



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2016] IASC 106
The Route: China
The Applicant: Virgin Australia International Airlines Pty Ltd
(Virgin Australia)
ABN 63 125 580 823
Public Register: IASC/APP/201627

The Commission's delegate makes a determination allocating to Virgin Australia International Airlines Pty Ltd 1,925 seats per week of capacity on the China route. The determination is valid for five years.

1 The application

1.1 On 31 May 2016, Virgin Australia applied to the International Air Services Commission (the Commission) for an allocation of 1,925 seats per week on the China route. As part of a proposed alliance with the HNA Aviation Group Co. Ltd, Virgin Australia intends to commence a daily service between an Australian major gateway airport and Beijing. The flights will be operated from 1 June 2017 with Airbus 330-200 aircraft configured with 275 seats.

1.2 As required by section 12 of the *International Air Services Commission Act 1992* (the Act), the Commission published a notice on 1 June 2016 inviting other applications for capacity. No other applications were received.

1.3 All non-confidential material supplied by Virgin Australia is available on the Commission's website (www.iasc.gov.au).

2 Relevant provisions of the air services arrangements

2.1 According to the Register of Available Capacity, there are currently a total of 26,029 seats each way per week between Beijing, Shanghai, Guangzhou and the major gateways in Australia, Sydney, Melbourne (including Avalon), Brisbane and Perth available for immediate allocation to Australian airlines to operate services between Australia and China.

2.2 With effect from 2016-17 Northern Winter scheduling period, there will be a total of 29,029 seats each way per week between Beijing, Shanghai, Guangzhou and Sydney, Melbourne (including Avalon), Brisbane and Perth available for allocation to Australian airlines.

3 Delegate's assessment

3.1 In accordance with section 27AB of the Act and regulation 3A of the International Air Services Commission Regulations 1992, the delegate of the Commission may consider Virgin Australia's application. (For purposes of this determination, all references to the Commission include the delegate of the Commission.)

3.2 In considering an application for allocating available capacity, section 7 of the Act requires that the Commission must not allocate available capacity unless the Commission is satisfied that the allocation would be of benefit to the public. Section 7 further provides that the determination must not allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement, or a combination of bilateral arrangements, permitting the carriage to which the capacity relates. In assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out for that purpose in the policy statement made by the Minister under section 11 of the Act.

3.3 Under paragraph 6.2 of the Minister's Policy Statement (No. 5) of 19 May 2004 (the Policy Statement), in circumstances where there is only one applicant for allocation of capacity on a route, only the criteria in paragraph 4 are applicable. Paragraph 4 provides that the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public unless such carriers are not reasonably capable of obtaining the necessary approvals to operate on the route and are not reasonably capable of implementing their applications.

3.4 The Commission notes that:

- there are no other applicants seeking capacity on the route; and
- Virgin Australia is an established international carrier, and is therefore reasonably capable of obtaining the necessary approvals and of implementing its application.

3.5 The China route has grown rapidly, both in terms of new frequencies and new routes, over the last five years, averaging over 12% growth per annum. In terms of origin/destination, China ranks third among the overseas country destinations for Australian travellers, with 9.2% share of the market. New Zealand remains at the top rank with 14.7% market share, followed by the United States with 9.3%.¹

3.6 The Australia-China route is highly competitive. China Southern has the largest share of the passenger traffic with 23.4% market share. Other carriers with a substantial share of the traffic are Cathay Pacific (15.3%), China Eastern (13.7%), followed by Qantas (12%) and Air China (9.1%).²

¹ Source: Bureau of Infrastructure, Transport and Regional Economics, data as at April 2016.

² Ibid.

3.7 The Commission considers that Virgin Australia's proposed operation of services between Australia and Beijing would provide more options to Australian travellers and promote further competition on the Australia-China route.

3.8 In light of the above, the Commission considers allocating capacity to Virgin Australia on the China route would be of benefit to the public.

4 Determination allocating capacity to Virgin Australia International Airlines Pty Ltd on the China route ([2016] IASC 106)

4.1 The Commission's delegate allocates, under section 7 of the Act, 1,925 seats per week in each direction to Virgin Australia International Airlines Pty Ltd on the China route in accordance with the terms of the Australia-China air services arrangements.

4.2 The determination is for five years from the date of the determination.

4.3 The determination is subject to the following conditions:

- Virgin Australia is required to fully utilise the capacity from no later than 1 June 2017, or from such other date approved by the Commission;
- only Virgin Australia is permitted to use the capacity;
- Virgin Australia is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission; and
- changes in relation to the ownership and control of Virgin Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia-China air services arrangements being withdrawn; or
 - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of Virgin Australia or be in a position to exercise effective control of Virgin Australia, without the prior consent of the Commission.

Dated: 17 June 2016



Marlene Tucker
Executive Director
Delegate of the IASC Commissioners