meaning.

The number of applications received from airlines mainly determines the Commission's output. This in turn depends on factors such as the growth in demand for travel to and from Australia and the opportunities available under Australia's air services arrangements with other nations. Another factor is the varying number of determinations due for renewal each year. This means that more renewal determinations are made in some years than others.

The following chart shows that a total of fifty-five determinations and decisions were made by the Commission and its delegate in 2007-08. The graph also sets out the numbers for the previous three years. About twenty percent more determinations and decisions in total were made this year than in 2006-07, and more than in either of the two years prior to that.

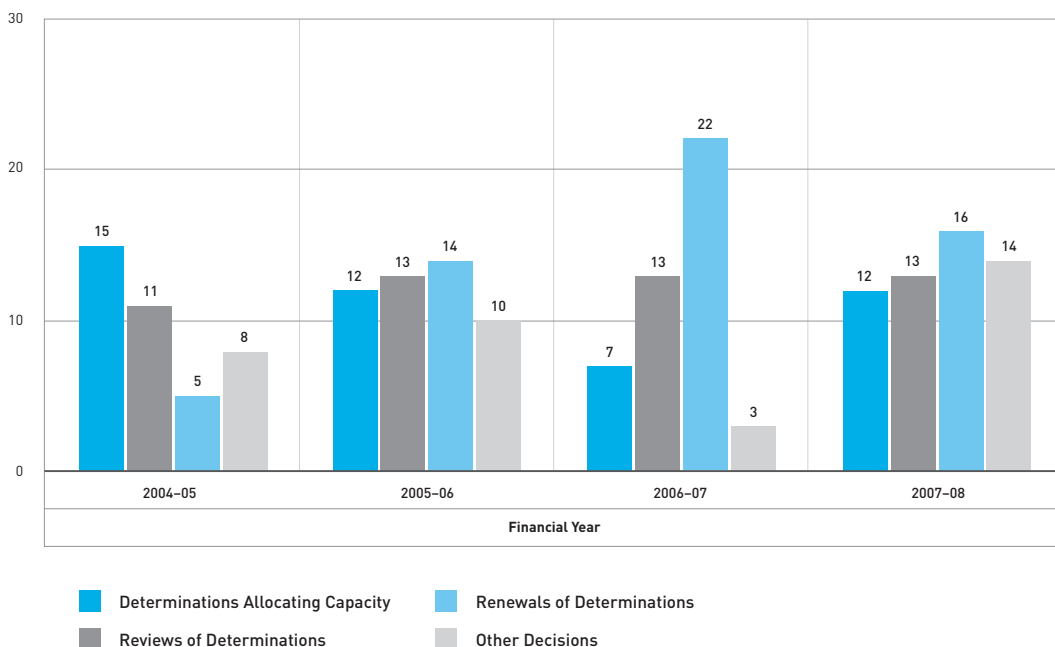
Notably, there was an increase in the number of determinations allocating new capacity compared with last year (to twelve from seven). This year was on a par with the two years before last in this area, when airlines expanded capacity after difficult times for the industry early in the decade. In addition, this year the Commission issued sixteen determinations renewing existing determinations.

There were thirteen decisions made resulting from reviews of determinations, all in response to applications by airlines for the Commission to vary existing determinations. This number was the same as for the previous two years. Several of the decisions related to applications to code share. Some of these were complex cases.

The Commission made fourteen other decisions for the year. These were mainly to revoke determinations at the request of airlines which no longer wished to use the capacity concerned.

A brief summary of all of the Commission’s determinations and decisions is at Appendix 1. More detailed descriptions of each case are contained in Appendix 2.

### Historical numbers of determinations and decisions



## Summary of expenditure

The Commission is funded from within the resources of the Aviation and Airports Division of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department). The Commission's budget for the year was \$400,000. These funds provide for the salary and training costs of secretariat staff, Commissioners' fees, travel, advertising of applications for capacity and variations to determinations, annual report production and general office needs. During 2007–08, the Commission was supported by a secretariat with an average of the equivalent of about 2.1 full time staff, compared with an average of 2.3 full time equivalent staff last year.

Most corporate overheads and property operating expenditure continued to be paid for by the Department. The Commission's offices are located in departmental buildings which are not the Commission's responsibility.

Total expenditure for the year was about \$379,000 or around \$21,000 less than budget. The Commission considers its resource level to be modest but appropriate to its operating needs for the year and the funds were used efficiently and effectively. Part 5 contains more details about the Commission's financial performance.

## Case study – The Solomon Islands route

### Introduction

Each year in its annual report the Commission summarises a case which illustrates the sorts of issues the Commission deals with in its work. In its past two annual reports the Commission discussed issues involved in major code share cases on the Japan and South Africa routes. Code share arrangements on these routes were reviewed again this year. Details are at Appendix 2.

This year, attention is devoted to a case involving competing applications for limited capacity on the Solomon Islands route. The applicants were an established operator, Pacific Blue Australia, and a prospective new Australian entrant to international routes, Sky Air World.

### The applications

Pacific Blue Australia applied in September 2007 for an allocation of 540 seats per week on the Solomon Islands route, with a plan to fly three B737–800 return services per week between Brisbane and Honiara. In October, Sky Air World applied for 658 seats of capacity per week on the same route. Sky Air World planned to start daily return services with Embraer E170 jet aircraft with seventy-six seats, later converting to ninety-four seat E190 aircraft. In response to the Sky Air World application, Pacific Blue Australia increased its allocation sought to 720 seats per week so it could operate four weekly B737 services.

Under the Australia – Solomon Islands air services arrangements there were 850 seats of capacity per week available for allocation to Australian carriers. This was insufficient to satisfy the ambitions of both applicants in full. The two airlines made detailed submissions to support their respective applications, and both made presentations to the Commission. The Brisbane Airport Corporation provided a submission in support of Pacific Blue Australia’s application. Two Solomon Islands Government departments supported Sky Air World’s application.

### **The Commission’s assessment**

The Commission assessed the applications against two sets of criteria contained in the Minister’s policy statement. This statement guides the Commission in how it is to assess the merits of applications, including where carriers are competing for limited available capacity, as in this case.

The paragraph 4 criteria of the Minister’s policy statement require the Commission to assess whether a carrier is reasonably capable of obtaining the necessary approvals to operate, and of implementing its proposals. As Pacific Blue Australia was a well established airline the Commission concluded, without detailed consideration, that this airline met the paragraph 4 criteria.

On the other hand, Sky Air World was a prospective new Australian airline, so the Commission conducted a thorough assessment of this carrier’s claims, as it does with all new operators. The Commission found the airline to be reasonably capable of obtaining the necessary approvals to operate. Account was taken of advice from the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) which outlined significant progress made by Sky Air World towards satisfying operational requirements.

The Commission also assessed detailed material provided by Sky Air World supporting its claim of being capable of implementing its proposals. While finding that the airline’s projections for traffic growth were optimistic, the Commission was satisfied that Sky Air World was reasonably capable of implementing its proposed services. The Commission also noted that Sky Air World had previously operated services on the route on behalf of Solomon Airlines.

The Commission then turned its attention to the comparative claims of the two applicants against the more detailed public benefit criteria contained in paragraph 5 of the Minister’s policy statement. Each airline presented attractive but differing proposals with contrasting strengths.

The policy statement gives primacy to the development of competition in international air services. This includes the need for Australian carriers to compete effectively with one another, as well as with the carriers of foreign countries. Against the competition criterion, the Commission considered that services by either applicant would introduce strong competition for the existing foreign passenger operators Solomon Airlines and Our Airline (formerly Air Nauru).

Although both airlines would operate jet aircraft, Sky Air World's smaller capacity aircraft meant it could offer more frequencies than Pacific Blue Australia for a given number of seats allocated. Sky Air World aircraft also included a business class component, while Pacific Blue Australia's planes did not. Both airlines offered prospects for lower fares than were currently in the market. One weakness with the Sky Air World proposal related to aircraft range limitations associated with the smaller Embraer E170 aircraft. This meant payload restrictions, which mainly restricted the carriage of freight. However, this was less of an issue with Sky Air World's longer range Embraer E190 planes.

The Commission found that either Australian airline would bring strong competition to the route. However, it considered competition benefits would be maximised if both Pacific Blue Australia and Sky Air World were to fly. This was because the two carriers offered different products and frequencies, and would compete with each other as well as with the foreign operators. A competitive situation would remain if either a foreign carrier or one of the Australian airlines exited the market. The Commission considered there was sufficient capacity available for allocation for both carriers to operate a commercially realistic level of capacity.

The Commission then considered the claims of the applicants against the other public benefit criteria. For the tourism criterion, the Commission found Pacific Blue Australia to offer slightly more potential to develop tourism from the Solomon Islands. This was mainly due to Virgin Blue's connecting domestic network at Brisbane which enabled through-pricing of fares to other cities and easy baggage transfer. However, this criterion was given relatively low weight because of the limited scope to expand tourism from the Solomon Islands with its small population and low per capita income.

Turning to the consumer benefits criterion, the Commission found there to be significant choice for consumers from the two airlines, due to different equipment, flight frequency, onboard services and fare offerings.

Neither proposal was found to offer significant trade benefits as neither carrier had freight carriage as its primary objective, nor substantial space available to do so. Sky Air World, in particular, had limited freight capability with its smaller Embraer jets. Pacific Blue Australia's contract with Toll Corporation for the marketing and sale of belly-hold space offered scope for reliable freight movement at competitive rates. However, the presence of an established all-cargo operator on the route meant that freight was likely to contribute modestly to the overall public benefits from new services.

Finally, the Commission found that the entry of either carrier would have a positive effect on the Australian aviation industry, with both operators having potential to increase industry employment.

The Commission concluded that the introduction of services by Pacific Blue Australia and Sky Air World would create a very competitive situation on the route. Each airline would offer attractive fares and good quality product differentiated from the other.

The Commission therefore allocated 470 seats per week to Sky Air World and 360 seats per week to Pacific Blue Australia. Sky Air World would be able to operate up to six E170 services per week, compared with the seven it had proposed. Up to five services per week with the larger E190 aircraft could be flown. Pacific Blue Australia could implement its planned initial level of two B737-300 services per week and replace these later with larger B737-800 aircraft.

The combined allocation of 830 seats per week exceeded the individual allocations sought by each applicant. The Commission considered that this was ample capacity for the needs of the market for some time to come, even allowing for substantial demand growth.

For interested readers, the Commission's full determinations in this case are available from its website, [www.iasc.gov.au](http://www.iasc.gov.au).

In April 2008, four months after the Commission's determinations were made, Sky Air World introduced five Embraer jet services per week between Brisbane and Honiara in the Solomon Islands. As at 30 June, Pacific Blue Australia had not commenced operations.

## Significant developments post – 30 June 2008

There were no significant developments after 30 June 2008.

### Outlook for the industry

In its outlook discussion last year, the Commission observed that high oil prices were imposing significant costs on airlines, but otherwise the outlook for the coming year appeared to be positive, barring unforeseen events. The main unforeseen event turned out to be a further dramatic rise in the price of oil. IATA reported in June 2008 that the global average refinery price for aviation jet fuel was over US\$166 per barrel, a rise of about ninety percent on the price one year before. The International Air Transport Association (IATA) estimated that the impact on the 2008 fuel bill for the global airline industry would be about US\$79 billion.

Clearly the oil price rise is the dominant concern for the world's airlines, including Australia's carriers. Both the Qantas and the Virgin Blue groups announced late in the financial year significant reductions in flying and other measures to reduce costs.

Despite the extraordinary difficulties posed by the cost of fuel, Australian airlines seem likely to continue competing strongly in international markets. V-Australia remains on schedule to commence services to the United States in late 2008. Qantas and its subsidiary Jetstar are likely to continue to seek opportunities to expand profitably where possible. For example, late in the year, Qantas applied to the Commission to add two further weekly services to South Africa. That application will be considered by the Commission early in the new financial year. On a smaller scale, new airline Ozjet is likely to initiate services to several destinations nearby to Australia, such as New Caledonia and Indonesia, following allocations to it by the Commission.

# PART 4

## Management and Accountability

### Corporate governance practices

The Commission is a small organisation and therefore requires less complex corporate governance structures than large bodies such as Government departments. The Commission's corporate governance arrangements are appropriate for its small scale and budget, and consistent with its role and responsibilities. These arrangements are in two parts. The first is directed at addressing the Commission's statutory responsibilities. The second part of the governance structure relates to staffing of the Commission's secretariat and to expenditure of Commission funds.

Part 4 of the *International Air Services Commission Act 1992* (the Act) sets out procedures the Commission is required to follow. The Commission adheres carefully to these requirements. In practice, the most significant of these concerns the holding of meetings. The Commission usually meets at its offices in Canberra. On some occasions, when straightforward matters are involved, the Commission meets by teleconference or email. This reduces time and travel costs associated with face-to-face meetings. The Commission ensures that a quorum of members attends meetings and that decisions are made in accordance with the Act. Minutes are kept of all meetings.

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

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

Part 5 of the Act relates to the membership of the Commission. Commissioners are appointed by the Governor-General after approval by Cabinet following its consideration of recommendations by the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister). The current period of appointments of Commission members is three years, although the Act provides for terms of appointment up to five years. The Remuneration Tribunal determines members' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

Section 47 of Part 5 requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners are fully aware of this obligation. No specific conflicts of interest arose during the year.



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 them and delivered to the Minister in accordance with the statutory requirements.

The second element of the Commission's corporate governance arrangements arises from the Commission's links with the Department of Infrastructure, Transport, Regional Development and Local Government (the Department). Secretariat staff members are officers of the Department. They are subject to the responsibilities and obligations applying to departmental staff, including accountability mechanisms under the Department's corporate governance arrangements. The Commission's executive director is responsible for the day to day management of the secretariat, in accordance with the Department's requirements. These arrangements ensure that there are proper controls and safeguards over matters such as expenditure of Commission funds. Secretariat staff members are expected to adhere to the Australian Public Service's 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 a little below the previous year, at 2.1 full-time equivalent people, compared with 2.3 in 2006–07. As at 30 June, there were two Executive Level 2 officers (both male, both part-time) and one APS 5 officer (female, full-time). As departmental officers, secretariat staff members' employment conditions are determined by the Department's Certified Agreement, except for the executive director who has an Australian Workplace Agreement.

The Department has undertaken to make additional staffing resources available to the Commission if required as a result of changing workload. This co-operation provides assurance to the Commission that adequate support will be maintained to enable it to carry out its functions effectively. It also forms part of a strategy to manage the risk associated with dependence on key individuals within the small secretariat.

As employees of the Department, secretariat officers are subject to its human resource management policies and practices. These arrangements include 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 study, training courses and conferences is encouraged. All secretariat staff undertook development activities during the year.



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 may be involved from time to time in tasks within the Department, as part of the flexible working arrangements between the Commission and the Department.

**Assets management**

Asset management is not a significant aspect of the 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 2008

	1	2	3	4
	2007-08 Budget \$'000	2007-08 Actual \$'000	Variation (Column 2-1) \$'000	2008-09 Budget \$'000
Salaries	243	240	-3	346
Revenue	0	0	0	0
Supplier expenses	157	139	-18	50
<b>Total</b>	400	379	-21	396
Staff years	2.3	2.1	-	2.9

#### *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 Division within the Department of Infrastructure, Transport, Regional Development and Local Government (the Department). The Commission's offices are in a departmental building.

The slight underspend for the 2007-08 financial year was due to sharing of salary costs for some IASC staff with other areas of the Department, and some lower than expected spending on supplier items, mainly travel.

# APPENDIX 1

## Determinations and decisions

This table summarises briefly the determinations and decisions issued during 2007–08. A full summary is at Appendix 2. Individual determinations and decisions may be viewed on the Commission's website at [www.iasc.gov.au](http://www.iasc.gov.au)

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Argentina	Qantas	[2008] IASC 104 d	07 Apr 08	1,029 seats per week	Allocation of passenger capacity
Canada	Qantas	[2008] IASC 208	01 May 08	(1,065 seats per week)*	Revocation of [2005] IASC 110
China	HeavyLift Cargo	[2008] IASC 205	01 May 08	(Unrestricted frequency, capacity and aircraft type for dedicated cargo services on the specified routes)	Revocation of [2005] IASC 104
China	Qantas	[2007] IASC 110 d	11 Oct 07	Unrestricted frequency, capacity and aircraft type for dedicated cargo services on the specified routes	Renewal of [2003] IASC 117
China	Qantas	[2008] IASC 210 d	04 Jun 08		Variation of [2004] IASC 101 to permit Air China to code share on Qantas services
Fiji	Pacific Blue	[2007] IASC 119 d	11 Oct 07	1,260 seats per week on the specified routes to or from Sydney, Melbourne, Brisbane and/or Perth	Renewal of [2003] IASC 110
French Polynesia	Qantas	[2007] IASC 112 d	11 Oct 07	0.5 units of capacity per week	Renewal of [2003] IASC 112
Germany	Qantas	[2007] IASC 105 d	11 Oct 07	Three frequencies per week with any aircraft type	Renewal of [2002] IASC 126
Germany	Qantas	[2007] IASC 215	16 Nov 07		Variation of [2006] IASC 107 and [2007] IASC 105 to permit Iberia Airlines to code share on Qantas services
Greece	Qantas	[2007] IASC 220	10 Dec 07	[200 third-party code share seats per week]	Revocation of [2003] IASC 122

Hong Kong	Qantas	[2007] IASC 115 d	11 Oct 07	Three frequencies per week	Renewal of [2003] IASC 107
Hong Kong	Qantas	[2008] IASC 201--1 d	15 Jan 08	One frequency per week	Variation of [2003] IASC 107 and [2007] IASC 115 increasing the capacity allocated by each determination by one frequency per week
Hong Kong	Qantas	[2008] IASC 201--2 d	15 Jan 08	One frequency per week	Variation of [2003] IASC 107 and [2007] IASC 115 increasing the capacity allocated by each determination by one frequency per week
India	Qantas	[2007] IASC 212 d	07 Nov 07		Variation of [2004] IASC 104 to permit Jet Airways to code share on Qantas services between Australia and Singapore
India	Qantas	[2007] IASC 217	10 Dec 07	925 seats to and from Mumbai, New Delhi, Kolkata, Chennai, Bangalore and Hyderabad	Variation of [2004] IASC 104 to reduce the allocated capacity from 2,100 seats per week to 1,175 seats per week
India	Qantas	[2007] IASC 218	10 Dec 07		Revocation of [2005] IASC 112
Indonesia	Airnorth	[2007] IASC 210	31 Aug 07		Variation of [2006] IASC 127 to permit Qantas to code share on Airnorth services
Indonesia	Ozjet	[2008] IASC 101	20 Feb 08	306 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Allocation of passenger capacity
Indonesia	Qantas	[2007] IASC 109--1 d	11 Oct 07	240 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2002] IASC 123.
Indonesia	Qantas	[2007] IASC 109--2 d	11 Oct 07	850 seats weekly beyond	Renewal of [2002] IASC 123
Indonesia	Qantas	[2007] IASC 211 d	11 Oct 07		Variation of [2002] IASC 123 and [2007] IASC 109 to permit Air France to code share on Qantas services between Denpasar and Singapore on the Indonesia route.
Italy	Qantas	[2007] IASC 113 d	11 Oct 07	600 third-country code share seats per week	Renewal of [2003] IASC 113

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
[Continued]					
Japan	Qantas	[2007] IASC 108 d	11 Oct 07	6.1 B767-200 units	Renewal of [2003] IASC 105
Japan	Qantas	[2007] IASC 219	10 Dec 07		Revocation of [2004] IASC 108
Japan	Qantas	[2008] IASC 212	16 Jun 08		Variation of Determinations [2004] IASC 120, [2005] IASC 123, [2005] IASC 126, [2006] IASC 113 and [2006] IASC 117 to permit code sharing by Japan Airlines on Qantas services until 31 December 2008
Nauru	Ozjet	[2008] IASC 106 d	18 Jun 08	One frequency per week with any aircraft type not exceeding the capacity of B737 aircraft	Allocation of passenger capacity
Netherlands	HeavyLift Cargo	[2007] IASC 221	10 Dec 07		Revocation of [2005] IASC 103
New Caledonia	Ozjet	[2008] IASC 107 d	18 Jun 08	0.5 units of capacity per week	Allocation of passenger capacity
New Zealand	Ozjet	[2008] IASC 102 d	21 Feb 08	Unlimited capacity to operate scheduled passenger services between Australia and New Zealand via, and beyond to, third countries	Allocation of unlimited passenger capacity
New Zealand	Pacific Blue	[2007] IASC 118--1 d	11 Oct 07	Unlimited capacity to operate scheduled passenger services between Australia and New Zealand via, and beyond to, third countries	Renewal of [2003] IASC 109
New Zealand	Pacific Blue	[2007] IASC 118--2 d	11 Oct 07	Unlimited capacity to operate scheduled freight services between Australia and New Zealand via, and beyond to, third countries	Renewal of [2003] IASC 109
New Zealand	Qantas	[2008] IASC 211 d	04 Jun 08		Variation of [2006] IASC 109 to permit Air China to code share on Qantas services
Papua New Guinea	HeavyLift Cargo	[2007] IASC 122	10 Dec 07	26 tonnes per week	Allocation of freight capacity
Papua New Guinea	Qantas	[2007] IASC 123	10 Dec 07	34 tonnes per week	Allocation of freight capacity
Papua New Guinea	Qantas	[2007] IASC 213	16 Nov 07		Variation of [2006] IASC 129 to permit Air Niugini to continue to code share on Qantas services between Sydney/ Brisbane and Port Moresby and between Cairns and Port Moresby and vice versa.

Papua New Guinea	Qantas	[2008] IASC 204 d	16 Apr 08		Variation of [2007] IASC 123 to permit a wholly owned subsidiary to utilise the capacity and to provide joint services with Qantas
Philippines	Qantas	[2007] IASC 106 d	11 Oct 07	629 seats per week	Renewal of [2002] IASC 127
Philippines	Qantas	[2007] IASC 222	10 Dec 07	(150 seats per week)	Variation of [2004] IASC 106 to reduce the allocated capacity from 279 seats per week to 129 seats per week
Singapore	Qantas	[2007] IASC 116 d	11 Oct 07	Unrestricted frequency and capacity of services on the revised route	Renewal of [2003] IASC 120
Singapore	Qantas	[2007] IASC 214	16 Nov 07		Variation of [2007] IASC 116 to permit Iberia Airlines to code share on Qantas services
Solomon Islands	Pacific Blue	[2007] IASC 120	10 Dec 07	360 seats per week	Allocation of passenger capacity
Solomon Islands	Sky Air World	[2007] IASC 121	10 Dec 07	470 seats per week	Allocation of passenger capacity
South Africa	Qantas	[2007] IASC 216	16 Nov 07		Variation of [2003] IASC 108, [2004] IASC 119, [2005] IASC 125 and [2006] IASC 130 to permit South African Airways to code share on Qantas services
South Africa	Qantas	[2008] IASC 105 d	27 May 08	One frequency per week	Renewal of [2003] IASC 108
Switzerland	Qantas	[2008] IASC 202 d	31 Jan 08		Variation of [2006] IASC 116 to permit British Airways to code share on Qantas services
Taiwan	Qantas	[2007] IASC 223	10 Dec 07	(Unlimited freight capacity)	Revocation of [2004] IASC 107
Thailand	Qantas	[2007] IASC 107 d	11 Oct 07	Seven third-party code share services per week	Renewal of [2002] IASC 129
Thailand	Qantas	[2007] IASC 224	10 Dec 07		Revocation of [2006] IASC 115
Thailand	Qantas	[2008] IASC 209	01 May 08	(Four third-party code share services per week)	Variation of [2006] IASC 110 to reduce the allocated capacity by four third-party code share services per week

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
<b>(Continued)</b>					
Tonga	Pacific Blue	[2008] IASC 207	01 May 08	(180 seats per week)	Variation of [2005] IASC 109 to reduce the capacity allocated to 360 seats per week
United States	HeavyLift Cargo	[2008] IASC 206	01 May 08	(Unlimited capacity, between, via and beyond, and between the United States and third countries)	Revocation of [2005] IASC 105
United States	Qantas	[2007] IASC 111 d	11 Oct 07	Unrestricted frequency and capacity	Renewal of [2003] IASC 121
United States	Qantas	[2008] IASC 103--1 d	02 Apr 08	Unlimited capacity, between, via and beyond to third countries	Allocation of unlimited passenger capacity
United States	Qantas	[2008] IASC 103--2 d	02 Apr 08	Unlimited capacity, between, via and beyond to third countries and between the United States and third countries	Allocation of unlimited cargo capacity
United States	Qantas	[2008] IASC 203 d	02 Apr 08	(Unlimited passenger capacity and unlimited all-cargo capacity and frequency)	Revocation of [2006] IASC 111 and [2007] IASC 111
United States	Virgin Blue International Airlines	[2007] IASC 104	23 Jul 07	Capacity on the South Pacific route consistent with the terms of the Australia – United States air transport arrangements	Allocation of passenger capacity
Vanuatu	Pacific Blue	[2007] IASC 117 d	11 Oct 07	720 seats per week	Renewal of [2003] IASC 111
Vanuatu	Qantas	[2007] IASC 114 d	11 Oct 07	100 seats per week	Renewal of [2002] IASC 124
Vietnam	Qantas	[2008] IASC 108 d	18 Jun 08	Two frequencies weekly in total with any aircraft type to and from Sydney, Melbourne, Brisbane and Perth	Allocation of passenger capacity

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

\* Brackets indicate a reduction in capacity allocated



# APPENDIX 2

## Route by route summary of Commission determinations and decisions in 2007–08

This appendix provides a detailed summary of the Commission's determinations and decisions for 2007–08. Full determinations and decisions can be viewed on the Commission's website at [www.iasc.gov.au](http://www.iasc.gov.au)

### Argentina

On 12 March 2008, Qantas applied for an allocation of capacity on the Argentina route. Qantas sought an allocation of 1,029 seats per week in each direction to enable it to operate three weekly return non-stop B747–400 services between Sydney and Buenos Aires.

On 7 April 2008, the Delegate of the Commission issued Determination [2008] IASC 104, allocating the capacity sought for a period of five years from the date of the determination.

### Canada

Qantas applied to the Commission on 17 April 2008 to revoke Determination [2005] IASC 110, which allocated 1,065 seats of capacity per week on the Canada route.

On 1 May 2008, the Commission issued Decision [2008] IASC 208 revoking the determination, as requested.

### China

On 29 April 2008, HeavyLift applied to the Commission to revoke Determination [2005] IASC 104. This determination allocated unlimited freight capacity and frequency on the China route.

The Commission revoked the determination on 1 May 2008, as requested.

---

On 24 August 2007, Qantas applied to renew Determination [2003] IASC 117, a determination allocating unlimited freight capacity and frequency on the China route.

On 11 October 2007, the Delegate of the Commission issued Determination [2007] IASC 110, renewing the determination as requested. The determination is for a period of ten years from 24 October 2008, as the Minister's policy statement provides for this duration when capacity and routes are not restricted.

---

On 16 May 2008, Qantas applied for a variation of Determination [2004] IASC 101 to authorise China Eastern Airlines to code share on Qantas-operated services on the China route.

The Delegate of the Commission issued Decision [2008] IASC 210 on 4 June 2008, varying the determination as sought.

### **Fiji**

On 31 August 2007, Pacific Blue applied to the Commission to renew Determination [2003] IASC 110, which allocates 1,260 seats of capacity per week in each direction on the Fiji route.

On 11 October 2008, the Delegate, on behalf of the Commission, issued Determination [2007] IASC 119, re-allocating the capacity on the Fiji route. The determination is for a period of five years from 10 July 2008.

### **French Polynesia**

On 24 August 2007, Qantas applied to renew Determination [2003] IASC 112, which allocates 0.5 units of capacity per week in each direction on the French Polynesia route.

The Delegate of the Commission issued Determination [2007] IASC 112 on 11 October 2007, re-allocating the capacity to Qantas as requested for a period of five years from 8 September 2008.

### **Germany**

Qantas applied to the Commission on 24 August 2007 for a renewal of Determination [2002] IASC 126, which allocated three frequencies per week in each direction on the Germany route. Qantas also sought the removal of authority to code share with Swiss International, as Qantas no longer operated joint services with that airline.

On 11 October 2007, the Delegate of the Commission issued Determination [2007] IASC 105, re-allocating three frequencies per week in each direction to Qantas as sought. The determination is for a period of five years from 19 February 2008.

---

On 30 October 2007, Qantas applied for a variation to Determinations [2006] IASC 107 and [2007] IASC 105 to permit Iberia Airlines to code share on Qantas-operated services from Australia to Germany.

On 16 November 2007, the Commission issued Decision [2007] IASC 215 to permit Iberia Airlines to code share on Qantas' services as requested.

## Greece

Qantas applied to the Commission on 13 November 2007 to revoke Determination [2003] IASC 122 which allocated 200 third-party code share seats per week on the Greece route. The request followed the withdrawal by Gulf Air of its services to Australia, on which Qantas code shared to Bahrain and on to Athens.

The Commission revoked the determination on 10 December 2007 by Decision [2007] IASC 220, as requested.

## Hong Kong

On 24 August 2007, Qantas applied for a renewal of Determination [2003] IASC 107, a determination allocating 600 seats and three frequencies per week in each direction on the Hong Kong route.

The Delegate, on behalf of the Commission, issued Determination [2007] IASC 115 renewing the determination as requested for a period of five years from 24 September 2008.

---

On 20 December 2007, Qantas applied for a variation to Determination [2003] IASC 107, as renewed by Determination [2007] IASC 115, to increase the capacity allocated by one frequency per week to a total of four frequencies per week on the Hong Kong route.

On 15 January 2008, the Delegate of the Commission issued Decision [2008] IASC 201, varying the determinations as requested by Qantas. The Commission is permitted to add capacity via decision rather than determination where only a small amount of additional capacity is sought.

## India

On 22 October 2007, Qantas applied for a variation to Determination [2004] IASC 104, which allocated 2,100 seats of capacity to Qantas on the India route, to permit Jet Airways to code share on Qantas' three weekly services between Sydney and Mumbai.

On 7 November 2007, the Delegate, on behalf of the Commission, issued Decision [2007] IASC 212, varying the determination to permit code sharing by Jet Airways on Qantas' services.

---

Qantas applied to the Commission on 13 November 2007 to revoke Determination [2005] IASC 112, which allocated 300 third-country code share seats per week on the India route.

On 10 December 2007, the Commission issued Decision [2007] IASC 218 revoking the determination as requested.

---

On 13 November 2007, Qantas applied to the Commission to reduce the capacity allocated by Determination [2004] IASC 104 on the India route by 925 seats per week, from 2,100 seats per week to 1,175 seats per week.

The Commission issued Decision [2007] IASC 217 on 10 December 2007, reducing the amount of capacity allocated as requested.

### Indonesia

On 26 July 2007, Airnorth applied for an allocation of 380 seats of capacity per week on the Indonesia route for operations on the Darwin–Denpasar and vice versa sector. Airnorth also sought authority from the Commission for Qantas to code share on Airnorth’s services. Following receipt of the application, the Commission advised Airnorth that the airline’s existing allocation of capacity under Determination [2006] IASC 127 already provided a sufficient basis for the proposed services. Subsequently, on 7 August 2007, Airnorth amended its application to become only a request for variation of the Determination to permit code sharing by Qantas on Airnorth’s planned new Darwin–Denpasar services.

The Commission issued Decision [2007] IASC 210 on 31 August 2007, varying Determination [2006] IASC 127 to allow Qantas to code share on Airnorth’s services.

---

On 24 December 2007, OzJet applied for an allocation of 306 seats per week of capacity on the Indonesia route. This was OzJet’s first application to operate scheduled international services. OzJet was an established domestic regular public transport (RPT) operator and was also operating international charter services between Perth and Denpasar under an agreement with IndoJet Asia Pty Ltd (IndoJet). The application advised that OzJet wished to operate its international charter services to RPT standard. OzJet sought a two-year determination, consistent with the length of its commercial agreement with IndoJet.

After other applications were invited for capacity, Westralia Airports Corporation (the lessee of Perth Airport), expressed support for the OzJet application. The Department of Infrastructure, Transport, Regional Development and Local Government advised that it considered OzJet reasonably capable of obtaining the necessary approvals to operate as an international airline.

OzJet provided commercial-in-confidence material which satisfied the Commission that it had the financial capacity, skills and experience necessary to implement its proposed operations on the route. The Commission noted the track record of OzJet in the domestic market and international charter market. The Commission also noted the consumer protection mechanisms established to protect passengers against financial loss.

On 20 February 2008, the Commission issued Determination [2008] IASC 101 allocating 306 seats per week of capacity on the Indonesia route for a two-year period.

---

Qantas applied to the Commission on 20 September 2007, for a variation to Determination [2002] IASC 123, as renewed by Determination [2007] IASC 109, to permit Air France to code share on services operated by Qantas between Denpasar and Singapore on the Indonesia route.

The Delegate, on behalf of the Commission, issued Decision [2007] IASC 211 on 11 October 2007, varying the determination to allow joint services with Air France.

### Italy

Qantas applied to the Commission on 24 August 2007 for a renewal of Determination [2003] IASC 113, a determination which allocated 600 third-country code share seats per week in each direction on the Italy route.

On 11 October 2007, the Delegate of the Commission issued Determination [2007] IASC 113, re-allocating the capacity for a period of five years from 8 August 2008.

### Japan

On 24 August 2007, Qantas applied to the Commission to renew Determination [2003] IASC 105 which allocated six B767-200 units of capacity per week in each direction on the Japan route. This determination was amended by Decision [2006] IASC 224 allocating an additional 0.1 B767-200 units of capacity, bringing the total allocation under the determination to 6.1 units of capacity per week in each direction.

The Delegate, on behalf of the Commission, issued Determination [2007] IASC 108 on 11 October 2007, re-allocating 6.1 B767-200 units of capacity per week in each direction. The determination is for a period of five years from 9 August 2008.

---

Qantas applied to the Commission on 13 November 2007 to revoke Determination [2004] IASC 108, which allocated 2.4 units of capacity per week on the Japan route.

On 10 December 2007, the Commission issued Decision [2007] IASC 219 revoking the determination as requested.

---

On 6 May 2008, Qantas applied to the Commission for a variation of Determinations [2004] IASC 120, [2005] IASC 123, [2005] IASC 126, [2006] IASC 113 and [2006] IASC 117, to extend code share authorisation with Japan Airlines until 30 June 2010. On 11 June 2008, Qantas announced major international schedule changes, including significant alterations to Qantas-group services to Japan. Accordingly, Qantas wrote to the Commission on 11 June 2008 advising that it required approval to continue code sharing with Japan Airlines only until 31 December 2008.

On 16 June 2008, the Commission issued Decision [2008] IASC 212, extending the code share arrangements until 31 December 2008 as requested by Qantas. Qantas indicated that it would apply to the Commission in due course for code sharing approval beyond the end of 2008.

### **Nauru**

On 4 June 2008, Ozjet applied to the Commission for an allocation of one frequency per week on the Nauru route to enable it to introduce one B737 return service per week.

The Delegate, on behalf of the Commission issued Determination [2008] IASC 106 on 18 June 2008 in favour of Ozjet. The determination is for a period of five years from that date.

### **Netherlands**

HeavyLift applied to the Commission on 21 November 2007 to revoke Determination [2005] IASC 103. This determination allocated two all-cargo services per week on the Netherlands route.

On 10 December 2007, the Commission issued Decision [2007] IASC 221 revoking the determination as sought.

### **New Caledonia**

Ozjet applied to the Commission on 4 June 2008 for an allocation of 0.5 units of capacity per week to enable it to introduce two B737 services per week on the New Caledonia (France–Route 3) route.

On 18 June 2008, the Delegate of the Commission issued Determination [2008] IASC 107, allocating the capacity for a period of five years from that date.

### **New Zealand**

On 4 February 2008, OzJet applied for an allocation of unlimited capacity and frequency on the New Zealand route. OzJet proposed to operate from Brisbane and Sydney to Palmerston North.

OzJet had recently been allocated capacity on the Indonesia route. OzJet was a new international airline when it applied for capacity on the Indonesia route. In considering its application on the Indonesia route, the Commission therefore conducted a detailed examination of OzJet's ability to meet the Paragraph 4 criteria in the Minister's Policy Statement. Given the Commission's recent assessment of OzJet, the delegate decided to allocate the capacity sought on the New Zealand route to OzJet.

On 21 February 2008, the Delegate of the Commission issued Interim Determination [2008] IASC 102, allocating unlimited capacity for a three-year period from the date of the determination.

---

On 16 May 2008, Qantas applied for a variation of Determination [2006] IASC 109 to authorise China Eastern Airlines to code share on Qantas-operated services on the New Zealand route.

The Delegate of the Commission issued Decision [2008] IASC 211 on 4 June 2008, varying the determination as sought.

### **Papua New Guinea**

On 14 May 2007, Qantas applied for a continuation of the Commission's authorisation granted to its code-sharing arrangements with Air Niugini. The arrangements were first approved by the Commission in August 2002. Qantas has an allocation of 1,000 seats per week on the route which was granted by Determination [2006] IASC 129. Simultaneously, Air Niugini applied for an extension of its code sharing arrangements to the Papua New Guinea competition regulator, the Independent Consumer and Competition Commission (ICCC).

The IASC and ICCC worked together closely in their consideration of the merits of the applications from both airlines. A number of teleconferences were held between the IASC and the ICCC. An ICCC official travelled to the IASC offices in Canberra to conduct joint analysis of both applications.

The Commission initially issued a draft decision proposing to authorise continued code-sharing until the end of 2009, subject to certain conditions. In response to a Qantas submission on the draft decision, the IASC maintained its view that the hard block code share arrangements worked to the advantage of Qantas and reduced the level of competitiveness between the two airlines. The IASC also did not accept Qantas' view that the code share arrangements should be extended for a longer period than contemplated in the draft decision.

The Commission noted that although the nature of the arrangements provided only limited competition between the partner airlines, there had been an improvement in public benefits over the last two years. It also noted the arrangements had played an important role in maintaining wide-body services and the loss of those services would adversely affect the movement of air freight on the route.

The IASC considered that an immediate removal of code share arrangements could create a less competitive situation if Qantas entered the market in its own right, as this had the potential to reduce the overall number of services on the route, leading to a loss of public benefit.

The Commission varied Determination [2006] IASC 129 by Decision [2007] IASC 213 on 16 November 2007 to authorise the code share arrangements until 31 December 2009 subject to certain conditions.

---



On 2 November 2007, HeavyLift applied for an allocation of forty-five tonnes of freight capacity per week in each direction on the Papua New Guinea route. Qantas responded to the IASC's invitation for other applications for the capacity and sought thirty-four tonnes of capacity per week. At this point, the combined capacity sought exceeded the capacity available to Australian carriers on this route.

Qantas questioned HeavyLift's requirement for the forty-five tonnes of weekly capacity sought, on the grounds that the payload of the HeavyLift aircraft was inadequate to operate this amount of capacity. Subsequently, HeavyLift revised its application by reducing the allocation sought from forty-five tonnes to twenty-six tonnes per week. The combined total of the applications from Qantas and HeavyLift then became exactly equal to the capacity available to Australian carriers on this route respectively.

On 10 December 2007, the Commission issued Determinations [2007] IASC 122 and [2007] IASC 123 allocating twenty-six tonnes of capacity per week to HeavyLift and thirty-four tonnes of capacity per week to Qantas respectively.

---

On 2 April 2008, Qantas applied to the Commission for a variation to Determination [2007] IASC 123 to permit Express Freighters Australia Pty Ltd, a wholly-owned subsidiary of Qantas, to operate freight services on the Papua New Guinea route. Qantas also requested the ability for any wholly-owned subsidiary of Qantas to use the capacity to provide joint services with Qantas or with any other wholly-owned subsidiary of Qantas.

On 16 April 2008, the Delegate, on behalf of the Commission, issued Decision [2008] IASC 204, varying the determination as requested by Qantas.

### **Philippines**

On 24 August 2007, Qantas applied for a renewal of Determination [2002] IASC 127, which allocated 229 seats per week in each direction on the Philippines route. This determination was subsequently varied by Decision [2002] IASC 210 to allocate an additional 400 seats per week.

The delegate, on behalf of the Commission, issued Determination [2007] IASC 106 in favour of Qantas, allocating 629 seats per week in each direction.

---



Qantas applied to the Commission on 13 November 2007 to reduce the capacity allocated by Determination [2004] IASC 106 on the Philippines route by 150 seats per week, from 279 seats per week to 129 seats per week.

On 10 December 2007, the Commission issued Decision [2007] IASC 222, varying the determination as requested.

### Singapore

On 24 August 2007, Qantas applied to the Commission for a renewal of Determination [2003] IASC 120, which allocated unlimited capacity and frequency on the Singapore route for services other than all-cargo services. The determination also authorised code sharing by Qantas with British Airways, Finnair, Gulf Air and Swiss International. The determination was subsequently varied by Decisions [2004] IASC 213, [2005] IASC 208, [2006] IASC 219 and [2006] IASC 221. The decisions permitted code sharing with Air France, Air Malta, Jet Airways and any wholly-owned subsidiary of the Qantas group respectively.

On 11 October 2007, the Delegate of the Commission issued Determination [2007] IASC 116, re-allocating unlimited capacity and frequency on the Singapore route for services other than all-cargo services. The determination is for a period of ten years from 31 October 2008.

---

On 30 October 2007, Qantas applied for a variation to Determination [2007] IASC 116 to permit Iberia Airlines to code share on Qantas-operated services from Australia to Singapore.

On 16 November 2007, the Commission issued Decision [2007] IASC 214 permitting Iberia Airlines to code share on Qantas' services as requested.

### Solomon Islands

On 27 September 2007, Pacific Blue Australia applied for an allocation of 540 seats per week in each direction on the Solomon Islands route. A supplementary application for a further 180 seats per week was made on 19 October 2007. In response to the initial Pacific Blue Australia application, on 16 October 2007 Sky Air World applied for 658 seats of capacity per week in each direction on the route.

On 10 December 2007, the Commission issued Determination [2007] IASC 120 in favour of Pacific Blue Australia, allocating 360 seats per week. The determination is for a period of five years from the date of the determination.

The Commission also issued Determination [2007] IASC 121 on 10 December 2007, allocating 470 seats per week to Sky Air World. The determination is for a period of three years from the date of the determination.

Further information about this case can be found in the case study in Part 3 of this report.

## South Africa

On 3 October 2007, Qantas applied for a three year extension of its code-sharing arrangements with South African Airways (SAA). Qantas held allocations totalling five frequencies per week on the route which were granted collectively by Determinations [2003] IASC 108, [2004] IASC 119, [2005] IASC 125 and [2006] IASC 130. The code sharing arrangements were first approved in December 2000 by the Commission.

The IASC invited submissions about the Qantas application. The Department of Industry, Tourism and Resources supported the application. The Australian Competition and Consumer Commission (ACCC) advised its view was that neither airline was likely to actively compete against the other while the arrangements remained in place. The ACCC also suggested that the market impact of third-country carriers was inhibited by the longer flying times involved. In response to the ACCC, Qantas repeated its view that substantial competition was provided by third-country carriers. Qantas also said it competed with SAA as the code sharing was of a 'hard block' type (i.e. it involves a pre-commitment to purchasing a specified block of seats, with the attendant risk of financial loss if the seats went unsold), and that both airlines had incentives for price discounting.

The Commission authorised a one-year extension of the code-sharing arrangements, instead of the three-year extension sought. In reaching this decision, the Commission expressed serious concerns about the public benefit impacts of the code share. However, the Commission noted the carriers' high load factors and absence of capacity entitlements for both carriers. This meant there was little scope for the carriers to compete more strongly with each other if the code share was not approved. There was also the possibility that SAA and Qantas may have decided to confine their operations to the Perth – South Africa or Sydney – South Africa sectors respectively, that is, there would be two separate monopoly sectors. Accordingly, the Commission concluded that there were very slightly more public benefits from continuing to authorise the code share arrangements for one year.

On 16 November 2007, the Commission varied Determinations [2003] IASC 108, [2004] IASC 119, [2005] IASC 125 and [2006] IASC 130 by Decision [2007] IASC 216 to authorise the code share arrangements until 31 December 2008 subject to certain conditions.

---

On 24 August 2007, Qantas applied to the Commission for a renewal of Determination [2003] IASC 108, which allocated one frequency per week in each direction on the South Africa route and authorised code sharing between Qantas and South African Airways (SAA). In its application Qantas requested that renewal of the determination be delayed until the outcome was known of the Commission's consideration in late 2007 of the airline's application to extend code sharing with SAA.

On 27 May 2008, the Delegate, on behalf of the Commission issued Determination [2008] IASC 105, allocating one frequency per week in each direction on the South Africa route for a period of five years from 21 October 2008. The determination also authorised continued code sharing between Qantas and SAA until 31 December 2008.

### Switzerland

On 17 January 2008, Qantas applied for a variation to Determination [2006] IASC 116 to permit British Airways to code share on Qantas' services on the Switzerland route.

The Delegate, on behalf of the Commission, issued Decision [2008] IASC 202 on 31 January 2008, varying the determination as requested.

### Taiwan

Qantas applied to the Commission on 13 November 2007 to revoke Determination [2004] IASC 107, which allocated unlimited freight capacity on the Taiwan route.

On 10 December 2007, the Commission issued Decision [2007] IASC 223, revoking the determination as requested.

### Thailand

Qantas applied to the Commission on 24 August 2007 for a renewal of Determination [2002] IASC 129, which allocated seven third-party code share services per week in each direction on the Thailand route.

On 11 October 2007, the Delegate, on behalf of the Commission, made Determination [2007] IASC 107 re-allocating seven third-party code share services per week. The determination is for a period of five years from 23 April 2008.

---

Qantas applied to the Commission on 13 November 2007 to revoke Determination [2006] IASC 115, which allocated seven third-country carrier services per week in each direction on the Thailand route.

The Commission issued Decision [2007] IASC 224 on 10 December 2007, revoking the determination as requested.

---

On 17 April 2008, Qantas applied to the Commission to reduce the capacity allocated by Determination [2006] IASC 110 on the Thailand route by four third-country code share services per week.

On 1 May 2008, the Commission issued Decision [2008] IASC 209 varying the determination, as sought by Qantas.

## Tonga

Pacific Blue Australia applied to the Commission on 18 April 2008 to reduce the capacity allocated by Determination [2005] IASC 109 on the Tonga route by 180 seats per week, from 540 to 360 seats per week.

On 1 May 2008, the Commission issued Decision [2008] IASC 207 reducing the capacity allocated as requested.

## United States

HeavyLift applied to the Commission on 29 April 2008 to revoke Determination [2005] IASC 105. This determination allocated unlimited all-cargo capacity and frequency on the United States (All-Cargo) route.

On 1 May 2008, the Commission issued Decision [2008] IASC 105 revoking the determination as requested.

---

On 24 August 2007, Qantas applied to the Commission for a renewal of Determination [2003] IASC 121, which allocated unlimited all-cargo capacity and frequency in each direction on the United States (All-Cargo) route.

On 11 October 2007, the Delegate, on behalf of the Commission, issued Determination [2007] IASC 111. The determination is for ten years from 31 October 2008.

---

Qantas applied to the Commission on 21 February 2008 to revoke Determinations [2006] IASC 111 and [2007] IASC 111, which allocated unlimited passenger capacity on the South Pacific route between Australia and the United States, and unlimited all-cargo capacity and frequency on the United States (All-Cargo) route, respectively.

On 2 April 2008, the Delegate issued Decision [2008] IASC 203 revoking the determinations as sought by Qantas.

---

Concurrently with the application above, on 21 February 2008, Qantas applied for an allocation of unlimited passenger and cargo capacity and frequency on the United States route. Qantas also applied for retention of the authorisations in Determinations [2006] IASC 111 and [2007] IASC 111 which permitted code sharing with a number of airlines.

On 2 April 2008, the Delegate, on behalf of the Commission issued Determination [2008] IASC 103, in favour of Qantas, allocating unlimited passenger and cargo capacity on the United States route and continued code sharing with the relevant airlines. The determination is for a period of ten years from 2 April 2008.

---

On 27 June 2007, Virgin Blue International Airlines applied for an allocation of ten weekly return non-stop B777-300ER services between Australia and United States. The Commission conducted a detailed assessment of the carrier's ability to obtain the necessary approvals to operate and to implement its proposals.

On 23 July 2007, the Commission issued Determination [2007] IASC 104, permitting Virgin Blue International Airlines to operate capacity on the South Pacific route in each direction between Australia and the United States, in accordance with the air services arrangements between the two countries. The determination is for five years from 23 July 2007. The airline is to operate as V-Australia.

### **Vanuatu**

Pacific Blue Australia applied to the Commission on 31 August 2007 for a renewal of Determination [2003] IASC 111, which allocated Virgin Blue 720 seats of capacity per week in each direction on the Vanuatu route. The Determination was subsequently varied by Decision [2004] IASC 201 to transfer to Pacific Blue Australia the capacity allocated to Virgin Blue under the determination.

On 11 October 2007, the Delegate, on behalf of the Commission issued Determination [2007] IASC 117, re-allocating 720 seats of capacity per week in each direction to Pacific Blue Australia. The determination is for five years from 10 July 2008.

---

On 24 August 2007, Qantas applied to the Commission to renew Determination [2002] IASC 124 which allocated 100 seats per week in each direction on the Vanuatu route.

The Delegate of the Commission issued renewal Determination [2007] IASC 114 on 11 October 2007, re-allocating the capacity as sought. The determination is for a period of five years from 25 November 2008.

### **Vietnam**

On 6 June 2008, Qantas applied for an allocation of two frequencies per week of capacity in each direction on the Vietnam route to enable Jetstar, a wholly-owned subsidiary of Qantas, to operate additional services on the Vietnam route.

On 18 June 2008, the Delegate, on behalf of the Commission, issued Determination [2008] IASC 108, allocating two frequencies per week in each direction to and from Sydney, Melbourne, Brisbane and Perth on the route. The determination is for five years from 18 June 2008.

## APPENDIX 3

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

### Passenger capacity as at 30 June 2008

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (per week)
Argentina	1,029 seats	1,771 seats
Austria	Nil	2,800 seats
Bahrain	Nil	Twelve frequencies**
Brazil	Nil	Seven frequencies
Brunei Darussalam	Nil	Twenty-two services**
Burma	Nil	Two B747s
Canada	Nil	3,000 seats
Chile	Nil	2,000 seats
China	2,970 seats	5,530 seats**
Cook Islands	360 seats	140 seats
Croatia	Nil	Seven services plus possible services to other points in Croatia
Czech Republic	Nil	Seven services**

Denmark	Nil	2,800 seats
Egypt	Nil	Three B747 services
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 = 1.75 units (one unit = 400 seats)	Route 1 = three units and 150 code share seats; Route 2 = 2.5 units; Route 3 = 0.75 units
Germany	Seven frequencies	Eighteen frequencies
Greece	Nil	2,100 seats and 800 third-country code share seats
Hong Kong	Thirty-one frequencies	Thirty-nine frequencies**
Hungary	Nil	Seven services**
India	1,175 seats	5,325 seats and 1,625 third-party code share seats
Indonesia	4,716 seats	6,084 seats**
Ireland	Nil	Seven services**
Italy	600 third-country code share seats	Seven frequencies and 400 third-country code share seats
Japan	71.1 units (one unit = one B767-200 equivalent)	7.9 units
Jordan	Nil	Three frequencies
Kenya	Nil	Seven frequencies
Korea	Between the beginning of the last week in December and the end of the first week in the following February 1,187 seats and outside the above period 500 seats	Between the beginning of the last week in December and the end of the first week in the following February 7,313 seats and outside this period 8,000 seats**
Kuwait	Nil	Two frequencies
Lebanon	Nil	Two B767s terminating in Lebanon, or three B767s transiting Lebanon
Luxembourg	Nil	Cargo capacity only

ROUTE	PASSENGER CAPACITY ALLOCATED (per week)	PASSENGER CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (per week)
(Continued)		
Macau	Nil	Three frequencies
Malaysia	909 seats	24,691 seats**
Malta	Nil	Three frequencies
Mauritius	Nil	Seven frequencies** and 500 third-country code share seats
Mexico	Nil	Four frequencies to certain points; unrestricted to other points
Nauru	One frequency not exceeding the capacity of a B737 aircraft	Two frequencies not exceeding the capacity of B737 aircraft
Netherlands	400 third-party code share seats	2,800 seats and 600 third-party code share seats
New Zealand	Unlimited	Unlimited
Niue	Nil	500 seats
Norway	Nil	2,800 seats
Pakistan	Nil	Three services
Palau	Nil	1,200 seats
Papua New Guinea	1,216 seats	1,984 seats
Philippines	1,216 seats	Route 1 = 1,284 seats; regional development route = 400 seats
Poland	Nil	2,800 seats**
Qatar	Nil	Seven frequencies**
Russian Federation	Nil	Three frequencies
Samoa	Nil	1,000 seats
Singapore	Unlimited	Unlimited
Solomon Islands	830 seats	20 seats
South Africa	Five frequencies	Five frequencies



Spain	Nil	Nil	Seven services to Madrid and/or Barcelona, otherwise unlimited
Sri Lanka	Nil	Nil	Thirteen services**
Sweden	Nil	Nil	2,800 seats
Switzerland	Twenty-one third-country code share frequencies	Twenty-one third-country code share frequencies	2,800 seats** and nil third-country code share frequencies
Taiwan	Nil	Nil	6,000 seats
Thailand	11.2 B747 and seven third-party code share frequencies	11.2 B747 and seven third-party code share frequencies	23.8 B747s and twenty-one third-party code share frequencies
Tonga	360 seats	360 seats	240 seats
United Arab Emirates	Nil	Nil	Seventy-seven frequencies**
United Kingdom	Unlimited	Unlimited	Unlimited
United States	Unlimited	Unlimited	Unlimited
Vanuatu	1,120 seats	1,120 seats	280 seats
Vietnam	Three frequencies	Three frequencies	Seven frequencies**
Zimbabwe	Nil	Nil	1,600 seats

## Freight Capacity as at 30 June 2008

ROUTE	FREIGHT CAPACITY ALLOCATED (per week)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (per week)
Argentina	Nil	Seven frequencies
Austria	Nil	Unlimited
Bahrain	Nil	Unlimited
Brazil	Nil	Three frequencies
Brunei Darussalam	Nil	Unlimited
Burma	Nil	Not specified †
Canada	Nil	Converted from seats at the rate of forty seats for each ten tonnes or part thereof
Chile	Nil	Unlimited
China	Unlimited	Unlimited
Cook Islands	Nil	Unlimited
Croatia	Nil	Unlimited
Czech Republic	Nil	Unlimited
Denmark	Nil	Unlimited
Egypt	Nil	Not specified †
Fiji	Nil	Seventy 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 and 100 tonnes third-country code share
Hong Kong	One frequency	One frequency** (note: passenger capacity may be converted to freight capacity and vice versa)

Hungary	Nil	Unlimited
India	Unlimited	Unlimited
Indonesia	Nil	Three frequencies
Ireland	Nil	Unlimited
Italy	Nil	Not specified †
Japan	Nil	Not specified †
Jordan	Nil	Not specified †
Kenya	Nil	Unlimited
Korea	Nil	Unlimited
Kuwait	Nil	One frequency
Lebanon	Nil	Not specified †
Luxembourg	Nil	Unlimited
Macao	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 services or dedicated cargo services)
Nauru	Nil	Not specified †
Netherlands	Nil	Two services and 200 tonnes third-country code share
New Zealand	Unlimited	Unlimited
Niue	Nil	Unlimited
Norway	Nil	Unlimited
Pakistan	Nil	One frequency
Palau	Nil	150 tonnes

ROUTE	FREIGHT CAPACITY ALLOCATED (per week)	FREIGHT CAPACITY AVAILABLE FOR IMMEDIATE ALLOCATION (per week)
(Continued)		
Papua New Guinea	100 tonnes	Nil
Philippines	Nil	300 tonnes
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	Nil	Unlimited
Spain	Nil	Unlimited
Sri Lanka	Nil	Unlimited
Sweden	Nil	Unlimited
Switzerland	Nil	Unlimited
Taiwan	Nil	Unlimited
Thailand	One frequency	Six frequencies
Tonga	Nil	Unlimited
United Arab Emirates	Unlimited	Unlimited
United Kingdom	Unlimited	Unlimited
United States	Unlimited	Unlimited
Vanuatu	Twenty-five tonnes	Seventy-five tonnes
Vietnam	Nil	Not specified †
Zimbabwe	Nil	100 tonnes

\* The purpose of these tables is to provide an overview only of the amount of passenger and freight-specific capacity allocated and remaining available for allocation as at 30 June 2008. The tables do not purport to provide detailed or comprehensive statements 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 Infrastructure, Transport, Regional Development and Local Government 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.infrastructure.gov.au/aviation/international/pdf/register\\_available\\_capacity.pdf](http://www.infrastructure.gov.au/aviation/international/pdf/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.

† 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 Infrastructure, Transport, Regional Development and Local Government.

# APPENDIX 4

## Other information

### Occupational health and safety

As the staff members of the secretariat are employees of the Department of Infrastructure, Transport, Regional Development and Local Government (the Department), 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.

The IASC received no requests under the FOI Act in 2007–08.

### Advertising and market research

For newspaper advertising of applications for capacity made by Australian airlines to the Commission, the Commission paid \$21,992 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 the Department's 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> (the FOI Act) 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 contact officer listed at the front of this report.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed at the commencement 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	<p>The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.</p> <p>The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines are available on request or from the Commission's Internet home page. The Commission provides facilities for examining and copying publicly available documents at its office. 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 office of the Commission. These files are not open to public access.</p>
Functions of the Commission	<p>The functions of the Commission, as set out in section 6 of the Act, are to:</p> <ul style="list-style-type: none"> <li>(a) make determinations</li> <li>(b) conduct reviews of those determinations</li> <li>(c) provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations.</li> </ul>
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 15 Mort Street, Canberra, ACT.

# 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, matters being considered by the Commission, such as applications for allocations of capacity or to use capacity in joint international air services. The secretariat provides further individual guidance to applicants for capacity and other stakeholders when requested.

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.

Ensure that 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 regularly updates its procedures. They are available from the Commission's home page at [www.iasc.gov.au](http://www.iasc.gov.au), or upon request to the Commission.



# APPENDIX 7

## Minister's policy statement

Policy Statement No 5 as amended by International Air Services Policy Statement No 5 (Amendment) 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:
    - are reasonably capable of obtaining the necessary approvals to operate on the route;
    - and
    - 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

Subject to paragraph 6.4, when the Commission is required to assess the benefit to the public, in circumstances where:

- 6.3 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 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.

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:
    - if the determination is an interim determination – 3 years; or
    - if the determination is not an interim determination – 5 yearsunless 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:
    - if the determination is an interim determination – 3 years; or
    - if the determination is not an interim determination – 10 years.

# APPENDIX 8

## Service charter 2006–2008

This charter sets out what we do and the standards of service that you can expect from us.

### About the Commission

The Commission is an independent statutory authority, established under 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 available under Australia's air services arrangements with other countries to existing and prospective Australian international airlines. We do this by making formal determinations. We assess applications against public benefit criteria set out in a policy statement issued to us by the Minister for Transport and Regional Services.

### The people and organisations with an interest in what we do

Existing and prospective airlines are the organisations most directly 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; and
- the aviation industry press and analysts.

### Assessing applications

If you wish to apply for capacity, procedures for doing so, including the information we require, can be found on our internet site at [iasc.gov.au](http://iasc.gov.au). We suggest that first you contact the Commission's executive director.

The Commission determines 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.

The Act gives us the authority to delegate some of our powers and functions to an officer of the Department of Transport and Regional Services, in certain circumstances. We have delegated the relevant powers and functions to officers in our secretariat, who are also departmental officers. This gives applicants a single point of contact and should ensure that the administration of Commission and departmental decision making is harmonised, without compromising the Commission's independence. The delegates adopt the standards set out in this charter, so you will receive the same level of service in all cases.

## Our commitments to you

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

*In our dealings with you, we will*

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

*In our decision making processes, we will*

- notify you within five working days of receiving an application for capacity;
- follow our published procedures for handling applications – the procedures are on our website or can be sent to you upon request;
- seek only information that we consider is reasonably necessary for us to best carry out our functions;
- be transparent and fair, including keeping confidential information to a minimum, consistent with the legitimate protection of your commercial interests;
- make decisions about uncontested applications within four weeks of receipt and contested applications within 12 weeks, or inform you if there are reasons why a decision may take longer than this;
- finalise the renewal of existing determinations quickly and, in the case of contested renewals, at least six months prior to the expiry date; and
- notify applicants within 24 hours of a decision being made, and other interested parties within three working days.



## What we ask of you

We ask you to provide timely, comprehensive and accurate information and to be honest and fair in your dealings with us.

## Accessibility

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

Our primary method of communication is by email. We provide information about current cases directly to interested parties via this means. 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. These notifications include links to our website. More detailed information is provided if you wish to receive copies of all relevant documents. This second service is provided for a small annual fee. Documents are provided in pdf format. Please contact us if you wish to be added to either notification list.

Our internet site at [www.iasc.gov.au](http://www.iasc.gov.au) provides up-to-date information about the Commission's business. It includes summaries of current cases and Commission determinations and decisions. In addition, important documents can be found on the site, including the Act and the Minister's policy statement, as well as the Commission's procedures for handling applications.

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 offices.

## Monitoring and review

We will monitor our performance against our service commitments. 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, email or telephone.

At the end of each year we will assess how we have performed against the service standards we have set ourselves. We may invite your comments on our service performance, such as through a brief questionnaire. The results of the assessments will be summarised 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 downloaded from 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

### International Air Services Commission

<b>Telephone</b>	(02) 6267 1100
<b>Facsimile</b>	(02) 6267 1111
<b>Email</b>	<a href="mailto:iasc@infrastructure.gov.au">iasc@infrastructure.gov.au</a>
<b>Internet</b>	<a href="http://www.iasc.gov.au">www.iasc.gov.au</a>
<b>Postal address</b>	GPO Box 630, Canberra ACT 2601
<b>Premises</b>	1st floor, 15 Mort Street, Canberra

# APPENDIX 9

## Commission office holders 1992–2008

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

Chairs	Period	Members	Period
Stuart Fowler	July 1992 to April 1993	Brian Johns	July 1992 to June 1997
James Bain	July 1993 to June 1998	Russell Miller	July 1992 to June 1998
Russell Miller	July 1998 to January 2000	Michael Lawriwsky	December 1997 to February 2007
Michael Lawriwsky and Stephen Lonergan (Members presiding at alternate meetings)	January 2000 to August 2000	Stephen Lonergan	August 1998 to August 2004
Ross Jones	August 2000 to August 2003	Vanessa Fanning	November 2004 to November 2007
John Martin	November 2003 to the present	Philippa Stone	July 2007 to the present
		Ian Smith	November 2007 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

<b>Act</b>	in this report, means the <i>International Air Services Commission Act (1992)</i> , as amended.
<b>Air services arrangement</b>	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.
<b>Allocation</b>	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
<b>Australian carrier</b>	means a person who conducts, or proposes to conduct, an international airline service to and from Australia; and under the air services arrangements to which the capacity applies, may be permitted to carry passengers or freight, or both passengers and freight, under that arrangement as an airline designated, nominated or otherwise authorised by Australia.
<b>Available capacity</b>	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.
<b>Benefit to the public</b>	occurs if the Australian carrier to whom capacity is allocated uses that capacity.
<b>Blocked space</b>	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.
<b>Capacity</b>	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.
<b>Code sharing</b>	is a form of joint service between two carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.

<b>Commission</b>	means the International Air Services Commission, established by section 6 of the Act.
<b>Contested application</b>	involves two or more applicants seeking an allocation of the same limited amount of capacity.
<b>Decision</b>	affects an existing determination, either by confirming, varying, suspending or revoking it.
<b>Determination</b>	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 and routes are not limited under the air services arrangements in question).
<b>Fifth freedom rights</b>	are traffic rights enabling an airline to pick up and set down passengers between a bilateral partner nation and another nation.
<b>Financial viability test</b>	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 application.
<b>Free-sale</b>	a form of code sharing involving one airline selling seats on another airline's services and paying that other airline an agreed amount for the number of seats actually sold.
<b>Frequency</b>	refers to the number of flights that may be or are being operated, usually on a weekly basis.
<b>Handback</b>	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
<b>Interim determination</b>	is a determination that is in force for three years, rather than the five (or in some cases ten) 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.
<b>Joint service</b>	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.
<b>Member</b>	in this report, means a member of the Commission.



<b>Minister’s policy statement</b>	is a written instrument made by the Minister for Infrastructure, Transport, Regional Development and Local Government under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
<b>Ongoing employee</b>	is a person engaged under subsection 22(2)(a) of the <i>Public Service Act 1999</i> on an ongoing basis.
<b>Opposed application</b>	a situation in which an interested party makes a submission arguing that an application from a carrier should not be granted by the Commission.
<b>Reduced capacity</b>	where the amount of capacity allocated to a carrier is reduced, including to nil.
<b>Register of available capacity</b>	sets out the amount of capacity under each of Australia’s air services arrangements available for allocation, after deducting any allocations already made by the Commission. The Department maintains the Register.
<b>Renewal determination</b>	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.
<b>Review</b>	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.
<b>Revocation</b>	a decision by the Commission to revoke (cancel) a determination.
<b>Route</b>	is the combination of origin, destination, intermediate and beyond points (cities) which an Australian carrier may serve under an air services arrangement.
<b>Slots</b>	time-specific landing and take off rights granted to a carrier to operate into and out of a particular airport, usually by the airport owner/operator.
<b>Use it or lose it</b>	a principle requiring allocated capacity to be used, or else be returned for reallocation.
<b>Variation</b>	a decision amending a determination, including conditions attached to it.

# INDEX

## A

- accessibility, 49, 62
- advertising and market research, 48
- Air Niugini
  - code sharing arrangements with Qantas, 2, 11
- allocation of capacity to Australian carriers
  - criteria for, 51–59
  - start-up phase, 57–58
  - see also 'Use it or lose it' principle
- annual report, 19
- applications for capacity
  - assessment of, 60–61
  - Solomon Islands route, 14–17
  - number of, 12
  - timeliness of decisions on, 11–12
- Argentina
  - determinations and decisions in regard to, 1, 22, 27
- assets management, 20
- attendance at meetings (Commissioners), 6
- Australia – Solomon Islands air services arrangements, 15
- Australian Competition and Consumer Commission (ACCC), 53
- Australian Public Service's Values and Code of Conduct, 19
- Australian Workplace Agreements (AWAs), 19
- Aviation and Airports Division of Department of Infrastructure, Transport, Regional Development and Local Government, 14
- aviation jet fuel
  - price of, 17
- Aviation Legislation Amendment Act 2002* (AVLA), 51

## B

- benefit to the public
  - additional criteria for assessing, 54–56
  - of code sharing between Qantas and South African Airways, 2
  - criteria for assessing applicable in particular circumstances, 56
  - general criteria for assessing, 53–54

## C

- Canada
  - determinations and decisions in regard to, 22, 27
- capacity allocated and available
  - summary for all routes (third/fourth freedom capacity), 40–47
  - freight capacity, 44–46
  - passenger capacity, 40–43
  - see also Register of Available Capacity
- cargo capacity see freight capacity
- Certified Agreement (Department of Infrastructure, Transport, Regional Development and Local Government), 19
- Chairman
  - review by, 1–3
  - see also Martin, John
- China
  - determinations and decisions in regard to, 22, 27–28
- client feedback, 10–11
- client service charter see service charter
- Code of Conduct see Australian Public Service's Values and Code of Conduct
- code share arrangements/operations, 2–3, 14, 52, 53
  - review of, 1, 2
- code sharing applications, 2, 11
- the Commission see International Air Services Commission

- Commission meetings, 18
  - attendance at, 6
- Commission overview, 4–8
- Commission procedures, 1, 5, 18, 50
- communications with interested parties, 7
- competition benefits (criteria for assessing benefit to the public), 15–16, 54
- competitive tendering *see* consultants and competitive tendering and contracting
- confidential register *see* Register of Confidential Documents
- conflicts of interest, 18
- consultants and competitive tendering and contracting, 20
- consumer benefits (criteria for assessing benefit to the public), 16, 55
- contact details, 63
- contested or opposed applications
  - timeliness of decisions, 11
- contracting *see* consultants and competitive tendering and contracting
- corporate governance practices, 18–19
- criteria for allocation of capacity to Australian carriers, 51–59

## D

- decision-making processes, 9, 61
- Department of Infrastructure, Transport, Regional Development and Local Government and the Commission, 7, 8, 19, 20
- determinations and decisions, 4–5, 22–26
  - case study – Solomon Islands route, 14–17
  - number of, 12–13
  - period in force, 59
  - renewal of, 58
  - revoking, 3, 13
  - route by route summary, 27–39
  - variations of, 5, 56
- documents *see* Register of Confidential Documents; Register of Public Documents

## E

- executive director, 7, 19
- Executive profile, 5–6
- expenditure
  - summary of, 14
- Express Freighters Australia
  - Papua New Guinea route, 2
- external scrutiny, 19

## F

- Fanning, Vanessa, 3, 6
- Fiji
  - determinations and decisions in regard to, 22, 28
- financial report, 21
- freedom of information, 48
  - schedule, 49
- Freedom of Information Act 1982* (FOI Act), 48, 49
- freight capacity, 2
  - summary for all routes (third/fourth freedom capacity), 44–46
- French Polynesia
  - determinations and decisions in regard to, 22, 28

## G

- Germany
  - determinations and decisions in regard to, 22, 28
- Greece
  - determinations and decisions in regard to, 22, 28

## H

HeavyLift Cargo Airlines (HeavyLift)  
and Ozjet, 1  
Papua New Guinea route, 2

Hong Kong  
determinations and decisions in regard to,  
2, 23, 29

human resources  
management of, 19–20

## I

Independent Consumer and Competition  
Commission (ICCC) (PNG), 2, 11

India  
determinations and decisions in regard to,  
23, 29–30

Indonesia  
determinations and decisions in regard to,  
1, 17, 23, 30–31

industry  
outlook for, 17

industry structure (criteria for assessing benefit  
to the public), 55

interested parties  
communications with, 7

interim determinations  
renewal of, 58

*International Air Services Act 1992*, 4, 18, 50, 51,  
60, 61  
serving object of, 9

International Air Services Commission, 60  
accessibility, 49, 62  
and Aviation and Airports Division of  
Department of Infrastructure, Transport,  
Regional Development and Local  
Government, 14  
commitments by, 61  
decision-making processes, 9, 61  
and Department of Infrastructure, Transport,  
Regional Development and Local  
Government, 7, 8, 19, 20

financial report, 21  
management and accountability, 18–20  
office holders, 18, 64  
Executive, 5–6  
*see also* Chairman  
overview, 4–8  
powers of, 49  
procedures, 1, 5, 18, 50  
report on performance, 9–17  
role and functions of, 4–5, 49  
secretariat, 7, 19–20  
summary of expenditure, 14

*International Air Services Commission  
Amendment Regulations 2003*, 51

International Air Services Policy Statement No. 5  
*see* Minister's policy statement

International Air Transport Association (IATA), 17

Italy  
determinations and decisions in regard to,  
23, 31

## J

Japan  
determinations and decisions in regard to,  
2, 14, 24, 31–32

Japan Airlines  
code sharing arrangements with Qantas, 2

Jetstar, 17  
Vietnam route, 2

## M

management and accountability, 18–20  
management of human resources, 19–20

market research *see* advertising and  
market research

Martin, John, 5  
*see also* Chairman

Minister for Infrastructure, Transport, Regional  
Development and Local Government  
and membership of the Commission, 18  
*see also* Minister's policy statement

Minister's policy statement, 4, 9, 15, 51–59  
monitoring and review, 63

## N

Nauru  
determinations and decisions in regard to,  
1, 24, 32

Netherlands  
determinations and decisions in regard to,  
24, 32

New Caledonia  
determinations and decisions in regard to,  
1, 17, 24, 32

New Zealand  
determinations and decisions in regard to,  
1, 24, 32–33

## O

occupational health and safety, 48  
office holders of the Commission, 18, 64  
oil prices  
    impact of increases in, 17  
Our Airline (formerly Air Nauru), 15  
outlook for the industry, 17  
Ozjet  
    Indonesia, New Zealand, Nauru and New  
    Caledonia routes, 1, 17

## P

Pacific Blue Australia  
    Solomon Islands route, 1, 14–17  
Papua New Guinea (PNG)  
    determinations and decisions in regard to,  
    2, 24–25, 33–34  
passenger capacity, 1–2  
    summary for all routes (third/fourth freedom  
    capacity), 40–43  
performance  
    report on, 9–17

performance targets  
    results against, 9–14

Philippines  
    determinations and decisions in regard to,  
    25, 34–35

policy statement see Minister's policy statement

procedures see Commission procedures

professional development of members of  
    secretariat, 19

purchasing, 20

## Q

Qantas  
    Argentina route, 1  
    cargo capacity, 2  
    code sharing arrangements  
        with Air Niugini, 2, 11  
        with Japan Airlines, 2  
        with South African Airways, 2  
    cuts in services by, 17  
    Hong Kong route, 2  
    Japan route, 2  
    Papua New Guinea route, 2  
    South African route, 17  
    United States route, 2  
    see also Express Freighters Australia; Jetstar  
questionnaire on Commission's performance  
    results, 10–11

## R

Register of Available Capacity, 8  
Register of Confidential Documents, 49, 50  
Register of Public Documents, 49, 50  
remuneration of members of the Commission, 18  
Remuneration Tribunal, 18  
*Remuneration Tribunal Act 1973*, 18  
route by route summary of determinations and  
    decisions, 27–39

## S

secretariat, 7, 19–20  
professional development of members of, 19  
staffing level, 19

service charter  
performance against, 9–13

Service Charter 2006–2008, 60–63

significant developments post–30 June 2008, 17

Singapore  
determinations and decisions in regard to,  
25, 35

Sky Air World  
Solomon Islands route, 1, 14–17

Smith, Ian, 3, 6

Solomon Airlines, 15

Solomon Islands  
case study, 14–17  
determinations and decisions in regard to,  
1, 25, 35  
see also Australia – Solomon Islands air  
services arrangements

South Africa  
application by Qantas in regard to, 17  
determinations and decisions in regard to,  
2, 14, 25, 36–37

South African Airways (SAA)  
code sharing arrangements with Qantas, 2  
staffing level of secretariat, 19

Stone, Philippa, 6

Switzerland  
determinations and decisions in regard to,  
25, 37

## T

Taiwan  
determinations and decisions in regard to,  
25, 37

Thailand  
determinations and decisions in regard to,  
25, 37

timeliness of decisions, 11–12

Toll Corporation, 16

Tonga  
determinations and decisions in regard to,  
26, 38

tourism benefits (criteria for assessing benefit  
to the public), 16, 55

trade benefits (criteria for assessing benefit to the  
public), 16, 55

transfer applications  
approval of, 59

## U

United States  
determinations and decisions in regard to,  
1, 2, 17, 26, 38–39

'Use it or lose it' principle, 59

## V

Values and Code of Conduct see Australian Public  
Service's Values and Code of Conduct

Vanuatu  
determinations and decisions in regard to,  
26, 39

V–Australia  
Australia – United States route, 1, 17

Vietnam  
determinations and decisions in regard to,  
2, 26, 39

Virgin Blue International Airlines (VBIA)  
Australia – United States route, 1, 17  
see also V–Australia

Virgin Blue group  
cuts in services by, 17