



**Australian Government**

**International Air Services Commission**

International Air Services Commission Annual Report

2013-14







**Australian Government**

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International Air Services Commission  
Annual Report 2013–14

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

The Hon Warren Truss MP  
Deputy Prime Minister and  
Minister for Infrastructure and Regional Development  
Parliament House  
CANBERRA ACT 2600

Dear Deputy Prime Minister

We are pleased to submit the twenty-second Annual Report of the International Air Services Commission, for the year ended 30 June 2014.

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

Yours sincerely

Handwritten signature of Dr Jill Walker in black ink.

Dr Jill Walker  
Chairwoman

Handwritten signature of Dr Ian Douglas in black ink.

Dr Ian Douglas  
Commissioner

Handwritten signature of John King in black ink.

John King  
Commissioner

1 August 2014



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

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# PART 1

## The Year in Review by Chairperson, Dr Jill Walker

This annual report marks the twenty second year of the International Air Services Commission. I joined the Commission as the Chairperson in early 2011. I am pleased to provide an overview of the activities of the Commission for the past twelve months.

Over the year, we saw steady growth in international passenger movements into and out of Australia, with an increase of 6.8% compared with this time last year. Airlines increased capacity (in terms of operated seats) by 8.1% over the same time and seat utilisation factors decreased to 76.4% (compared to 77.3% for the same time last year).

As I noted in last year's annual report, most of the growth in international airline activity is coming from overseas airlines. Australia's major international airlines, Qantas and Virgin Australia, continued to expand their international networks through their global alliances and code sharing. The only new passenger capacity allocated was to Virgin Australia for 1000 code share seats on the Korea route and 160 seats on the Papua New Guinea route. Freight capacity was allocated to Pionair on the New Caledonia and Papua New Guinea routes.

I noted in last year's annual report an increase in applications by the major Australian airlines to use allocated capacity for code sharing. This trend continued this year, with further applications by Qantas and Virgin Australia to vary determinations allocating capacity to allow for code sharing with global airline partners.

Not all code sharing by Australian airlines requires approval by the Commission. If under the relevant air services arrangements the marketing of code share seats by an Australian airline does not involve the use of Australian capacity, there is no capacity to be allocated and therefore the Commission's approval for code sharing is not required.

On those routes on which the Commission's approval was required, authorisation was granted for:

- Qantas to code share with Jet Airways and British Airways on the Hong Kong route, with China Southern Airlines, Emirates and Japan Airlines on the New Zealand route, and with Bangkok Airways on the Singapore and Thailand routes;
- Jetstar (Qantas' wholly-owned subsidiary) to code share with Emirates on the Indonesia, New Zealand and Singapore routes; and
- Virgin Australia to code share with Delta Airlines on the Indonesia route, with Singapore Airlines on the Korea route, and with Air Berlin and Etihad on the Thailand and United Arab Emirates routes.

In those cases involving code sharing between Qantas Group airlines and Emirates and between Virgin Australia and Singapore Airlines and Etihad, the Commission noted that alliances between these airlines had been authorised by the Australian Competition and Consumer Commission (ACCC). These authorisations were granted after a thorough and detailed examination of all the public benefits and detriments likely to arise from these alliances, and in the case of the Qantas-Emirates alliance was subject to capacity conditions relating to the trans-Tasman routes. In some instances the Commission concluded that approval of the code share would mean increased competition as a result of a new carrier entering the route, if only in a marketing capacity.

In last year's review I reported on the Commission's decision in November 2012 to approve a continuation of the code share between Qantas and South African Airways on the South Africa route until 31 December 2014. In its decision, the Commission stated that should Qantas apply for an extension beyond 2014, it would consider the application in the light of developments between when the decision was made and any new application was received. In the event, Qantas did not apply for an extension, announcing in February 2014 that it would be ending its code share arrangement with South African Airways from 31 May.

A major task which the Commission undertook during the year was the development of procedures for the consolidation of determinations. This is discussed in greater detail in this year's case study.

On busier and growing routes, airlines can accumulate a number of separate determinations allocating capacity and decisions varying conditions attached to those determinations. This means that there is no single document which shows how much capacity an airline has on a particular route and the conditions that apply to the use of that capacity, including authorisation for code sharing with other airlines. This can make it difficult for the airlines and the Commission, as well as other interested parties,

to identify easily all the capacity and the conditions attached to the use of that capacity on a particular route.

It was important that any procedures for consolidation be consistent with the Act and the Minister's policy statement and this required detailed legal advice in the course of developing the procedures. Consultation with stakeholders, and in particular with the major Australian airlines, was also important to ensure that the procedures were workable from a practical point of view. Already, since work began on developing the new procedures, Qantas has had its determinations consolidated on the South Africa, Indonesia, Hong Kong, Thailand and New Zealand routes.

As we review our performance during the year, I would like to take this opportunity to thank Ms Marlene Tucker, the Executive Director, and her small team that helps keep the Commission functioning smoothly and efficiently. I would also like to thank my fellow Commissioners, Dr Ian Douglas and Mr John King, for their contributions throughout the year.

A handwritten signature in black ink, appearing to read 'J Walker', written in a cursive style.

**Dr Jill Walker**  
*Chairperson*



# PART 2

## Overview of the International Air Services Commission

### The role and functions of the Commission

The Commission is an independent statutory authority established under the *International Air Services Commission 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' capability to compete effectively with airlines of foreign countries.

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

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

The Act is complemented by a policy statement from the Minister, which instructs the Commission about the way in which it is to perform its functions. The Minister's policy

statement sets out criteria to be applied by the Commission in various circumstances. For example, more complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established airline. The Minister's policy statement is a legislative instrument under section 11 of the Act. It is reproduced at Appendix 6.

Determinations allocating capacity are usually 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. Interim determinations are normally made when capacity is being allocated to a new Australian operator. If an applicant requests that a determination be made for a shorter period, the Commission has the option to grant the request.

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 that the determination will be renewed as sought. The presumption does not apply if the airline seeking renewal is the only Australian carrier on the route and an initial new Australian carrier seeks to enter the route, but there is not sufficient capacity available for that carrier to develop an efficient and sustainable operation (referred to as the 'start-up phase'). The presumption may also be rebutted, after the start-up phase on the route, if:

- the carrier seeking renewal has failed to service the route effectively; and
- if the use of the capacity in whole or part by another Australian carrier that has applied for capacity would better serve the public having regard to the criteria set out in paragraphs 4 and 5 of the Minister's policy statement.

From time to time, airlines apply to the Commission to vary determinations held by them. There can be a number of reasons for an airline to seek a variation. For example, the airline may be seeking authorisation to use its allocated capacity to code share with another airline. The Commission conducts a review of the determination under section 21 of the Act and, as part of this process, it invites submissions about the application in accordance with section 22. In the case of applications to authorise code sharing, where the capacity that can be used for code share operations is available under the relevant air services arrangements, the Commission would generally be expected to authorise such applications. However, if the Commission has serious concerns that the proposed code share may not be of benefit to the public, it may subject the application to a more detailed assessment using the paragraph 5 criteria in the Minister's policy statement.

Before doing so it is required to consult the Australian Competition and Consumer Commission.

The Commission may itself initiate a review of a determination, under section 10 of the Act, if it is concerned that a carrier might be in breach of a condition of the determination or that the relevant Australian carrier no longer intends to use fully the allocated capacity. This can occur, for example, where a carrier has been allocated capacity, but had not used that capacity by the time it was required to do so by the Commission. Having conducted such a review, the Commission may confirm, vary, suspend or revoke the determination.

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

## Executive profile

The Commission comprises a part-time chairperson and two part-time members. The membership of the Commission during the year was as follows:

### Dr Jill Walker



Dr Jill Walker was appointed on 9 February 2011 by the Governor-General as the Chairperson of the IASC for a period of three years. On 12 February 2014, the Hon Warren Truss MP, Deputy Prime Minister and Minister for Infrastructure and Regional Development appointed Dr Walker to act as Chairperson of the IASC for three months. On 14 April 2014, the Minister extended Dr Walker's appointment to act as Chair until 11 August 2014.

Dr Walker is currently a Commissioner at the Australian Competition and Consumer Commission (ACCC). Dr Walker was appointed as a Commissioner of the ACCC in September 2009 for a five-year term. She is the Chair of the ACCC's Mergers Review and Adjudication Committees as well as a member of the Enforcement Committee. She is also an Associate Member of the New Zealand Commerce Commission.

Dr Walker has extensive experience in the fields of trade practices and antitrust economics. Prior to joining the ACCC, Dr Walker was a member of the Australian Competition Tribunal and worked as an economic consultant for LECG Ltd. Dr Walker has also been a member of the South Australian Government's panel of expert assessors assisting the District Court in hearing appeals under the *Essential Services Commission Act 2002* (SA) and the *Gas Pipelines Access (South Australia) Act 1997* (SA).

Prior to working for LECG Ltd, Dr Walker worked as an economic consultant for the Network Economics Consulting Group (NECG) and CRA International. Earlier in her career, Dr Walker was employed as an economic adviser by the ACCC and its predecessors the Prices Surveillance Authority and the Trade Practices Commission. During this time Dr Walker provided advice on significant cases, investigations and authorisations.

Dr Walker holds a Bachelor of Arts in Economics and a PhD in Land Economy from the University of Cambridge. She also holds a Master of Arts in Economics from the University of Massachusetts.

### **Dr Ian Douglas**



Dr Ian Douglas was formally appointed by the Governor-General as a part-time Member of the Commission for a three-year term commencing on 8 November 2012. Dr Douglas is a Senior Lecturer in Aviation Management in the School of Aviation at the University of New South Wales. He holds a Doctor of Business Administration and a post graduate qualification in Higher Education. His doctoral research addressed the impacts of state ownership and economic freedom on airline financial performance. His ongoing research interests encompass the areas of air transport economics and airline business model convergence. Prior to academia Dr Douglas had a long career with Qantas Airways, with senior roles in pricing, business development, route management, strategic planning and the Joint Services Agreement with British Airways. Since leaving Qantas, he has consulted to a range of companies including Malaysia Airlines, Thai Airways International, Bain & Co Singapore, Icebox Advertising, Asian Wings Airways and Tourism Queensland. His teaching areas at UNSW Aviation include fleet and network planning, marketing and distribution strategy, and air transport economics.

### **Mr John King**



Mr John King was formally appointed by the Governor-General as a part-time Member of the IASC for a three-year term commencing on 1 July 2013. Mr King had a 20-year career at Ansett including positions in human resources, international sales and industry affairs, before establishing the Pacific Airlines Division. This division operated Air Vanuatu, Polynesian Airlines and Ansett's own Pacific services.

In 1986, Mr King established Aviation and Tourism Management Pty Ltd, a consultancy providing strategic and policy guidance to airlines, governments and the tourism industry. Clients included the World Bank, the World Tourism Organization, Continental Airlines, Thai Airways, Gulf Air, Air Malta, Cathay Pacific and British Airways.



Mr King attended Melbourne University and the Australian National University where he graduated in Law. Mr King holds a Master’s Degree in Transport Management from the University of Sydney where he serves on the Board of Advice of the Institute of Transport and Logistics Studies.

### Commissioners’ attendance at meetings in 2013–14

Commissioner	Number of meetings possible	Number of meetings attended
Dr Jill Walker	9	9
Dr Ian Douglas	9	9
Mr John King	8	8

### The secretariat

The Commission is assisted in its work by a small secretariat. The secretariat is staffed by officers of the Department of Infrastructure and Regional Development.

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:*

**John King** *Commission Member*

**Glenn Smith** *Senior Adviser*

**Christopher Samuel** *Senior Adviser*

**Ian Douglas** *Commission Member*

**Anita Robinson** *Office Manager*

*Front:*

**Marlene Tucker** *Executive Director*

**Jill Walker** *Chairperson*

## Communications with interested parties

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

- the Minister for Infrastructure and Regional Development;
- 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 those stakeholders. The Commission takes into account the views and/or interests of the stakeholders in its decision-making processes, as appropriate to particular cases. Regular electronic notification of applications and the Commission's determinations and decisions keeps interested parties up to date with the Commission's activities. At the conclusion of each financial year, the Commission invites stakeholders to provide feedback about the Commission's performance throughout the year. The aggregated results of responses to the survey this year are presented in this annual report.

## The role of the Department of Infrastructure and Regional Development (the Department)

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

The capacity and route entitlements for Australian carriers under each set of air services arrangements are recorded by the Department in a Register of Available Capacity. This is maintained by the Department in accordance with the requirements of the Act and is available on the Department's website:

<http://www.infrastructure.gov.au/aviation/international/capacity.aspx>

An Australian carrier may apply to the Commission for allocation of capacity recorded on the register as available for immediate allocation. The entitlements on the Register

of Available Capacity are adjusted as determinations allocating capacity are made by the Commission, as airlines hand back unused capacity, and when the Department negotiates new or revised capacity entitlements on behalf of the Australian Government. There is regular communication between the Department and the Commission on these matters.

Another area where the roles of the Commission and the Department intersect is in relation to applications from prospective new Australian airlines wishing to operate scheduled international services. Before allocating capacity to an applicant airline, the Commission must be satisfied that the airline is both reasonably capable of obtaining the regulatory approvals necessary to operate on the route and of implementing its proposed services on the route. The Department is responsible for designating and licensing Australian airlines to operate regular scheduled international services. This role is relevant to the Commission in relation to whether a carrier is capable of obtaining the approvals necessary to operate. Similarly, a carrier must hold an allocation of capacity from the Commission before it can be licensed. The Commission and the Department therefore consult closely in cases involving prospective new applicants.



# PART 3

## Report on performance

### Overview

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

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

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

### Results against performance targets

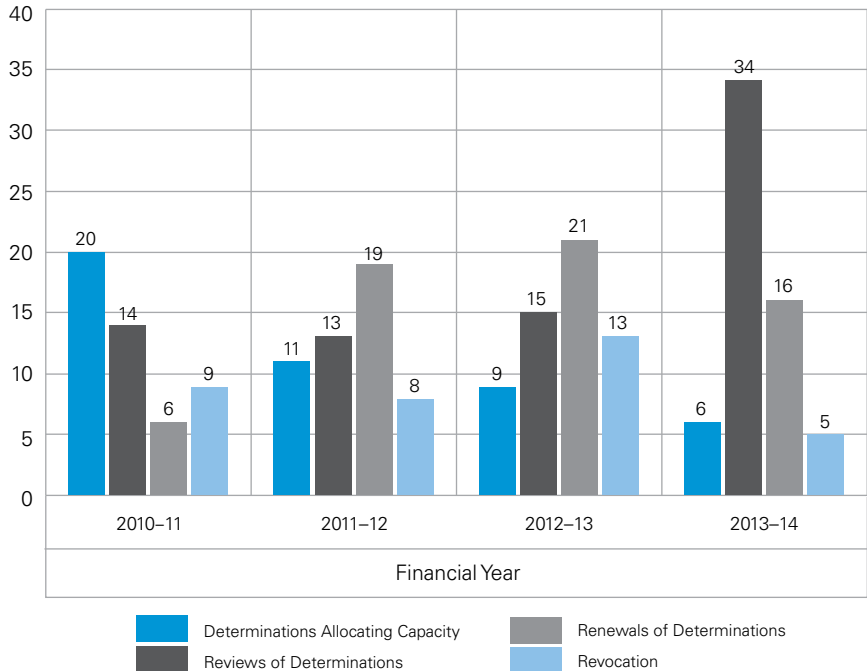
#### Serving the object of the Act

The object of the *International Air Services Act 1992* is to enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services. Under the Act, the Commission's functions are to make determinations; review determinations; and provide advice to the Minister about any matter referred to the Commission by the Minister concerning international air operations. In fulfilling its functions, the Act requires the Commission to comply with policy statements made by the Minister under section 11 and to have regard to Australia's international obligations concerning the operation of international air services.

The Commission records annually the number of determinations and decisions (involving reviews and variations of determinations) made for the year. The volume of activity varies from year to year for reasons which are unrelated to the Commission’s performance. The dominant factor underlying the Commission’s output is the number of applications made by airlines. The demand for new capacity from the Commission is directly related to the level of demand for air services. In turn, international aviation activity is particularly sensitive to changes in the strength of the global economy, as witnessed during the global financial crisis and ongoing difficulties facing the world economy.

This year, a total of 61 determinations and decisions were made by the Commission (9) and its delegate (52). The graph below also shows comparative data for the preceding three years.

*Historical numbers of determinations and decisions*



Six determinations allocating new capacity were made during the year, three fewer than last year. The allocations were generally for modest amounts of capacity or for code share services, reflecting the impact of strong competition provided by foreign airlines, as well as comparatively slower growth and the increased reliance on code share by Australian international airlines. Two of these determinations were issued on an interim basis to Pionair for cargo services, while Virgin Australia sought capacity to commence code sharing on the Korea route and to increase services on the Papua New Guinea

route. Qantas also consolidated all its previously held determinations on both the New Zealand and Hong Kong routes into a single, new determination on both routes.

The Commission issued 34 decisions involving 36 determinations. Twelve of these decisions authorised an Australian airline carrying the code of a foreign airline; two reduced capacity held on a route; three increased capacity under a single determination (including two to consolidate all capacity held on a route under a single determination); while 17 varied the expiry date on a determination.

Five decisions were issued to revoke capacity entitlements held but no longer in use. In addition, 16 determinations approaching their expiry dates were renewed at the request of the airlines concerned.

The Commission continued the delegation of some of its decision making powers to the Executive Director for less complex and non-contentious cases. Drafts of delegate determinations and decisions were cleared by the Commissioners before finalisation. These arrangements are well established and improve the efficiency of decision making.

The delegate made about 85 per cent of the determinations and decisions issued during the year. This number is higher than in recent years, due in part to the large number of simple and non-contentious decisions required as part of Qantas' consolidation of determinations on multiple routes; further details on this process are below.

A brief summary of all determinations and decisions for 2013–14 is at *Appendix 1*. A detailed description of each case is provided at *Appendix 2*.

## Case study – consolidation of determinations

### Introduction

In previous annual reports the Commission has highlighted one of its more interesting cases to provide an insight into how it assesses applications which raise complex and difficult issues. This year the Commission's case study focusses on reforms to improve the efficiency and transparency of its processes by enabling airlines to consolidate multiple determinations on single routes.

### Multiple determinations and decisions

The Commission allocates international air services capacity to Australian carriers by making determinations. In its determinations the Commission must specify the period of the determination, which for established carriers is normally five years. Each time an airline wants more capacity on a route it must apply to the Commission for a new determination. As routes grow and airlines seek more capacity to meet demand they will accumulate multiple determinations on a single route.

In addition, during the period of the determination airlines might seek to have a condition included that allows it to use the capacity for code sharing with a particular airline or airlines. Code share partners may change over time, meaning that different determinations may have different conditions in relation to code sharing, with variations to those determinations being contained in separate decisions.

If an airline applies for a variation to an existing determination to allow for code sharing, the Commission cannot under the Act approve the variation for a period that goes beyond the expiry date of the determination. This means that when there are several determinations, each expiring on different dates, the Commission can only approve a variation to code share at most to the end of each determination. Further, each time a determination comes up for renewal, the airline must again apply for code share approval for that particular determination.

The end result is that on busier routes an airline can have a number of determinations and decisions, each with a different expiry date and different conditions.

### Procedures for consolidation of determinations

The Commission has for some time been considering ways in which efficiency and transparency might be improved by bringing together the totality of an airline's capacity on a route, and conditions applying to the use of that capacity, into a single determination. This was not straightforward as a procedure had to be developed which was consistent with the Act and the Minister's policy statement and did not have the potential to disadvantage other airlines which were on the route or might have an



interest in entering the route. A fundamental consideration was to develop a procedure which was consistent with the pro-competition objectives of the Act and the Minister's policy statement.

After extensive internal discussions and consulting with major stakeholders, the Commission, in March 2014, issued Procedures for Applications for Consolidation of Determinations. These new procedures are set out in Appendix 5 and are also available on the Commission's website.

There are basically two sets of procedures. The first applies to routes on which there is available capacity equal to or greater than that currently allocated to the Australian carrier seeking consolidation. The second applies to routes where the total capacity held by the relevant Australian carrier exceeds available capacity.

Under the first set of procedures, the carrier applies under subsection 12(3) of the Act for an allocation of capacity equal to the total capacity it currently holds on the route. In its application the carrier must specify that within 10 working days of the consolidated determination being made it will apply for revocation of the determinations it already holds and request that the commencement date of the new determination be the date of the revocation of its existing determinations. The Commission will invite other applications for capacity on the route as required under subsection 12(1) of the Act. Provided that the application satisfies the relevant criteria in the Minister's policy statement, the Commission will issue a new consolidated determination under section 7 of the Act, to take effect from the date of revocation of the existing determinations. The determination will include terms and conditions in accordance with section 15 of the Act.

The second set of procedures is rather more involved as it applies to routes on which there is not sufficient available capacity to enable the carrier simply to apply for the same amount of capacity as it currently holds.

The first step is for the carrier to apply under section 21 of the Act to vary the most recent determination on the route, and therefore the determination with the latest expiry date, to increase capacity to the total amount it currently holds. The application must include a request to vary all other determinations on the route to change the expiry dates to the date when the variation to the first determination takes effect.

Before considering the application, the Commission will invite submissions in accordance with section 22 of the Act. If no submission contesting the application is received, the Commission will apply the "reasonably capable" criteria in paragraph 4 of the Minister's policy statement. If a submission contesting the application is received, the Commission may apply the additional criteria in paragraph 5 of the policy statement, but before doing so will offer the applicant the opportunity to withdraw its application if it so wishes.

If the Commission decides to approve the application, the most recently issued determination will be varied to increase capacity to the sum total of the carrier's allocated capacity, with the date of expiry unchanged. All the other determinations will have their expiry dates varied to the date that the variation to the "consolidated" determination comes into effect. This means, in effect, that they will be revoked.

As mentioned earlier, different determinations may contain different conditions, in particular in relation to code sharing. In such circumstances, the carrier should indicate which of its existing conditions it wishes to retain and any new conditions it wishes to have added to the consolidated determination.

Throughout this whole process, a carrier may, at any time before a final decision is made, withdraw or change its application.

### **New capacity**

The procedures make it clear that they are for the consolidation of existing capacity, not for the allocation of new (available) capacity. The Commission will continue to allocate available capacity through a determination made under section 7 of the Act.

If after having consolidated its determinations on a route, an airline is allocated additional capacity, this will be allocated by a new determination, and not by a variation to its existing (consolidated) determination. Should the airline wish to have its new determination and its existing determination consolidated, it will need to apply to the Commission in accordance with the new procedures.

### **Consolidations to date**

To date, Qantas has had its determinations consolidated on the South Africa, Indonesia, Hong Kong, Thailand and New Zealand routes. Other airlines holding multiple determinations on a single route have yet to apply for consolidation.

The Commission's full determinations in these cases are available from its website, <[www.iasc.gov.au](http://www.iasc.gov.au)>.

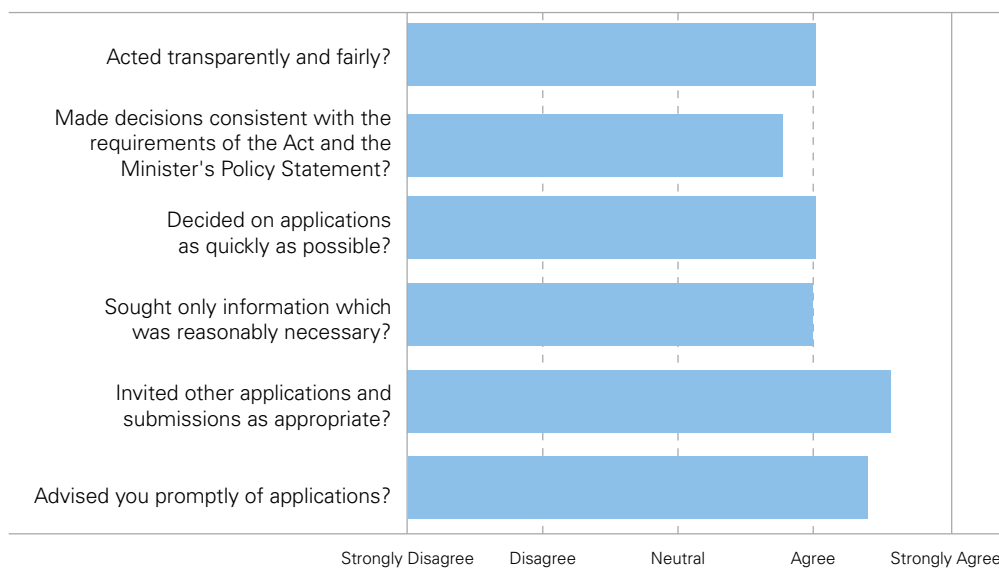
## Serving applicants and interested parties

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

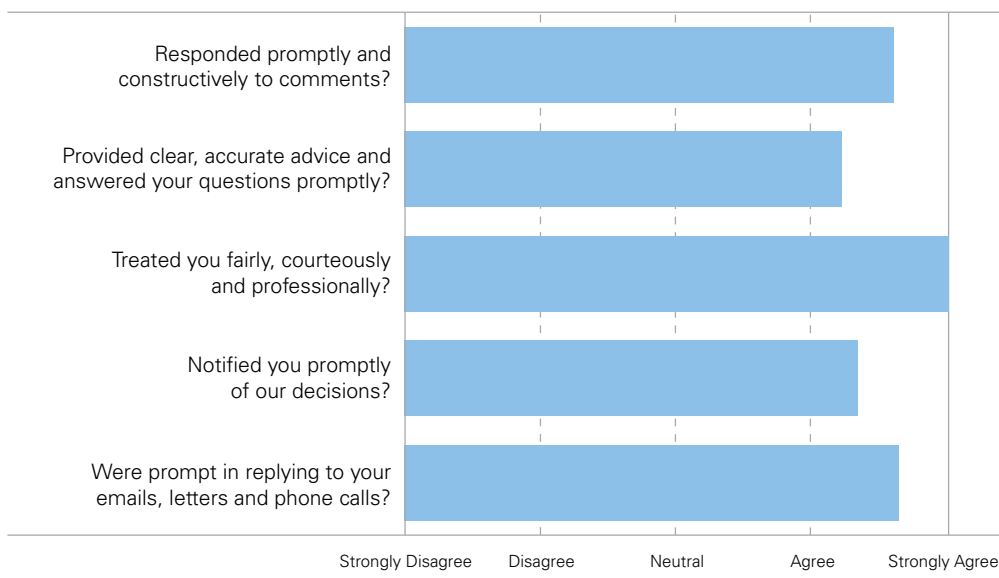
Again this year, clients were invited to assess the Commission's performance by completing an electronic questionnaire. The questions allow respondents to evaluate how well the Commission performed against each of the specific undertakings set out in the charter. Questionnaire responses may be made anonymously, although some of those responding chose to disclose their identity. The Commissioners very much appreciate the effort made by respondents to provide their views on the Commission's performance.

Respondent scores against each criterion are aggregated and averaged. The following charts show that clients continue to rate the Commission's performance positively.

### Decision making process – Do you agree that we:



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



The Commission also records the time taken to make each of its decisions, as it considers timeliness to be a particularly important performance benchmark.

One of the commitments in the service charter is that the Commission will make decisions about uncontested and unopposed applications within four weeks of receipt and contested or opposed applications within 12 weeks, or inform the airline/s involved if there are reasons why a decision may take longer than this.

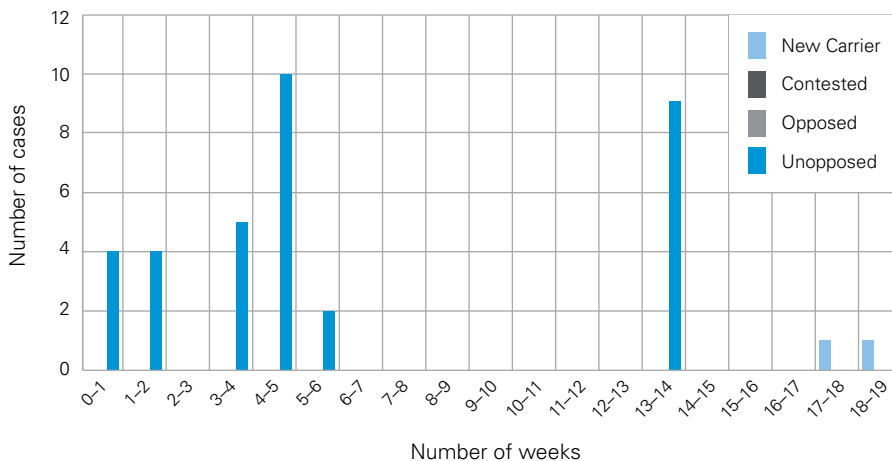
This year, there were 44 cases which were uncontested and unopposed; one case – for freight capacity on the New Caledonia route – was contested by applicant carriers. The average decision time taken to complete uncontested cases was 5.7 weeks. This year, several of the 44 uncontested cases took longer than the four weeks to finalise. In most cases, there were good reasons for this; several non-contentious variations to change expiry dates were applied for as part of Qantas’ consolidation of its capacity entitlements on the Indonesia route, and were completed at the same time as the original decision. In other instances, the Commission had to wait for required information from the relevant applicant carriers before a decision could be made.

The contested case on the New Caledonia route took about 18 weeks to complete, from 11 April 2013 when Pionair submitted an application for the one available freight service per week on the route, in response to applications from Pacific Air Express and Chapman Freeborn. The Commission invited submissions from the applicants against paragraph 5 of the Minister’s Policy Statement, which outlines criteria such as benefits to competition, trade, tourism and consumers; the Australian Competition and Consumer Commission also provided a submission. The Commission invited comments

on a Draft Interim Determination on 31 July 2013 before issuing the final Interim Determination on 19 August 2013. The Interim Determination provides a shorter approval period – for three years rather than the usual five, as provided for under the Minister’s Policy Statement; this will allow for a shorter period of re-assessment to determine whether Pionair has been effective in serving the route when the Interim Determination comes up for renewal.

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

### Distribution of decision times by type of case



Note: The chart does not include the 16 renewal determinations. Renewals are initiated by the Commission on a time frame that suits airlines’ requirements and are generally uncontested.

### Efficiency of financial resources

The Commission’s budget for the year was \$326,000. These funds are made available from the resources of the Aviation and Airports Division of the Department of Infrastructure and Regional Development (the Department). The Commission’s budget expenditure is mostly attributable to the salaries of secretariat staff, fees paid to Commission members, travel, the production of the annual report and general office needs. Most corporate overheads and property operating expenditure are paid for by the Department, as the Commission is housed in a departmental building.

Total expenditure for 2013–14 was about \$324,000. Commissioners consider the expenditure to have been made efficiently and effectively; the Commission has delivered steady efficiency gains over a long period. The secretariat comprised an average of 1.6 full-time equivalent staff for most of the year, with a full-time Acting Senior Adviser commencing in May 2014; an additional part-time officer was also funded by the Department. Part 5 details the Commission’s financial performance.



Photo © Qantas Airways

# PART 4

## Management and accountability

### Corporate governance practices

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

Part 4 of the Act sets out procedures the Commission must comply with. The Commission considers that it meets these requirements in full. The most significant of the requirements concerns the holding of meetings. The Commission usually meets at its offices in Canberra. However, when less complex issues are involved, Commissioners may hold meetings by teleconference or by email. The use of electronic media for conducting meetings reduces travel costs associated with face-to-face meetings, representing a saving to the Commission's budget. A quorum of members is present at all meetings and determinations and decisions are made in accordance with the Act and the Minister's policy statement. Minutes are kept of proceedings at all of its meetings.

During their meetings, Commissioners discuss staffing, financial and risk management issues, as appropriate, with staff of the secretariat. Commissioners and secretariat officers maintain regular contact via email and telephone about matters requiring the Commission's attention in the periods between meetings.

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

Part 5 of the Act deals with the membership of the Commission. The Chairperson and members are appointed by the Governor-General after approval by Cabinet, which considers recommendations of the Minister for Infrastructure and Regional Development (the Minister). A member may be appointed on a full-time or part-time basis and the Minister may determine the terms and conditions of appointment on matters not provided under the Act. The Act also provides that a Commissioner may be appointed for a period not exceeding five years. Further details about the appointments of the current Chairperson and members of the Commission are found in Part 2 of this report. The Remuneration Tribunal sets members' remuneration pursuant to the *Remuneration Tribunal Act 1973*.

Section 47 of the Act requires members to disclose any interest that could conflict with the performance of their functions in relation to proceedings conducted by the Commission. Commissioners disclose any past or present interests they may have in relation to a matter before them. The other Commissioners to whom a disclosure is made decide whether or not the member who made the disclosure should take part in the matter under consideration.

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

The second part of the Commission's corporate governance arrangements arises from the Commission's relationship with the Department of Infrastructure and Regional Development (the Department). Secretariat staff members are officers of the Department and are subject to the same responsibilities and obligations applying to all departmental staff. The Commission's executive director is responsible for the day to day management of the secretariat, in accordance with these obligations and responsibilities. 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 this year and no determinations or decisions made by it were the subject of judicial or administrative review.

## Management of human resources

The staffing level of the secretariat was between 1.6 and 2 full-time equivalent people during the financial year. For most of the year, the secretariat was comprised of one Executive Level 2 officer as Executive Director (full-time) and one APS 5 officer as Office



Manager (part-time); another Executive Level 2 officer, as Senior Adviser (part-time), was funded by the Department. On 15 May 2014 one full-time Executive Level 1 officer was introduced as a Senior Adviser for a six month term; the position replaces the part-time APS 5 officer who left the secretariat in May 2014, and the part-time Executive Level 2 officer, whose contract ended on 30 June 2014.

As officers of the Department, secretariat staff members' employment conditions are determined by the Department's normal employment arrangements. However, as part of the arrangements to ensure independence of the Commission from the Department, secretariat staff members are responsible directly to the Commissioners on Commission matters.

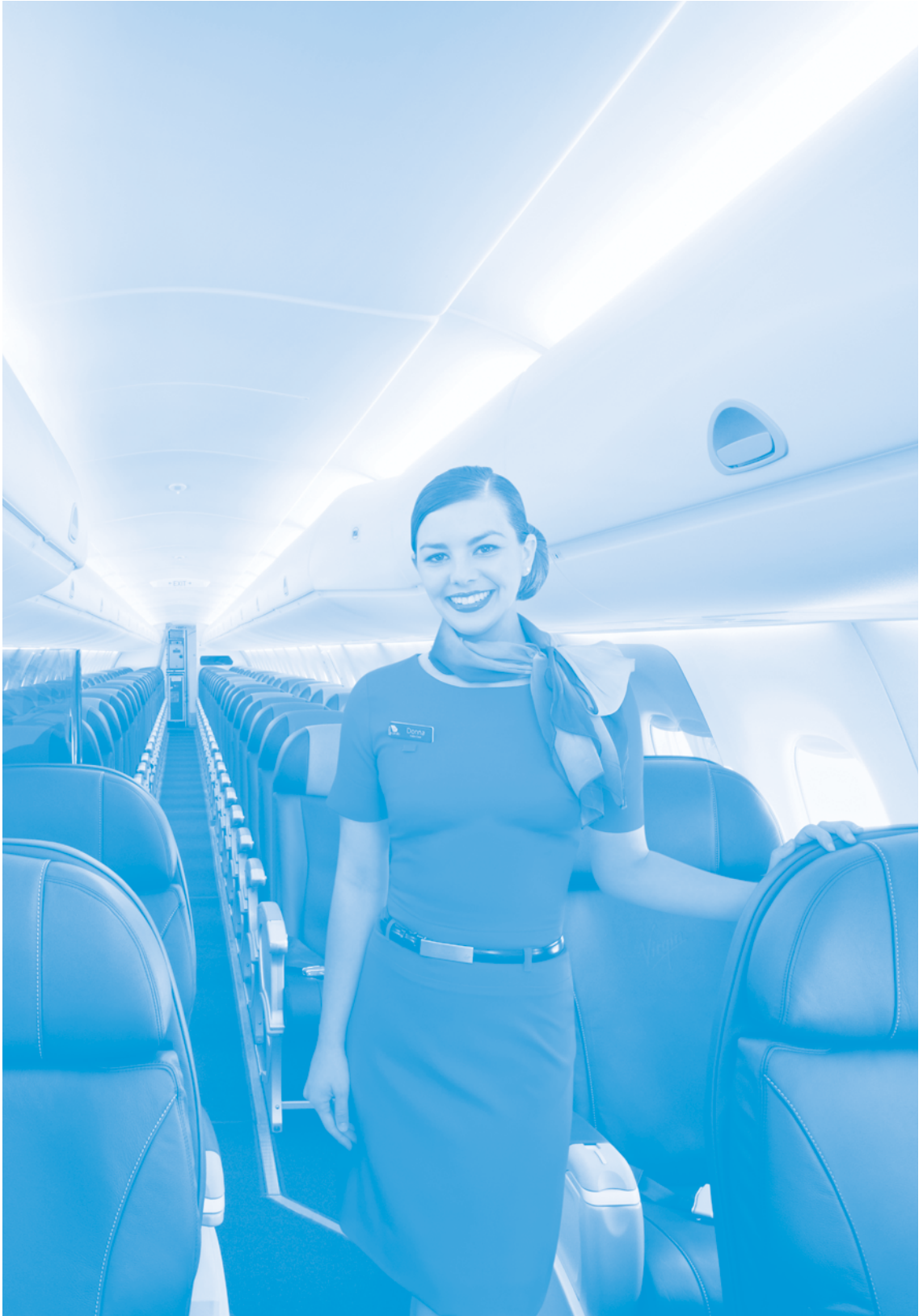
The Department's human resource management policies and practices apply to secretariat staff. These include performance management arrangements, including six-monthly discussions about work performance and professional development. The Commissioners support the professional development of secretariat members by encouraging participation in appropriate study, training courses and conferences although no such activities were undertaken this year. Staff members are involved in the Commission's work through preparing briefing and agenda papers for meetings, engaging in discussion at meetings, and drafting determinations and decisions for consideration by Commissioners.

### **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.



# PART 5

## Financial report

### Financial report as at 30 June 2014

	(1)	(2)	(3)	(4)
	2013–14 Budget \$'000	2013–14 Actual \$'000	Variation (Column 2–1) \$'000	2014–15 Budget \$'000
Salaries	223	223	0	221
Revenue	0	0	0	0
Supplier expenses	103	101	-2	112
Total	326	324	-2	333
Staff	2.2	2.2		2.2

### 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 and Regional Development. The Commission's offices are in a departmental building.



Photo © Qantas Airways

# APPENDIX 1

## Determinations and decisions

This table summarises briefly the determinations and decisions issued during 2013–14. 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
Cook Islands	Virgin Australia	[2013] IASC 137*	01-Oct-13	180 seats per week with any aircraft type	Renewal of [2008] IASC 128
Cook Islands	Virgin Australia	[2014] IASC 107*	16-Apr-14	360 seats per week with any aircraft type	Renewal of [2010] IASC 102
Fiji	Virgin Australia	[2013] IASC 132*	19-Jul-13	Unrestricted capacity to or from points in Australia other than Sydney, Melbourne, Brisbane and Perth	Renewal of [2009] IASC 109
Fiji	Virgin Australia	[2013] IASC 138*	01-Oct-13	1,260 seats per week on the specified routes to or from Sydney, Melbourne, Brisbane and Perth	Renewal of [2008] IASC 129
Hong Kong	Qantas	[2013] IASC 224*	03-Sep-13		Variation of [2009] IASC 123 to permit Jet Airways to code share on Qantas services
Hong Kong	Qantas	[2014] IASC 103	14-Mar-14	25 frequencies per week	Consolidation of capacity allocated in [2009] IASC 123, [2011] IASC 116 and [2011] IASC 117 and authorisation for Qantas to use the capacity in joint services with British Airways

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Hong Kong	Qantas	[2014] IASC 225*	21-Mar-14		Revocation of [2009] IASC 123, [2011] IASC 116 and [2011] IASC 117
Indonesia	Virgin Australia	[2013] IASC 130*	08-Jul-13	1,080 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2009] IASC 105
Indonesia	Virgin Australia	[2013] IASC 131*	08-Jul-13	Unrestricted capacity between points in Australia other Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2009] IASC 106
Indonesia	Virgin Australia	[2013] IASC 134*	06-Sep-13	720 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2009] IASC 113
Indonesia	Qantas	[2013] IASC 135*	04-Sep-13	Unrestricted capacity between points in Australia other Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia	Renewal of [2009] IASC 115
Indonesia	Virgin Australia	[2013] IASC 225*	09-Oct-13		Variation of [2009] IASC 105 and [2013] IASC 130 allow the capacity to be used to provide services jointly with Delta Air Lines
Indonesia	Qantas	[2014] IASC 201	03-Feb-14	14,468 seats weekly between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia, and 2,148 seats beyond Indonesia with up to 12 frequencies, seven of which may serve Denpasar.	Variation of [2013] IASC 115 effectively consolidating Qantas' capacity on the route
Indonesia	Qantas	[2014] IASC 202*	03-Feb-14		Variation of the expiry date of [2009] IASC 108 effectively revoking it

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Indonesia	Qantas	[2014] IASC 203*	03-Feb-14		Variation of the expiry date of [2009] IASC 104 effectively revoking it
Indonesia	Qantas	[2014] IASC 204*	03-Feb-14		Variation of the expiry date of [2009] IASC 114 effectively revoking it
Indonesia	Qantas	[2014] IASC 205*	03-Feb-14		Variation of the expiry date of [2010] IASC 117 effectively revoking it
Indonesia	Qantas	[2014] IASC 206*	03-Feb-14		Variation of the expiry date of [2011] IASC 104 effectively revoking it
Indonesia	Qantas	[2014] IASC 207*	03-Feb-14		Variation of the expiry date of [2011] IASC 109 effectively revoking it
Indonesia	Qantas	[2014] IASC 208*	03-Feb-14		Variation of the expiry date of [2011] IASC 127 effectively revoking it
Indonesia	Qantas	[2014] IASC 209*	03-Feb-14		Variation of the expiry date of [2013] IASC 105 effectively revoking it
Indonesia	Qantas	[2014] IASC 210*	03-Feb-14		Variation of the expiry date of [2013] IASC 114 effectively revoking it
Indonesia	Qantas	[2014] IASC 223*	12-Mar-14		Variation of [2013] IASC 115 to allow the capacity to be used by Jetstar Airways to provide services jointly with Emirates
Italy	Qantas	[2014] IASC 109	27-Jun-14	400 third country code share seats per week in each direction	Renewal of [2010] IASC 104
Japan	Qantas	[2013] IASC 226*	28-Oct-13	Unlimited passenger capacity	Variation of [2012] IASC 102 allocating unlimited passenger capacity between points in Australia and points in Japan other than Haneda Airport

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Japan	Qantas	[2013] IASC 227*	07-Nov-13	Seven B767-200 units	Variation of [2011] IASC 128 to reduce the capacity allocated from 43.4 units to seven units
Korea	Virgin Australia	[2014] IASC 104	14-Mar-14	1,000 seats each way per week	Allocation of passenger capacity and permission for Virgin Australia to use the capacity to code share with Singapore Airlines
New Caledonia	Pionair/Pacific Air Express	[2013] IASC 128	19-Aug-13	One all-cargo service per week	Allocation of one all-cargo frequency per week to Pionair and refusal of the application of Pacific Air Express for allocation of all-cargo capacity
New Zealand	Qantas	[2013] IASC 223*	25-Jul-13		Variation of [2006] IASC 109 to allow the capacity to be used to provide services jointly with Emirates
New Zealand	Qantas	[2014] IASC 102	14-Mar-14	Unrestricted capacity for passenger and freight services between Australia and New Zealand via, and beyond to, third countries	Consolidation of conditions contained in multiple decisions and authorisation for Qantas to use the capacity in joint services with China Southern Airlines
New Zealand	Qantas	[2014] IASC 220*	28-Feb-14		Variation of [2006] IASC 109 to allow the capacity to be used to provide services jointly with Japan Airlines
New Zealand	Qantas	[2014] IASC 221*	12-Mar-14		Variation of [2006] IASC 109 to allow the capacity to be used by Jetstar Airways to provide services jointly with Emirates
New Zealand	Qantas	[2014] IASC 224*	21-Mar-14		Revocation of [2006] IASC 109
Papua New Guinea	Pionair	[2013] IASC 129	29-Jul-13	18 tonnes per week in each direction	Allocation of freight capacity



Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Papua New Guinea	Qantas	[2014] IASC 105*	10-Apr-14	888 seats per week in each direction	Renewal of [2010] IASC 101
Papua New Guinea	Pacific Air Express	[2014] IASC 106*	15-Apr-14	175 tonnes per week in each direction	Renewal of [2009] IASC 134
Papua New Guinea	Virgin Australia	[2014] IASC 108*	20-May-14	160 seats per week in each direction	Allocation of passenger capacity
Papua New Guinea	Qantas	[2014] IASC 229	27-Jun-14	175 tonnes per week in each direction	Variation of [2013] IASC 123 to reduce freight capacity from 35 tonnes to 17.5 tonnes
Philippines	Qantas	[2014] IASC 101*	08-Jan-14	129 seats per week in each direction	Renewal of [2008] IASC 123
Singapore	Qantas	[2014] IASC 222*	12-Mar-14		Variation of [2007] IASC 116 to allow the capacity to be used by Jetstar Airways to provide services jointly with Emirates
Singapore	Qantas	[2014] IASC 227*	16-May-14		Variation of [2007] IASC 116 to allow the capacity to be used to provide services jointly with Bangkok Airways
Solomon Islands	Virgin Australia	[2013] IASC 133*	19-Jul-13	180 seats per week in each direction	Renewal of [2009] IASC 110
Taiwan	Virgin Australia	[2013] IASC 230*	25-Nov-13	(1,000 seats per week)	Revocation of [2012] IASC 104
Thailand	Qantas	[2013] IASC 139*	27-Nov-13	1.4 B747-400 equivalent weekly services	Renewal of [2009] IASC 120
Thailand	Virgin Australia	[2013] IASC 140*	27-Nov-13	3.15 B747-400 equivalent weekly services	Renewal of [2009] IASC 133
Thailand	Virgin Australia	[2013] IASC 221*	08-Jul-13		Variation of [2009] IASC 133 to allow the capacity to be used to provide services jointly with Air Berlin

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Thailand	Qantas	[2013] IASC 228*	25-Nov-13	(Seven third party code share services per week in each direction)	Revocation of [2010] IASC 124
Thailand	Qantas	[2014] IASC 211	14-Mar-14	35.6 B747-400 equivalent units of capacity per week for passenger services and 26 third country code share frequencies per week	Variation of [2011] IASC 123 effectively consolidating Qantas' capacity on the route
Thailand	Qantas	[2014] IASC 212*	14-Mar-14		Variation of the expiry date of [2009] IASC 120 effectively revoking it
Thailand	Qantas	[2014] IASC 213*	14-Mar-14		Variation of the expiry date of [2009] IASC 127 effectively revoking it
Thailand	Qantas	[2014] IASC 214*	14-Mar-14		Variation of the expiry date of [2010] IASC 114 effectively revoking it
Thailand	Qantas	[2014] IASC 215*	14-Mar-14		Variation of the expiry date of [2011] IASC 101 effectively revoking it
Thailand	Qantas	[2014] IASC 216*	14-Mar-14		Variation of the expiry date of [2011] IASC 105 effectively revoking it
Thailand	Qantas	[2014] IASC 217*	14-Mar-14		Variation of the expiry date of [2011] IASC 112 effectively revoking it
Thailand	Qantas	[2014] IASC 218*	14-Mar-14		Variation of the expiry date of [2013] IASC 103 effectively revoking it
Thailand	Qantas	[2014] IASC 219*	14-Mar-14		Variation of the expiry date of [2013] IASC 139 effectively revoking it
Thailand	Qantas	[2014] IASC 226*	15-May-14		Variation of [2011] IASC 123 to allow the capacity to be used to provide services jointly with Bangkok Airways

Route	Airline	IASC Number	Date	Capacity Allocated	Comments
Tonga	Virgin Australia	[2014] IASC 228*	30-May-14		Variation of [2009] IASC 130 and [2013] IASC 113 to allow the capacity to be used to provide services jointly with Singapore Airlines
United Arab Emirates	Virgin Australia	[2013] IASC 215*	08-Jul-13		Variation of [2010] IASC 118 to allow the capacity to be used to provide services jointly with Air Berlin
Vanuatu	Pacific Air Express	[2013] IASC 136*	04-Sep-13	175 tonnes per week in each direction	Renewal of [2009] IASC 118
Vietnam	Qantas	[2013] IASC 229*	25-Nov-13	(Two services per week with any aircraft type)	Revocation of [2009] IASC 101

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



## APPENDIX 2

# Route-by-route summary of Commission determinations and decisions in 2013–14

This appendix provides a summary of the Commission’s determinations and decisions for 2013–14. Full determinations and decisions can be viewed on the Commission’s website at <[www.iasc.gov.au](http://www.iasc.gov.au)>

### Cook Islands

On 12 September 2013, Virgin Australia applied for renewal of Determination [2008] IASC 128, which allocated 180 seats per week on the Cook Islands route.

On 1 October 2013, the Commission’s delegate issued **Determination [2013] IASC 137** renewing the 2008 determination. The determination is for five years from 20 September 2014.



On 4 April 2014, Virgin Australia applied for renewal of Determination [2010] IASC 107, which allocated 360 seats per week on the Cook Islands route. On 16 April 2014, the Commission’s delegate issued **Determination [2014] IASC 107** renewing the 2007 determination. The determination is for five years from 9 April 2015.

### Fiji

On 5 July 2013, Virgin Australia applied for renewal of Determination [2009] IASC 109, which allocated unrestricted capacity to and from all points in Australia other than Sydney, Melbourne, Brisbane and Perth on the Fiji route. On 19 July 2013, the Commission’s delegate issued **Determination [2013] IASC 132** renewing the 2009 determination. The determination is for five years from 9 July 2014.



On 12 September 2013, Virgin Australia applied for renewal of Determination [2008] IASC 129, which allocated 1,260 seats per week on the Fiji route. On 1 October 2013, the Commission’s delegate issued **Determination [2013] IASC 138** renewing the 2008 determination. The determination is for five years from 20 September 2014.

## Hong Kong

On 19 August 2013, Qantas applied for a variation to Determinations [2009] IASC 123, [2011] IASC 116 and [2011] IASC 117 to permit joint services with Jet Airways on the Hong Kong route. On 3 September 2013, the Commission's delegate issued **Decision [2013] IASC 224** authorising Qantas to provide joint services with Jet Airways on the route.



On 13 February 2014, Qantas applied for an allocation of capacity on the Hong Kong route, to effectively consolidate the capacity held under multiple determinations.

On 14 March 2014, the Commission issued **Determination [2014] IASC 103** allocating 25 frequencies per week to Qantas on the Hong Kong route. The determination is for five years from 21 March 2014.



On 20 March 2014, Qantas applied for a revocation of Determinations [2009] IASC 123, [2011] IASC 116 and [2011] IASC 117, which together allocate 25 frequencies per week to Qantas on the Hong Kong route. On 21 March 2014, the Commission's delegate issued **Decision [2014] IASC 225** revoking the determinations.

## Indonesia

On 6 June 2013, Virgin Australia applied for renewal of Determination [2009] IASC 105, which allocated 1,080 seats per week on the Indonesia route. On 8 July 2013, the Commission's delegate issued **Determination [2013] IASC 130** renewing the 2009 determination. The determination is for five years from 11 May 2014.



On 6 June 2013, Virgin Australia applied for renewal of Determination [2009] IASC 106, which allocated unrestricted capacity to and from all points in Australia other than Sydney, Melbourne, Brisbane and Perth on the Indonesia route. On 8 July 2013, the Commission's delegate issued **Determination [2013] IASC 131** renewing the 2009 determination. The determination is for five years from 27 May 2014.



On 16 August 2013, Virgin Australia applied for a renewal of Determination [2009] IASC 113, which allocated 720 seats per week on the Indonesia route. On 6 September 2013, the Commission's delegate issued **Determination [2013] IASC 134** renewing the 2009 determination. The determination is for five years from 11 August 2014.



On 19 August 2013, Qantas applied for a renewal of Determination [2009] IASC 115, which allocated unrestricted capacity to and from all points in Australia other than Sydney, Melbourne, Brisbane and Perth on the Indonesia route. On 4 September 2013, the Commission's delegate issued **Determination [2013] IASC 135** renewing the 2009 determination. The determination is for ten years from 5 August 2014.



On 17 September 2013, Virgin Australia applied for a variation to Determinations [2009] IASC 105 and [2013] IASC 130 to permit joint services with Delta Air Lines on the Indonesia route. On 9 October 2013, the Commission's delegate issued **Decision [2013] IASC 225** authorising Virgin Australia to provide joint services with Delta Air Lines on the route.



On 4 November 2013, Qantas applied for a variation to Determination [2013] IASC 115 to effectively consolidate the capacity held under multiple determinations on the Indonesia route. On 3 February 2014, the Commission issued **Decision [2014] IASC 201** increasing the capacity held under the determination to 14,468 seats per week, and 2,148 seats per week beyond Indonesia with up to 12 frequencies per week, seven of which may serve Denpasar.



On 3 February 2014, the Commission issued Decision [2014] IASC 201, consolidating the capacity held by Qantas under multiple determinations on the Indonesia route under one determination. On 3 February 2014, the Commission's delegate issued the following decisions:

- ➔ Decision [2014] IASC 202, varying [2009] IASC 108;
- ➔ Decision [2014] IASC 203, varying [2009] IASC 104;
- ➔ Decision [2014] IASC 204, varying [2009] IASC 114;
- ➔ Decision [2014] IASC 205, varying [2010] IASC 117;
- ➔ Decision [2014] IASC 206, varying [2011] IASC 104;
- ➔ Decision [2014] IASC 207, varying [2011] IASC 109;
- ➔ Decision [2014] IASC 208, varying [2011] IASC 127;
- ➔ Decision [2014] IASC 209, varying [2013] IASC 105; and
- ➔ Decision [2014] IASC 210, varying [2013] IASC 127

These decisions varied the determinations to bring forward their expiry dates to 3 February 2014.

Further information about this case may be found in Part 3 under the "Case Study".



On 13 February 2014, Qantas applied for a variation to Determination [2013] IASC 115 to allow the capacity to be used by Jetstar Airways to provide joint services with Emirates on the Indonesia route. On 12 March 2014, the Commission's delegate issued **Decision [2014] IASC 223** authorising the capacity to be used by Jetstar to provide joint services with Emirates on the route.

## Italy

On 6 June 2014, Qantas applied for a renewal of Determination [2010] IASC 104, which allocated 400 third country code share seats, to allow Qantas to code share on services operated by Emirates on the Italy route. On 27 June 2014, the Commission issued **Determination [2014] IASC 109** renewing the 2010 determination. The determination is for five years from 8 June 2015.

## Japan

On 17 October 2013, Qantas applied for a variation to Determination [2012] IASC 102, for unlimited capacity between Australia and Japan (other than Haneda Airport).

On 28 October 2013, the Commission's delegate issued **Decision [2013] IASC 226** granting unlimited capacity between Australia and Japan (other than Haneda Airport).



On 6 November 2013, Qantas applied for a variation to Determinations [2013] IASC 104 and [2011] IASC 128, to effectively reduce Qantas' capacity on the Japan route from 43.4 units to seven B767-200 equivalent units per week. On 7 November 2013, the Commission's delegate issued **Decision [2013] IASC 227** to reduce Qantas' capacity to seven units per week under [2011] IASC 128.

## Korea

On 18 February 2014, Virgin Australia applied for an allocation of 1,000 seats per week on the Korea route. On 14 March 2014, the Commission issued **Determination [2014] IASC 104** allocating the capacity to Virgin Australia, and authorising Virgin Australia to use the capacity to code share as a marketing carrier on services operated by Singapore Airlines. The determination is for five years from 14 March 2014.

## New Caledonia (France Route 3)

On 11 April 2013, Pacific Air Express applied for an allocation of capacity of one all-cargo service per week on France Route 3 (New Caledonia). This was the entirety of the available cargo capacity, and received competing applications from Chapman Freeborn (subsequently withdrawn) and Pionair. On 19 August 2013, the Commission issued **Interim Determination [2013] IASC 128** allocating the requested capacity to Pionair for three years.



## New Zealand

On 28 June 2013, Qantas applied for a variation to Determination [2006] IASC 109 to allow the capacity to be used to provide joint services with Emirates on the New Zealand route. On 25 July 2013, the Commission's delegate issued **Decision [2013] IASC 223** authorising Qantas to provide joint services with Emirates on the route.



On 13 February 2014, Qantas applied for an allocation of unlimited capacity on the New Zealand route, consolidating all pre-existing determinations and also permitting Qantas to provide joint services with numerous airlines under the new determination. On 14 March 2014, the Commission issued **Determination [2014] IASC 102** allocating unlimited capacity to Qantas and permitting joint services with numerous airlines. The determination is for ten years from 14 March 2014.



On 3 February 2014, Qantas applied for a variation to Determination [2006] IASC 109 to allow the capacity to be used to provide joint services with Japan Airlines on the New Zealand route. On 28 February 2014, the Commission's delegate issued **Decision [2014] IASC 220** authorising Qantas to provide joint services with Japan Airlines on the route.



On 14 February 2014, Qantas applied for a variation to Determination [2006] IASC 109 to allow the capacity to be used by Jetstar to provide joint services with Emirates on the New Zealand route. On 12 March 2014, the Commission's delegate issued **Decision [2014] IASC 221** authorising Jetstar to provide joint services with Emirates on the route.



On 20 March 2014, Qantas applied for a revocation of Determination [2006] IASC 109. On 21 March 2014, the Commission's delegate issued **Decision [2014] IASC 224** revoking the determination as requested.

## Papua New Guinea (PNG)

On 25 March 2013, Pionair applied for an allocation of 18 tonnes of cargo capacity on the Papua New Guinea route. Competing applications were received from Chapman Freeborn and Qantas; the withdrawal of Chapman Freeborn's application allowed for capacity to be allocated to Pionair and Qantas. On 29 July 2013, the Commission issued **Interim Determination [2013] IASC 129** allocating 18 tonnes of cargo capacity per week to Pionair for three years.



On 26 March 2014, Qantas applied for a renewal of Determination [2010] IASC 101, which allocated 888 seats per week of capacity on the Papua New Guinea route. On 10 April 2014, the Commission's delegate issued **Determination [2014] IASC 105** renewing the 2010 determination. The determination is for five years from 24 March 2015.



On 2 April 2014, Pacific Air Express applied for a renewal of Determination [2009] IASC 134, which allocated 17.5 tonnes of cargo capacity per week on the Papua New Guinea route. On 15 April 2014, the Commission's delegate issued **Determination [2014] IASC 106** renewing the 2009 determination. The determination is for five years from 17 December 2014.



On 7 May 2014, Virgin Australia applied for an allocation of 160 seats per week on the Papua New Guinea route. On 20 May 2014, the Commission's delegate issued **Determination [2014] IASC 108** allocating the capacity to Virgin Australia. The determination is for five years from 20 May 2014.



On 10 June 2014, Qantas applied for a variation to Determination [2013] IASC 123 to reduce the capacity allocated from 35 tonnes per week to 17.5 tonnes on the Papua New Guinea route. On 27 June 2014, the Commission issued **Determination [2014] IASC 229** varying the determination as requested.

## Philippines

On 16 December 2013, Qantas applied for a renewal of Determination [2008] IASC 123 which allocated 129 seats on the Philippines route. On 8 January 2014, the Commission's delegate issued **Determination [2014] IASC 101**, renewing the 2008 determination. The determination is for five years from 6 December 2014.

## Singapore

On 13 February 2014, Qantas applied for a variation to Determination [2007] IASC 116 to allow the capacity to be used by Jetstar Airways to provide joint services with Emirates on the Singapore route. On 12 March 2014, the Commission's delegate issued **Decision [2014] IASC 222** authorising the capacity to be used by Jetstar to provide joint services with Emirates on the route.



On 1 May 2014, Qantas applied for a variation to Determination [2007] IASC 116 to permit joint services with Bangkok Airways on the Singapore route. On 16 May 2014, the Commission's delegate issued **Decision [2014] IASC 227** authorising Qantas to provide joint services with Bangkok Airways on the route.

## Solomon Islands

On 5 July 2013, Virgin Australia applied for renewal of Determination [2009] IASC 110, which allocated 180 seats per week on the Solomon Islands route. On 19 July 2013, the Commission's delegate issued **Determination [2013] IASC 133** renewing the 2009 determination. The Determination is for five years from 9 July 2014.

## Taiwan

On 12 November 2013, Virgin Australia applied for a revocation of Determination [2012] IASC 104. On 25 November 2013, the Commission's delegate issued **Decision [2013] IASC 230** revoking the determination as requested.

## Thailand

On 29 October 2013, Qantas applied for a renewal of Determination [2009] IASC 120, which allocated 1.4 B747-400 equivalent units on the Thailand route. On 27 November 2013, the Commission's delegate issued **Determination [2013] IASC 139** renewing the 2009 determination. The Determination is for five years from 19 October 2014.



On 5 November 2013, Virgin Australia applied for a renewal of Determination [2009] IASC 133, which allocated 3.15 B747-400 equivalent units on the Thailand route. On 27 November 2013, the Commission's delegate issued **Determination [2013] IASC 140** renewing the 2009 determination. The Determination is for five years from 11 November 2014.



On 15 May 2013, Virgin Australia applied for a variation to Determination [2009] IASC 133 to permit joint services with Air Berlin on the Thailand route. On 8 July 2013, the Commission's delegate issued **Decision [2013] IASC 221** authorising Virgin Australia to provide joint services with Air Berlin on the route.



On 11 November 2013, Qantas applied for a revocation of Determination [2010] IASC 124. On 25 November 2013, the Commission's delegate issued **Decision [2013] IASC 228** revoking the determination as requested.



On 13 February 2014, Qantas applied for a variation to Determination [2011] IASC 123 to effectively consolidate the capacity held under multiple determinations on the Thailand route. On 14 March 2014, the Commission issued **Decision [2014] IASC 211** increasing the capacity held under the determination to 35.6 B747-400 equivalent units per week, and 26 third country code share frequencies per week.



On 14 March 2014, the Commission issued Decision [2014] IASC 211, consolidating the capacity held by Qantas under multiple determinations on the Thailand route under one determination. On 14 March 2014, the Commission's delegate issued the following decisions:

- ➔ Decision [2014] IASC 212, varying [2009] IASC 120;
- ➔ Decision [2014] IASC 213, varying [2009] IASC 127;
- ➔ Decision [2014] IASC 214, varying [2010] IASC 114;
- ➔ Decision [2014] IASC 215, varying [2011] IASC 101;
- ➔ Decision [2014] IASC 216, varying [2011] IASC 105;
- ➔ Decision [2014] IASC 217, varying [2011] IASC 112;
- ➔ Decision [2014] IASC 218, varying [2013] IASC 103; and
- ➔ Decision [2014] IASC 219, varying [2013] IASC 139

These decisions varied the determinations to bring forward their expiry dates to 14 March 2014.

Further information about this case may be found in Part 3 under the "Case Study".



On 1 May 2014, Qantas applied for a variation to Determination [2011] IASC 123 to permit joint services with Bangkok Airways on the Thailand route. On 15 May 2014, the Commission's delegate issued **Decision [2014] IASC 226** authorising Qantas to provide joint services with Bangkok Airways on the route.

## Tonga

On 15 May 2014, Virgin Australia applied for a variation to Determinations [2009] IASC 130 and [2013] IASC 113 to permit joint services with Singapore Airlines on the Tonga route. On 30 May 2014, the Commission's delegate issued **Decision [2014] IASC 228** authorising Virgin Australia to provide joint services with Singapore Airlines on the route.

## United Arab Emirates

On 2 April 2013, Virgin Australia applied for a variation to Determination [2010] IASC 118 to permit joint services with Air Berlin on the United Arab Emirates route.

On 8 July 2013, the Commission's delegate issued **Decision [2013] IASC 215** authorising Virgin Australia to provide joint services with Air Berlin on the route.

## Vanuatu

On 19 August 2013, Pacific Air Express applied for a renewal of Determination [2009] IASC 118, which allocated 175 tonnes of cargo capacity on the Vanuatu route. On 4 September 2013, the Commission's delegate issued **Determination [2013] IASC 136** renewing the 2009 determination. The Determination is for ten years from 12 August 2014.

## Vietnam

On 12 November 2013, Qantas applied for a revocation of Determination [2009] IASC 101. On 25 November 2013, the Commission's delegate issued **Decision [2013] IASC 229** revoking the determination as requested.



Photo © Qantas Airways

# APPENDIX 3

## Other information

### Work health and safety

As the staff members of the secretariat are employees of the Department of Infrastructure and Regional Development, (the Department), they are subject to the same work health and safety arrangements as departmental officers. The Department's annual report contains details of those arrangements.

### Freedom of information

The IASC is an agency subject to the *Freedom of Information Act 1982* (the FOI Act). Major reforms of the FOI Act in 2011 required relevant agencies to comply with the Information Publication Scheme (IPS) set out in Part II of the FOI Act. In compliance with the IPS requirements, the Commission has established an Information Publication Plan which is available on its website <<http://www.iasc.gov.au/foi/ipp.aspx>>.

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

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

The IASC received no requests under the FOI Act in 2013–14.



## Advertising and market research

The Commission maintains a dedicated website <[www.iasc.gov.au](http://www.iasc.gov.au)> which is regularly updated. The Commission does not advertise its functions nor does it undertake market research for the purpose of advancing public awareness about its role and functions.

The Commission is required by the Act to publish on its website applications received, and determinations and decisions made. It also notifies interested parties by email. Any person may request to be included in the Commission's mailing list.

## Ecologically sustainable development and environmental performance reporting

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



# APPENDIX 4

## Freedom of information schedule

Item	Information
Access facilities	In many cases, application for information under the <i>Freedom of Information Act 1982</i> (the FOI Act) might not be required because information or documents may be readily available on the Commission's website. Formal requests under the FOI Act must be made in writing to the FOI contact officer of the Commission. The Commission maintains a dedicated FOI page on its website which sets out the information required to be published under section 8 of the FOI Act.
Arrangements for public involvement	Formal participation and consultation can be arranged by contacting the Executive Director of the Commission whose details are listed below. The Commission welcomes views and comments from members of the public and bodies outside the Commonwealth concerning its functions.
Commission powers	The Commission exercises decision-making powers under the Act. It has the power to do everything necessary or convenient to be done for, or in connection with, performing those functions. The Commission has a range of specific powers that include convening public hearings and summoning witnesses.
Decision process	The general power to grant or refuse access to Commission documents under the FOI Act is held by the IASC Chairperson. On 19 August 2013, the Chairperson authorised the Executive Director, and in his/her absence, the Senior Adviser, to exercise the Chairperson's powers and functions under the FOI Act.



Item	Information
Documents available for inspection	<p>The Commission keeps a Register of Public Documents containing public versions of applications, submissions and comments for each case before the Commission. The register is available for public scrutiny. A Register of Confidential Documents that contains material from applications and submissions deemed to be confidential by the Commission or its delegate is also maintained. The Commission applies those standards based on the FOI Act for the protection of documents relating to business affairs. Consistent with the transparency of its processes, the Commission encourages applicants and submitters to keep requests for confidential treatment of documents to a minimum.</p> <p>The Commission has published a series of guidelines that describe its procedures and processes in relation to allocating capacity. These guidelines are available on request or from the Commission's website. Documents may also be obtained 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 and how it is organised	<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> <p>The organisation of the Commission is described in Part 2 of this report.</p>
FOI Contact Officer	<p>The Executive Director, and in his/her absence, the Senior Adviser is the Commission's FOI contact officer. Any request or query on FOI matters may be directed to the:</p> <p>International Air Services Commission  GPO Box 630 Canberra ACT 2601 Australia  Phone: (612) 6267 1100  Email: <a href="mailto:iasc@infrastructure.gov.au">iasc@infrastructure.gov.au</a></p>

# APPENDIX 5

## Commission procedures

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

The Commission's procedures incorporates the following main steps:

- A Register of Public Documents is created for each route and updates to the register are notified, by email, to industry stakeholders. The Commission requires a public version of all applications for, and submissions about, an allocation of capacity to be included in the register, published on its website and notified to stakeholders. A small amount of information received by the Commission is of a commercial-in-confidence or confidential nature and is held on the Commission's confidential register.
- The Commission will publish a notice inviting other applications for capacity in response to an initial application for capacity, and submissions about applications where required by the Act and Minister's policy statement.
- Decide the criteria under which applications are to be assessed. More complex public benefit criteria may be applied in cases where there are two carriers seeking the same limited amount of capacity, compared with an uncontested application from a well-established carrier.
- Where relevant, invite the applicant(s) to submit further information addressing public benefit criteria.

- ➔ The Minister’s policy statement requires the Commission to ensure that the applicant is reasonably capable of obtaining the approvals necessary to operate and of using the capacity if so granted.
- ➔ A hearing may be conducted by the Commission if further information is needed to establish the nature and extent of a proposal’s public benefit and, in the case of two or more competing applications, decide which application would be of the greatest benefit to the public.
- ➔ The Commission will publish a draft determination in the case of competing applications or if it is proposed to reject 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 proposal prior to the issuing of a final determination. In other cases the Commission will proceed directly to a final determination.

The Commission regularly updates its procedures. They are available from the Commission’s home page at <<http://www.iasc.gov.au>>, or upon request to the Commission.

## Procedures for applications for consolidation of determinations

### Introduction

The Commission believes it would be simpler, more transparent and of public benefit if all determinations on a particular route could be consolidated into a single determination which allocates for each relevant Australian carrier the total amount of capacity previously allocated. This single determination would include all previous conditions, including but not limited to those relating to code sharing, and any newly approved conditions. Australian carriers are encouraged to seek such consolidations, but ultimately it is for carriers to decide whether to seek consolidated determinations or to operate under existing determinations. Airlines may, if they wish, apply to consolidate some but not all their determinations on a route. The Commission’s preference, however, would be for applications for consolidation to be for all determinations on a route in order to have all capacity and conditions on a route in the one determination.

The procedures set out below are consistent with the *International Air Services Commission Act 1992* (the Act) and the International Air Services Policy Statement No. 5 issued by the Minister on 19 May 2004 (the Policy Statement).

Where a carrier holds multiple determinations on a particular route, there is no single point of reference to allocated capacity or to conditions applying to that capacity. Consequently, the Commission has developed two sets of procedures for consolidation of determinations, as follows:

- ➔ Consolidation of determinations on a route where there is available capacity on that route equal to or greater than that currently allocated to the Australian carrier (Procedure 1); and
- ➔ Consolidation of determinations where the total amount of capacity held by the Australian carrier exceeds available capacity (Procedure 2).

### **Procedure 1: Consolidation of determinations where there is available capacity equal to or greater than that currently allocated to the relevant Australian carrier**

Where available capacity on a route is equal to or greater than that currently allocated to a carrier, the carrier may apply to the Commission either under:

- ➔ subsection 12(3) for an allocation of capacity; or
- ➔ section 21 for a variation of the most recently issued determination on a particular route (see procedure 2).

#### *Application under subsection 12(3) of the Act*

1. A carrier applying under subsection 12(3) for an allocation of capacity to consolidate determinations must submit an application in accordance with section 14. The Commission will invite other applications for capacity on the route as required under subsection 12(1).
2. An application to consolidate determinations on a route must specify that the carrier, within 10 working days of a new determination, will apply for revocation of determinations which allocate capacity to it, and request the commencement date of the new allocation be the date of the revocation of the existing determinations.
3. Applications will be considered in accordance with the Policy Statement. If the criteria in paragraph 6.2 of the Policy Statement are satisfied (i.e. where there is only one applicant or where the available capacity is equal to or exceeds the total amount of capacity applied for), the Commission will apply the criteria in paragraph 4 in assessing the public benefit.
4. The Commission will issue the new consolidated determination under section 7 of the Act. The determination will include terms and conditions in accordance with section 15.
5. The new consolidated determination and conditions will take effect from the date of the revocation of the specified existing determinations.

### *Two or more applications for consolidation on the same route*

Where two or more carriers apply for consolidation of capacity on the same route, and there is insufficient capacity available to support the allocation of all the capacity sought by the carriers, the Commission will deal with the applications sequentially. Once a decision is made on the first application, the first applicant carrier will be required to apply for revocation of its other determinations on the route thus returning the capacity to the register. This will ensure there will be sufficient capacity to be allocated to a subsequent carrier applying for new capacity.

### **Procedure 2: Consolidation of determinations where the total capacity held by the relevant Australian carrier exceeds available capacity, including applications under section 21 of the Act**

Where a carrier holds multiple determinations on a route and the capacity held by the carrier exceeds capacity available for immediate allocation, the following procedure applies:

1. A carrier can apply under section 21 to vary the most recent determination on the route and therefore the determination with the latest expiry date (the first determination) to increase capacity to the total amount the carrier intends to retain. A determination not yet in effect may also be subject to variation under section 21.
2. The application should include a request to vary all other determinations on the route to change the expiry dates to the date when the variation to the first determination takes effect.
3. Before conducting a review of the determinations under section 10, the Commission will invite submissions in accordance with section 22. If no submission is received, or a submission does not contest the application, the Commission will apply the criteria in paragraph 4 of the Policy Statement. If a submission contesting the application is received, the Commission may apply the criteria in paragraph 5 of the Policy Statement. Should the Commission decide to apply the paragraph 5 criteria, it will advise the applicant carrier, and if the carrier decides to proceed with its application, it and other submitters will be invited to address the paragraph 5 criteria.
4. In relation to the capacity to be allocated, the Commission will conduct a review of the determinations under section 10 of the Act and may make a decision under section 24 or section 25. The expiry date of the consolidated determination, which will be the determination most recently issued to the carrier on the route, will remain unchanged.

## General matters relating to both procedures

### *1. Full utilisation of capacity*

Where the determinations sought to be consolidated have been in force and do not include a date for full utilisation of the capacity, the Commission will include a condition in the consolidated determination that the capacity should be utilised from the date the existing determinations expire or are revoked. This is consistent with the requirement that allocated capacity should be fully utilised by the relevant carrier unless the Commission has approved a particular date from which to fully utilise the capacity.

### *2. Separate consolidation of various types of capacity*

On routes on which an Australian carrier has determinations allocating different types of capacity – own-operated, code share, separate beyond capacity and/or freight – there could be benefits in consolidating the different types of capacity into separate determinations. This would make the revocation process and also future consolidations simpler. The Commission would consider any such cases on their merits, in consultation with the applicant.

### *3. Consolidation of determinations that have different conditions*

If all the existing determinations include corresponding conditions, the Australian carrier will need to apply for inclusion of the same conditions in the new determination. The Commission will approve conditions that are consistent with those in the existing determinations.

If an application seeks the inclusion of new conditions, including but not limited to code share, a carrier must request a variation. In some circumstances, determinations to be consolidated may have different conditions in relation to code sharing, the ability for allocated capacity to be used by subsidiaries, or for other reasons. In such circumstances, the carrier should apply for the conditions it wishes in the consolidated determination, including any new conditions not contained in its existing determinations.

The Commission will consider the request against the relevant criteria in the Policy Statement such as paragraphs 6.3, 6.4, and 3.6 in the case of code sharing. The Commission may subject the application to more detailed assessment using the additional criteria in paragraph 5. If the Commission has concerns in relation to any of the conditions requested, it will advise the carrier before making a final decision.

If the carrier does not include in its application a condition or conditions contained in one or more of the determinations sought to be consolidated, the Commission may include in the consolidated determination such condition(s) from existing determinations it considers relevant. The Commission will consult the applicant to ensure only the relevant code share arrangements are retained in the consolidated determination. For avoidance of doubt, the applicant is also advised to indicate in its application (in addition to the



existing code share arrangements it desires to retain and proposed new code share arrangements), the approved code share arrangements which it no longer wishes to retain.

#### *4. Withdrawing or changing applications*

If the Commission forms the view that it would not be of benefit to the public to approve the application, or particular parts of the application, it will advise the carrier and offer it the opportunity to withdraw or change its application. A carrier may, at any time before a final decision is made, withdraw or change its application without prejudice.

#### *5. Start-up phase routes*

A carrier may apply for consolidation of capacity on a route that is still in the start up phase. If a submission is received contesting the application, the Commission will likely apply the criteria under paragraph 5 of the Policy Statement. Before doing so, it will advise the applicant and give it the opportunity to withdraw its application.

#### *6. Allocations of new capacity after consolidation*

If after having consolidated its determinations on a route, an airline is allocated additional capacity, this capacity will be allocated by a new determination, and not by a variation to its existing (consolidated) determination. Should the airline wish to have its new determination and its existing determination consolidated, it will need to apply to the Commission in accordance with these procedures.



# APPENDIX 6

## 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:
  - (i) are reasonably capable of obtaining the necessary approvals to operate on the route; and
  - (ii) are reasonably capable of implementing their applications.

4.2 The delegate of the Commission must refer any applications back to the members of the Commission where the delegate has doubts that the applicant carrier satisfies the requirements of paragraph 4.1(b).

#### **5. ADDITIONAL CRITERIA FOR ASSESSING BENEFIT TO THE PUBLIC**

5.1 The following additional criteria are applicable in assessing the benefit to the public in all circumstances other than is provided in relation to particular circumstances set out in paragraph 6 below.

##### **Competition Benefits**

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

- any determinations made by the Australian Competition and Consumer Commission or the Australian Competition Tribunal in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route; and
- any decisions or notifications made by the Australian Competition and Consumer Commission in relation to a carrier using Australian entitlements under a bilateral arrangement on all or part of the route.

### **Other Benefits**

#### *Tourism Benefits*

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

#### *Consumer Benefits*

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

#### *Trade Benefits*

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

#### *Industry Structure*

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

### *Other Criteria*

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

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

## **6. CRITERIA APPLICABLE IN PARTICULAR CIRCUMSTANCES**

### **Where capacity is not limited**

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

### **Where there is only one applicant or sufficient available capacity**

6.2 In circumstances where:

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

only the criteria in paragraph 4 are applicable.

### **Variations of existing Determinations**

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

- (a) a carrier requests a variation of a determination to allow it flexibility in operating its capacity, including to use Australian capacity in a code share arrangement with a foreign carrier; and
- (b) no submission is received about the application

only the criteria in paragraph 4 are applicable.

6.4 The Commission may apply the additional criteria set out in paragraph 5 where submissions are received about the application for variation, **provided** those criteria were considered when the original application for allocation of capacity was made, or in the circumstances set out in paragraph 3.6 above including where no submissions are received.

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

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

## **8. RENEWAL OF DETERMINATIONS**

8.1 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of the renewal of determinations, other than interim determinations, are set out below. The criteria reflect a presumption in favour of the carrier seeking renewal which may be rebutted only by application of the criteria in the circumstances described:

(a) During the start up phase on the route:

- the start up phase allocation criteria set out in paragraph 7 apply in relation to that part of the capacity which is reasonably necessary for a level of scheduled international services necessary to permit the development of efficient commercially sustainable operations; and
- the criteria set out in paragraph 8.1(b) below apply to the balance of the capacity.

(b) After the start up phase on the route:

- whether the carrier seeking renewal has failed to service the route effectively; and
- whether use of the capacity in whole or part by another Australian carrier that has applied for the capacity would better serve the public having regard to the criteria set out in paragraphs 4 and 5.



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

### **Renewal of Interim Determinations**

8.2 Where capacity is limited under a bilateral arrangement, the criteria for assessing the benefit to the public for the purposes of renewal of interim determinations are:

- (a) during the start up phase on the route
  - the criteria set out in paragraph 7 as applicable.
- (b) after the start up phase on the route
  - the criteria set out in paragraphs 4 and 5.

## **9. THE 'USE IT OR LOSE IT' PRINCIPLE**

9.1 For the purposes of specifying a period within which capacity allocated to an Australian carrier must be fully used, the Commission should specify as short a period as is reasonable having regard to the steps required to commence operations. Except in exceptional circumstances, the Commission should not specify a period longer than 3 years.

9.2 When seasonal variations in demand are a feature of a route or code share arrangements between airlines and cause temporary minor variations in capacity usage, or unforeseen conditions outside the control of operating international airlines cause temporary suspension of services, the Commission may take these circumstances into account when interpreting the term “fully used” in section 15(2)(c) of the Act.

## **10. APPROVAL OF TRANSFER APPLICATIONS**

10.1 For the purposes of considering transfer applications the Commission should take into account that approvals which encourage speculative activity would not be of benefit to the public. Except in exceptional circumstances, approvals should not be given that would have the effect of allowing a carrier that has never exercised an allocation or has only exercised it for less than a reasonable period, to transfer that allocation.

10.2 A period of 6 months would usually represent a reasonable period for the purposes of subparagraph 10.1.



## 11. PERIOD FOR WHICH A DETERMINATION IS IN FORCE

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

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

- (i) if the determination is an interim determination – 3 years; or
- (ii) if the determination is not an interim determination – 5 years

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

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

- (i) if the determination is an interim determination – 3 years; or
- (ii) if the determination is not an interim determination – 10 years.

# APPENDIX 7

## Service Charter

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

### From the Chairperson

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

**Dr Jill Walker**

*Chairperson*

### About the Commission

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

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

For more straightforward cases, we have authorised our delegate, usually the Commission's executive director, to make determinations and decisions on our behalf.

The Commissioners decide on the more complex applications. In either case, you can expect the same high level of service from us and our staff.

## Making an application

If you wish to apply for capacity, or make a submission when we have invited these in certain cases, procedures for doing so can be found on our web site at <[www.iasc.gov.au](http://www.iasc.gov.au)>. We suggest that prospective new airlines first contact the Commission's executive director.

## Our clients

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

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

## Our services to you

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

*In our dealings with you, we will*

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

*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 we will post, email or fax them to you upon request;
- seek only information that we consider is reasonably necessary for us to best carry out our functions;
- protect information you provide to us in confidence (although we prefer to keep confidential information to a minimum to ensure transparent decision making);
- make our decisions consistent with the requirements of the Act and the Minister’s policy statement;
- make decisions about uncontested applications within four weeks of receipt and contested or opposed applications within twelve weeks, or inform the airline/s involved 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, circumstances permitting; and
- notify applicants by email within one working day of a decision being made, and other interested parties by email and on our website as soon as practicable thereafter.

## What we ask of you

We ask you to provide comprehensive and accurate information in good time and to be straightforward in your dealings with us. We also ask that you cooperate fully in response to requests for information that we think is relevant to a matter before 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 who ask for it by this means. We advise you of applications received, and Commission decisions about those applications. We can email copies of these documents to you, or provide links to the documents on our website. Please contact us if you wish to be added to either notification list.

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

## Feedback and improving our service

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

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

## Making a complaint

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

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

## Review

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

## Contact details

International Air Services Commission

Telephone: (02) 6267 1100

Facsimile: (02) 6267 1111

Email: [iasc@infrastructure.gov.au](mailto:iasc@infrastructure.gov.au)

Internet: [www.iasc.gov.au](http://www.iasc.gov.au)

Postal address: GPO Box 630, Canberra ACT 2601

Premises: Level 4, 111 Alinga St, Canberra, ACT

# APPENDIX 8

## Commission office holders, 1992–2014

The following tables set out the Chairmen and Members of the Commission 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 November 2009	Philippa Stone	July 2007 to July 2010
Philippa Stone and Ian Smith (Members presiding at alternate meetings)	November 2009 to June 2010	Ian Smith	November 2007 to February 2011
Jill Walker	February 2011 to August 2014	Stephen Bartos	July 2010 to July 2013
		Ian Douglas	November 2012 to November 2015
		John King	July 2013 to June 2016





# APPENDIX 9

## Glossary of terms

Act	in this report, means the <i>International Air Services Commission Act (1992,)</i> as amended.
Air services arrangement	is a set of treaty and/or lower level understandings or arrangements between Australia and another country which permits the carriage by air of passengers or freight or both on agreed routes.
Allocation	a finding by the Commission, included in a determination, that an Australian carrier is permitted to use a specified amount of capacity.
Australian carrier	means a person who <ul style="list-style-type: none"><li>➔ conducts, or proposes to conduct, an international airline service to and from Australia; and</li><li>➔ 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.</li></ul>
Available capacity	means that an operational decision is not in force in relation to an amount of capacity available under air services arrangements, so an Australian carrier may seek an allocation of some or all of that capacity.
Benefit to the public	occurs if the Australian carrier to whom the capacity is allocated uses that capacity.

Blocked space	a form of code sharing involving one airline purchasing a “block” of seats on another airline’s services, which it is then able to sell to the travelling public.
Capacity	is an amount of space available on an aircraft for the carriage of passengers and/or freight. It may be expressed within air services arrangements in various ways, such as in number of seats, units of capacity, or frequency of service, usually per week, in each direction on a route.
Code sharing	is a form of joint service between two carriers. It involves an arrangement under which one carrier sells capacity under its own name on flights operated by another airline.
Commission	means the International Air Services Commission, established by section 6 of the Act.
Commissioner	means a member of the Commission.
Contested application	involves two or more applicants seeking an allocation of the same limited amount of capacity.
Decision	affects an existing determination, either by confirming, varying, suspending or revoking it.
Determination	allocates capacity to an Australian carrier, usually for a period of five years, but in some cases for three years (an interim determination), or for ten years (where capacity is not limited under the air services arrangements in question).
Department	the Department of Infrastructure and Regional Development.
Free-sale	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.
Frequency	refers to the number of flights that may be or are being operated, usually on a weekly basis.
Hand-back	where a carrier decides it no longer wishes to use allocated capacity, and applies to return some or all of the capacity.
IASC	means the International Air Services Commission, established by section 6 of the Act.

Interim determination	is a determination that is in force for three years, rather than the five (or in some cases 10) years for a standard determination. It does not carry the rebuttable presumption in favour of an incumbent carrier that usually attaches to a standard determination at the renewal stage.
Jetstar	means Jetstar Airways Pty Ltd.
Joint service	an arrangement entered into by an Australian carrier with another carrier to operate services on a joint basis. It may take different forms such as one or more of code sharing, joint pricing, or revenue and/or cost sharing or pooling. Australian carriers must receive approval from the Commission before using allocated capacity in joint services.
Member	means a member of the Commission.
Minister's policy statement	is a written instrument made by the then Minister for Transport and Regional Services in 2004 under subsection 11(1) of the Act. It sets out the way in which the Commission is to perform its functions under the Act.
Opposed application	a situation in which an interested party makes a submission arguing that an application from a carrier should not be granted by the Commission.
Pacific Air Express	means Pacific Air Express (Australia) Pty Ltd.
Pacific Wings	means Pacific Wings Pty Ltd.
Pionair	means Pionair Australia Pty Ltd.
Qantas	Qantas Airways Limited
Reduced capacity	where the amount of capacity allocated to a carrier is reduced, including to nil.
Register of available capacity	sets out the amount of capacity under each of Australia's air services arrangements available for allocation, after deducting any allocations already made by the Commission. The Department maintains the Register.
Renewal determination	a new determination that renews an allocation of capacity made under a determination that is approaching its expiry. It may involve updated terms and conditions at the Commission's discretion.



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

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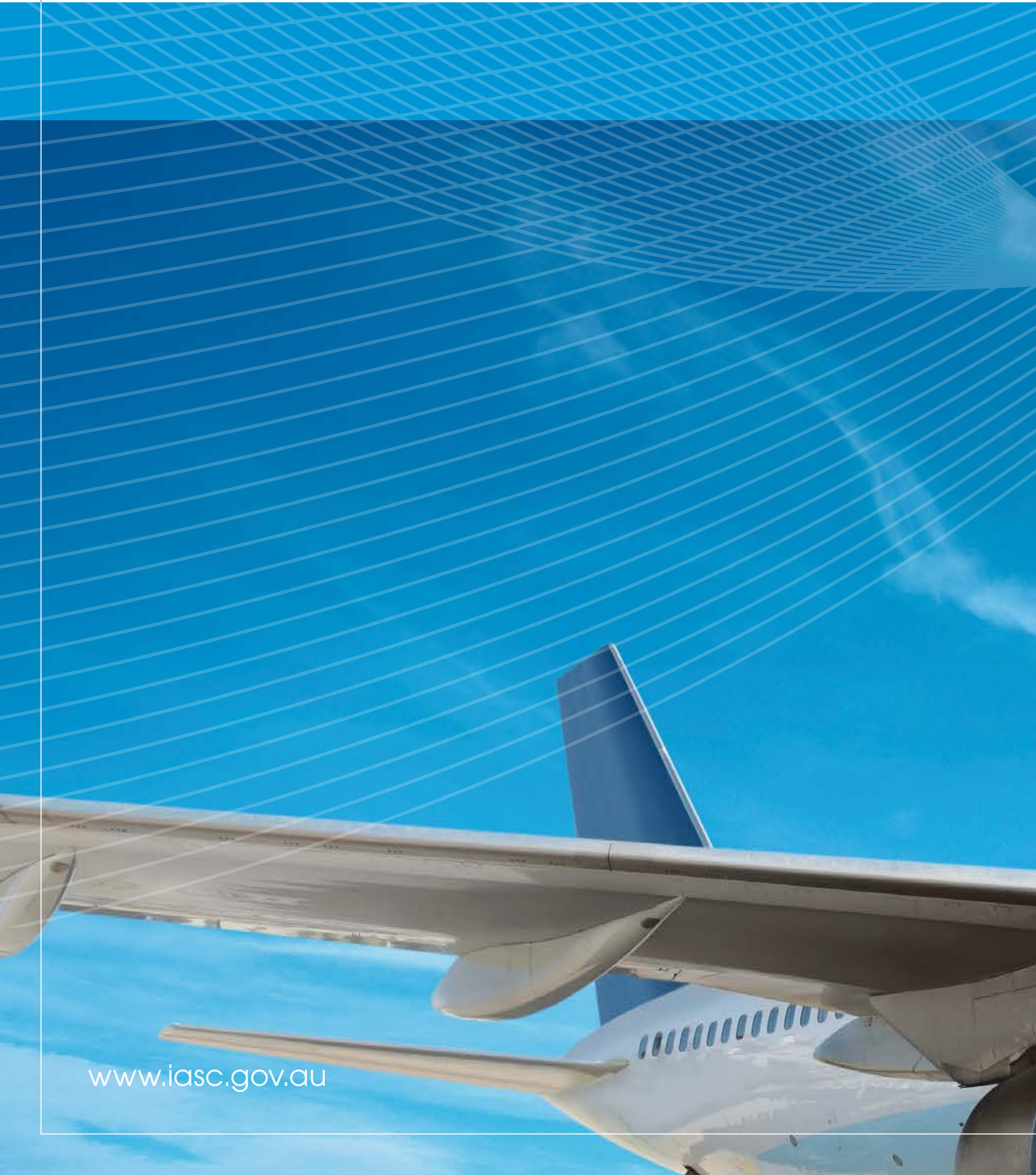
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