



International Air Services



A Policy Statement by
The Hon John Anderson MP
Deputy Prime Minister
and Minister for Transport and Regional Services





Introduction

The Howard-Anderson Government understands and encourages the very important role played by the international aviation industry in promoting travel, trade and tourism in the Australian economy.

Tourism is Australia's largest single export industry, with export earnings of \$17 billion in 1999. The overwhelming majority of tourists visiting Australia arrive and depart on aircraft. International air services also carried over \$53 billion of freight to and from Australia in 1999.

The rapid growth in inbound tourism and export opportunities for Australian industry has been made possible by the success of Government efforts to negotiate passenger and freight capacity well ahead of demand in its arrangements with other countries for market access for air services, and to negotiate significantly expanded network options for both Australian and foreign carriers in those arrangements.

Since March 1996, this Government has increased capacity available for passenger services to and from Australia by the equivalent of 440 Boeing 747s per week. In addition, the Government has negotiated air services arrangements where freight capacity is not constrained between Australia and 22 of our bilateral partners. The Government has also increased capacity available for freight services in our other air services arrangements by the equivalent of 113 Boeing 747s per week.

Both Australia and the international airlines that serve our markets are becoming increasingly integrated into a global market. Passengers and shippers are demanding better quality services to more destinations at a lower cost. Airlines around the world are responding with demands for freedom and flexibility in offering new services and innovative products.

The Government will continue to ensure that Australia's national interest is fully promoted in this environment of rapid change. I announced a new international air services policy with the Treasurer last year, as a part of the on-going micro-economic reform of the transport sector, which has introduced major changes to the way in which Australia addresses key areas of international aviation policy:

- liberalising international air services arrangements;
- liberalising ownership of Australian airlines;
- allocating capacity available under Australian air services arrangements; and
- liberalising international aviation multilaterally.

Combined with the Government's already liberal charter and open freight policies, announced in June 1996, these initiatives

will create a structured approach to the final step in bilateral liberalisation, 'open skies' arrangements, an approach that will be fast tracked for regional Australia.

This statement sets out the Government's objectives for international aviation policy, and outlines the strategies we intend to use to reach those objectives.

Australia's move into the new millennium will now be supported by Government policy that offers unparalleled opportunities for Australian passengers, tourism interests, exporters and the Australian aviation industry that serves them without compromising the Government's paramount commitment to air safety.



John Anderson
Deputy Prime Minister and
Minister for Transport and
Regional Services

June 2000





Liberalising International Aviation

Objectives

The Government will:

1. increase opportunities for the Australian community to take advantage of the benefits offered by more liberal and open international aviation policies, particularly in regional Australia;
2. increase the opportunities for all airlines to develop products based on their assessment of market demand, subject to Australian competition law; and
3. improve access by Australian airlines to international aviation markets;

without affecting the current air safety regime or compromising the Government's paramount commitment to air safety.

Strategies

The Government will pursue four main strategies for reaching these objectives:

1. The Government will, when it is in the national interest, negotiate reciprocal 'open skies' arrangements with like-minded countries, which remove restrictions on:
 - i) passenger and freight capacity and frequency to, from, between and beyond Australia and our trading partners;

- ii) code-sharing on each other's airlines;
 - iii) the routes to be operated, including points of access in both countries, as well as access to third country markets;
 - iv) multiple designation of airlines; and
 - v) prices.
2. Where an 'open skies' arrangement cannot be negotiated, or is not in the national interest, Australia will seek the most liberal arrangements possible. In these circumstances, Australia will offer to all bilateral partners:
- i) within negotiated capacity, unrestricted rights for foreign airlines to code share on Australian domestic airlines and carry their own stopover traffic to all points in Australia;
 - ii) a regional airports access package that includes unrestricted direct route access, and unlimited capacity, code share and own stopover rights for all designated international airports other than Sydney, Melbourne, Brisbane and Perth; and
 - iii) open access to dedicated freight services.
- 3. The Government will actively support and promote multilateral reform of international aviation in international forums, including the World Trade Organisation (WTO), to further promote international liberalisation of the aviation industry.
 - 4. The Government will consider other options of a liberal nature on a case by case basis, to assist the continued development of a healthy, competitive international aviation environment.





Liberalising International Air Services Arrangements

International civil aviation is governed by a system of bilateral air services arrangements between countries. These arrangements allow each country to negotiate on an equal basis in law with any other country, and enter into and leave that arrangement freely.

These arrangements are a mutually agreed best fit between the national interests of the bilateral partners. They define the conditions under which the airlines of either party will have access to the airspace of the other party. These conditions typically specify capacity, frequency, price approval processes, the way an airline can establish and conduct its business in a foreign country and safety and security arrangements. Australia currently has 57 bilateral air services arrangements.

Australia has experienced a 19% growth in international passenger traffic since March 1996, significantly increased competition for Australian airlines and has seen the development of far more efficient and effective airline services to consumers in the Australian economy.

‘Open skies’ is the final step in a process of liberalising individual air services arrangements that in some cases may have taken 30 years to reach the point where ‘open skies’ is a realistic option.

It is a step which, due to the success of Government policy, can now be taken confidently where it is in Australia's national interest to do so. Strategically sequenced negotiations are vital to ensure that the national interest is maximised.

These strategies recognise that Australia cannot jump at ‘open skies’. Many of our bilateral partners do not want it and others will accept it only after pressure on their home markets is created by liberalised arrangements that Australia has entered into with their competitors.

The Government will continue to seek the views of all major stakeholders, including the tourism industry, the aviation industry, state governments, exporters and importers, airport operators and foreign policy interests in advance of formal air services negotiations to ensure that the broadest national perspective is available to the Government.

This process will be augmented by biannual international aviation conferences, in which all major stakeholders will be given the opportunity to provide advice on and to review the Government’s negotiating priorities and to access the overall state of the industry and market.

In circumstances where the final step of ‘open skies’ is not in the national interest, or is not acceptable to our bilateral partner, Australia will still seek to negotiate the most liberal outcome possible.

The Regional Package

A central element of our approach will be open access to regional Australia, to be offered in all air services negotiations. This will provide unconstrained access for international airlines to use international airports other than Sydney, Melbourne, Brisbane and Perth for both freight and passenger services.

This will allow international airlines to take increasingly commercially based decisions on serving Australia's regional gateways, which include Coolangatta, Cairns, Townsville, Darwin, Broome, Adelaide and Hobart. This will allow those gateways, and the communities that benefit from them, to attract international air services without the need to consider any bilateral restrictions on local market access.

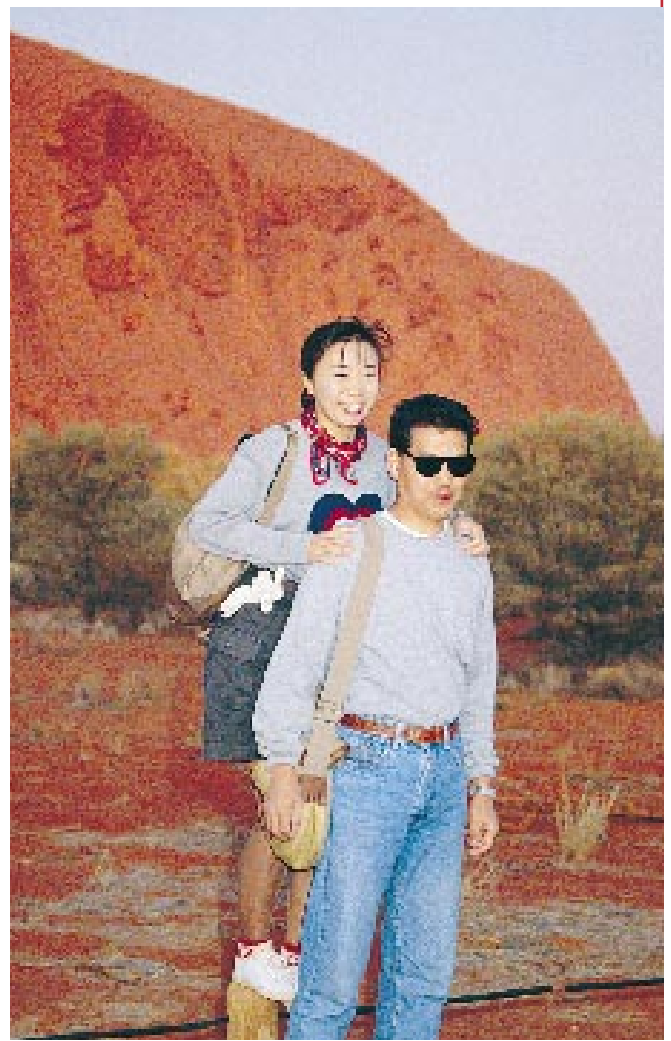
The fact that Australia must continue to trade access to our four most valuable airports in the absence of 'open skies' recognises the reality of the bilateral system. It gives Australia leverage to extract benefits, in the national interest, from our bilateral partners in exchange for their access to our markets in situations where they have not been, or are not prepared to move to 'open skies'.

In short, where the final step to 'open skies' is not in the national interest, or where a bilateral partner is not ready to make that final step, the Government must be left with leverage to encourage that final step in the future.

Cabotage

The Government has maintained its policy of ensuring that only Australian based airlines carry domestic passengers and freight.

The Productivity Commission critically examined the issue of cabotage as part of its Inquiry into International Air Services. The commission found that it is unlikely that cabotage, as a right negotiated in air services arrangements, would lead to substantial efficiency gains as the Australian aviation industry is relatively efficient and internationally competitive.





The carriage of domestic traffic by foreign airlines is also not a normal part of the trade in market access undertaken in negotiations for bilateral air services arrangements worldwide.

Domestic competition opportunities have been provided to New Zealand under the Single Aviation Market agreement, as part of the Closer Economic Relations between our two countries.

The current practice of granting foreign airlines dispensation to operate ad hoc cabotage services when there is a benefit to Australia will be maintained. This practice ensures that goods and passengers continue to move when Australian airlines cannot provide services.

While the Government has held to its current policy for cabotage entitlements as part of its air services arrangements, it has substantially liberalised Foreign Investment Review Board guidelines for airline investment in Australian domestic airlines. This action is discussed at the section of this policy statement on ownership and control of Australian airlines.

International Airfares

Government policy is that the setting of airfares should be for the airlines' commercial judgement and not Government regulation. This is, of course, subject to the compliance by the airlines with the provisions of the *Trade Practices Act 1974*.

The Government will simplify, and where practical eliminate, Australia's current sectoral regime for approving international airfares.

Multilateral Trade

While 'open skies' is the last step for liberalisation within the bilateral system, the system itself remains restrictive, particularly as it restricts carrier access to markets through ownership and control provisions.

The Government will encourage moves away from the constraints of the bilateral system and seek to have international aviation dealt with in the WTO.

There are a number of significant aspects of aviation reform, including ownership and control of international airlines, non scheduled international services and dedicated international freight services, which lend themselves specifically to the WTO process. The Government will target these in the mandatory review of the General Agreement on Trade in Services (GATS) Annex on air transport services, scheduled to start in 2000.

While some air transport services are already included under the GATS, moves to incorporate international aviation more fully into the agreement may meet with resistance from many GATS participants. Australia's approach on aviation will be carefully coordinated with the broader agenda being pursued by Australia in the

WTO context. Where advantageous, other multilateral or plurilateral reform opportunities, including APEC, will be pursued.

Air Safety

The progression to 'open skies' will not diminish the Government's commitment to aviation safety in Australia. This commitment is detailed in *A Measured Approach to Aviation Safety Reform*, a policy statement released in November 1999.

The Civil Aviation Safety Authority will continue its program of foreign aircraft inspections by joint teams of flying operations and airworthiness inspectors, begun in December 1996. The overwhelming majority of scheduled airlines operating into Australia have been inspected since the program commenced and, where necessary, action has been taken to rectify any deficiencies identified in the inspections.

Access to Sydney Airport

As part of the Government's strategy for the effective administration of limited runway capacity at Sydney Airport a slot management scheme was introduced in March 1998.

This slot management scheme is open and transparent and based on the International Air Transport Association model with a number of features added to deal with the

nature of demand at Sydney airport. Particular preference applies to new entrants to encourage further competition.





Ownership and Control of Australian Airlines

Objectives

The Government will:

1. allow Australian airlines better access to international capital markets; and
2. increase opportunities for competition in Australia's domestic aviation market.

Strategies

The Government will pursue four main strategies to meet these objectives:

1. The Government has amended the *Air Navigation Act 1920* to free up current ownership restrictions without surrendering Australian control of Australian international airlines.
2. The Government has amended foreign investment guidelines to allow foreign persons (including foreign airlines) to acquire up to 100 per cent of the equity of an Australian domestic airline, unless this is contrary to the national interest.
3. Australia's bilateral negotiating strategy will, in all cases, investigate and aim to achieve a more liberal means of designating international airlines which does not rely on ownership restrictions, but rather bases designation on place of incorporation, principal place of business or other evidence of commitment to providing air services from the territory of the other country.
4. The Government will seek to negotiate a more liberal universal framework for ownership and control of international airlines in the WTO.

Ownership and Control

The use of national ownership and control restrictions to regulate entry to the international aviation market is universally applied and one of the most restrictive elements of a highly regulated bilateral regime.

It is the tool used to limit the benefits traded in bilateral air services arrangements to the parties to the arrangement.

Airlines can be unilaterally barred from a route if either of the partners is not satisfied that those airlines are substantially owned and effectively controlled by citizens of the designating party.

To meet these international obligations, Australian law contains statutory limits on ownership and control of our airlines. However, the Government can see no sustainable reason why all potential investors in our international airlines should not be treated equally.

The Government has therefore amended the *Air Navigation Act* to put those statutory requirements at the limit of what our bilateral partners will accept (49% foreign ownership with no distinction between foreign airlines and other foreign investors).

This action will be supported by negotiated amendments to Australia's





bilateral arrangements, which will seek agreement to broader control criteria. The Government will also pursue this issue multilaterally within the WTO.

For domestic airlines, where ownership and control constraints can be addressed by Australian Government actions alone, we have gone further.

The Government has amended Foreign Investment Review Board sectoral guidelines to allow foreign persons (including foreign airlines) to acquire up to 100% of the equity of an Australian domestic airline, unless this is contrary to the national interest.

This will allow foreign airlines that are prepared to invest over the longer term to establish a domestic network within Australia and increase the choice available to air travellers.

The previous guidelines provided that foreign airlines could expect to acquire up to 25% individually, or 40% in aggregate of a domestic airline, although the guidelines also provided for Government consideration of up to 100% foreign airline ownership in special circumstances and subject to a national interest test.

The ownership and control provisions for Qantas are however set in a different context to other Australian international airlines, and are dealt with separately under the provisions of the *Qantas Sale*

Act 1992. At the time Qantas was fully privatised in 1995, undertakings were provided to the Australian people that the *Qantas Sale Act* would ensure that Qantas would remain Australian.

The Government will not change the ownership and control rules for Qantas without further and separate public consideration.







Charters

Objective

The Government will:

- use the unique characteristics of international charter services, seasonality and low cost structure, to increase opportunities for the Australian community to take advantage of the benefits offered by international aviation, particularly in regional Australia.

Strategies

The Government will pursue four strategies to meet this objective:

1. Link favourable consideration of a charter approval to broad public interest criteria, which focus on consumer needs, the promotion of trade and tourism and benefits to regional Australia.
2. Maintain the current wide range of charter flight categories that receive automatic approval.
3. Ensure that charter operators protect consumers from financial loss in the event that the charter operator fails to fulfil its obligations.
4. Seek to negotiate a more liberal universal framework for charter services in the WTO.

Charters

Traditionally, charter services have been seen as an adjunct to scheduled services and subservient to them.

However, the Government recognises the opportunity that charters offer to develop links to regional Australia and generally stimulate international tourism growth by taking advantage of seasonal peaks in demand and offering services at prices affordable to tourists who would not otherwise travel internationally.

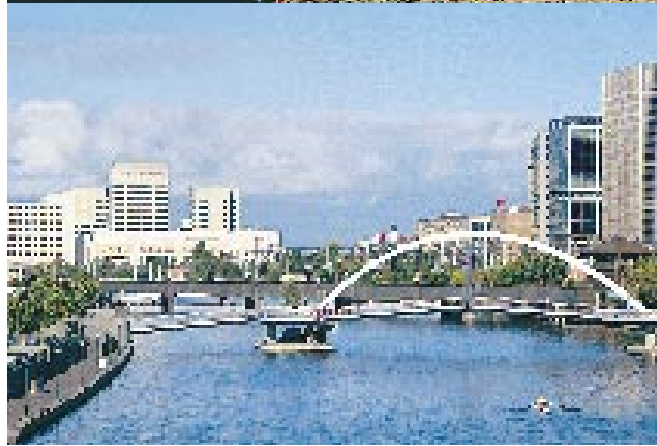
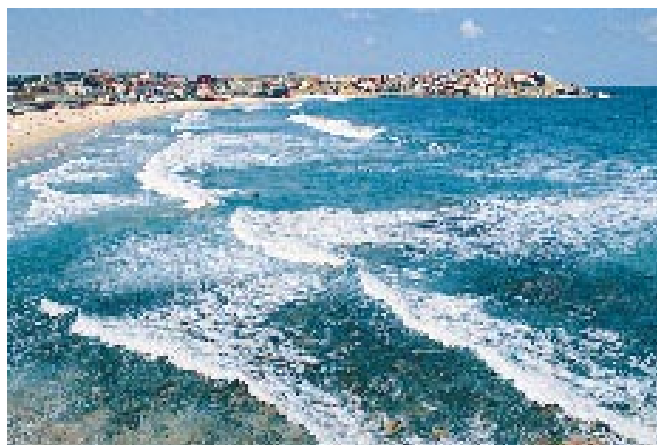
In June 1996 the Government took a major step toward a more liberalised and flexible air charter market in Australia with the release of updated charter guidelines, which sought to develop the charter market as a market in its own right, in direct competition with scheduled services.

The Government also intends to pursue multilateral liberalisation of charter services in the mandatory review of the GATS Annex on air transport services, scheduled to start in 2000.

The Government, in liberalising the international charter market, also took the responsible step of increasing protection for consumers by requiring charter operators to indemnify passengers for financial loss caused by the failure of the charter operator to fulfil its obligations, for example, by failing to provide return flights for passengers who have bought round trip tickets.

The Government will also ensure that charters can be advertised for sale only after the operator has received the necessary approvals for the services.

Charter guidelines are updated from time to time and the latest guidelines have been released in conjunction with this statement.





International Air Services Commission

Objective

The Government will:

- enhance the welfare of Australians by providing economic efficiency through competition in the provision of international air services.

Strategies

The Government will pursue three strategies to meet this objective:

1. Continue to allocate international capacity available to Australian airlines to the public benefit through an independent commission.
2. Ensure that airlines to which capacity is allocated are reasonably capable of using that capacity.
3. Simplify the current capacity allocation process.

International Air Services Commission

The International Air Services Commission (IASC) was created in 1992 to allocate capacity between Australia's international airlines. The Government's review of international aviation policy found that the current practice of allocating capacity using a public benefit test applied by an independent Commission is the most appropriate allocation method for Australia.

The role of the IASC has changed over time, as the Government's policy of negotiating capacity ahead of demand has reduced the number of competing applications for available capacity in most of our major markets.

There is now less need to examine all applications for available capacity to the same extent as had been done in the past.

The Government will therefore simplify the current allocation process to ensure that Australian airlines are not unduly delayed by IASC procedures from putting Australian capacity into the market to compete with foreign airlines.

However, the Government will retain the IASC's current role of assessing the viability of Australian airlines applying for capacity to operate international services.

It is reasonable to seek evidence from applicants that they are capable of using

the resources that are allocated to them and the *IASC Act* provides that commissioners be selected for specific skills that are directly relevant to this assessment.

Further, there is a moral obligation involved for the Government each time it licenses a service provider. The Government needs to be satisfied that the licensee can actually provide the service it is licensed to perform.





Air Freight

Objective

The Government will:

- ensure that air freight capacity is available to meet the opportunities for our exporters and importers in international markets.

Strategies

The Government will pursue three strategies to meet this objective:

1. Australia will continue to include 'open skies' dedicated air freight arrangements in our air services arrangements where our bilateral partners are willing.
2. In all other cases, offer significant increases in dedicated air freight capacity available under each air services arrangement.
3. Seek to negotiate a more liberal universal framework for dedicated air freight services in the WTO.

Air Freight

In June 1996, the Government announced that it would encourage the development of air freight as a market in its own right, rather than have it treated as an adjunct to passenger services. Since that announcement, the Government has negotiated arrangements with our bilateral partners to ensure that dedicated freight capacity is not used at the expense of passenger capacity.

Capacity is now unconstrained between Australia and 22 of our bilateral partners, and the equivalent of 113 B747 freighters per week are now available under Australia's other bilateral arrangements.

The Government also intends to pursue multilateral liberalisation of charter services in the WTO.

Dedicated freight capacity is usually provided for high value, time sensitive, non-seasonal product. In other cases, freight travels in the bellyhold of passenger aircraft. While this provides Australian exporters with very significant quantities of cheap, passenger subsidised freight capacity it is linked to passenger, and not freight demand.

As Australian exports increase in value, exporters will be able to develop further the use of dedicated freight capacity now available in Australia's freight markets through complementary Government initiatives such as Supermarket to Asia and the activities of industry-based Air Freight Export Councils. These organisations were established by this Government to bring together all players in the supply chain to improve their export logistics.

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