



Australian Government

International Air Services Commission

DETERMINATION

Determinations: [2008] IASC 101
The Route: Indonesia
The Applicants: OzJet Airlines Pty Ltd
(ACN 108 659 972)(OZJET)
Public Register File: IASC/APP/200801

1 The application

1.1 On 24 December 2007, OzJet applied for an allocation of capacity on the Indonesia route. The capacity sought is 306 seats per week, which is proposed to be operated on three return services per week between Perth and Denpasar.

1.2 OzJet currently operates charter services on the route under a commercial agreement with IndoJet Asia Pty Ltd. OzJet has advised that it wishes to obtain an International Airline Licence to enable it to operate these services to regular public transport (RPT) standard. OzJet has further advised that the proposed RPT schedule will replicate the currently operated charter timetable.

1.3 OzJet has sought a two-year determination, which is consistent with its two-year charter agreement with IndoJet Asia.

1.4 OzJet would operate the services using Boeing 737-229 aircraft. OzJet has an Air Operator's Certificate issued by the Civil Aviation Safety Authority (CASA) authorising it to conduct RPT operations to Denpasar. OzJet has also applied to the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) for an International Airline License and requested designation as an Australian carrier under the air services arrangements with Indonesia.

1.5 The airline claimed that it meets the paragraph 4 criteria of the Minister's policy statement.

1.6 The Commission published a notice on 7 January 2008 inviting other applications for all or any part of the capacity from interested parties. No applications were received. The lessee of Perth Airport, Westralia Airports Corporation, made an unsolicited submission in support of the application.

1.7 All public material supplied by the applicant is filed on the Register of Public Documents. Commercial in confidence material provided by the applicant is filed on the Commission's Confidential Register.

2 Current services

2.1 The Indonesia route is served by Garuda Indonesia, Airnorth, Jetstar and Qantas. Garuda flies between Denpasar and Darwin, Perth, Melbourne and Sydney. Airnorth flies between Darwin and Denpasar and code-shares with Qantas on this sector. Jetstar operates from Melbourne and Sydney to Denpasar. Qantas flies from Denpasar to Perth as well as from Jakarta to Perth and Sydney.

3 Provisions of relevant air services arrangements

3.1 The proposed operations by OzJet are consistent with the air services arrangements between Australia and Indonesia.

3.2 Under the arrangements with Indonesia, designation of multiple airlines is permitted. 6,390 seats per week of capacity for passenger services remain available for allocation to Australian carriers for services to Indonesia from Sydney, Melbourne, Brisbane and Perth. There is unrestricted capacity for services between Indonesia and other Australian points.

4 Commission's assessment

Overview

4.1 OzJet is the only applicant for capacity. Under paragraph 6.2 of the Minister's policy statement of 19 May 2004, in the absence of submissions about or opposing an application, the Commission is required only to apply the criteria in paragraph 4 of the policy statement.

4.2 Under paragraph 4, the use of Australian entitlements by a carrier that is reasonably capable of obtaining the necessary approvals (4(b)(i)) and of implementing its proposals (4(b)(ii)) is of benefit to the public. In relation to obtaining the necessary approvals, as with any airline seeking to operate international services, OzJet must be designated and obtain a licence from the Department before it has authority to commence services. The Commission makes its own assessment of whether the applicant is reasonably capable of implementing its proposals, having regard to a range of factors including the applicant's experience, business plan and other detailed commercial information provided to the Commission.

Ability to obtain necessary approvals

4.3 Although it is an established Australian domestic carrier and international charter carrier, OzJet has not previously operated international regular public transport services in its own right. In line with its normal practice for prospective new entrant airlines, the Commission sought advice from the Department as to whether it considered OzJet to be reasonably capable of obtaining the necessary approvals. The Department advised on 25 January 2008 that it considers OzJet to be reasonably capable of doing so, noting that OzJet:

- holds an Air Operators' Certificate issued by the Civil Aviation Safety Authority authorising the operation of RPT services between Australia and Bali;
- holds a Transport Security Program approved by the Office of Transport Security;
- has been operating charter services on the Perth- Bali sector since September 2007; and
- has applied for an International Airline License and requested designation under the air services arrangements with Indonesia.

Ability to implement proposals

4.4 As noted above, OzJet has experience in operating on both domestic and international routes and has a range of physical, financial and skilled personnel resources which provide a substantial and credible basis for the development of its international venture. OzJet will be using its existing fleet and avoiding the potential complexity of operating larger or different aircraft types.

4.5 OzJet has provided the Commission with detailed commercial in confidence material to support its claims that it is capable of implementing international services successfully. The Commission has assessed this material in detail. The Commission considered the information in an overall sense, and in the context of the individual market which OzJet proposes to enter.

Conclusion

4.6 The information provided by OzJet in support of its application suggests to the Commission that the carrier has the financial capacity, resources, skills and experience necessary to implement its proposals successfully. As the Commission has stated on past occasions, it is not necessary for the Commission to be certain that a carrier will be able to maintain services over the long term. However, the Commission has noted the consumer protection mechanisms which Ozjet has in place to protect passengers against financial loss.

4.7 In competitive markets, carriers may exit, yet deliver important public benefits for the period in which they operate. In this case, the Commission considers that OzJet's track record in the domestic market, the international charter market and its business plan for international services makes it well placed to launch and maintain its planned services for the foreseeable future.

4.8 The Commission notes that OzJet will be serving a route with strong passenger demand. This demand is likely to grow in the near to medium term, and this growth is likely to be related to the strength of the West Australian economy. In its submission, the Westralia Airports Corporation (Perth Airport) advised the Commission of its support for the application and noted that the route has high passenger demand.

4.9 Consistent with the Department's view, the Commission is satisfied that OzJet is reasonably capable of obtaining the necessary approvals. The Commission is also satisfied that OzJet is capable of implementing its proposals. An allocation of capacity to OzJet would therefore be of benefit to the public.

4.10 The Commission normally issues determinations for duration of three, five or ten years. However, paragraph 11.1 of the Minister's policy statement authorises the Commission to specify a shorter period if this is requested by the carrier concerned. In this case, Ozjet has sought a two year period and accordingly the Commission's determination will be for a duration of two years.

5 Determination allocating capacity on the Indonesia route to OzJet [2008] IASC 101

5.1 The Commission makes a determination in favour of OzJet, allocating 306 seats per week in each direction on the Australia - Indonesia route, in accordance with the terms of the Australia – Indonesia air services arrangements.

5.2 The determination is for two years from the date of the determination.

5.3 The determination is subject to the following conditions:

- OzJet is required to fully utilise the capacity by 1 April 2008;
- only OzJet is permitted to utilise the capacity;
- OzJet must take all reasonable steps to ensure that passengers are informed that it is the carrier actually operating the flight at the time of booking;
- OzJet is not permitted to utilise the capacity to provide joint services with another Australian carrier or any other person without the approval of the Commission;
- changes in relation to the ownership and control of OzJet are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Indonesia 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 OzJet or be in a

position to exercise effective control of OzJet, without the prior consent of the Commission; and

- changes in relation to the management, status or location of operations and head office of OzJet are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia – Indonesia air services arrangements.

Dated 20 February 2008

John Martin
Chairman

Philippa Stone
Member

Ian Smith
Member