



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2008] IASC 117
The Route: Fiji
The Applicant: Pacific Blue Airlines (Australia) Pty Ltd
(ACN 097 892 389) (Pacific Blue Australia)
Public Register File: IASC/APP/200822

1 The application

1.1 On 2 September 2008, Pacific Blue Australia applied for an allocation of capacity on the Fiji route. The capacity sought is 360 seats per week, which is proposed to be operated on two services per week using Boeing 737-800 aircraft with a capacity of 180 seats.

1.2 The Commission published a notice on 9 September 2008 inviting other applications for all or any part of the capacity from interested parties. No applications were received. All public material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The proposed services by Pacific Blue Australia are consistent with the air services arrangements between Australia and Fiji. The Register of Available Capacity shows that there are 2,120 seats per week of capacity for passenger services available for allocation to Australian carriers for services to Fiji from Sydney, Melbourne, Brisbane and Perth. The Commission has previously allocated a total of 2,880 seats per week on the route to Pacific Blue Australia. Qantas operates on the route under a code-share agreement with the Fijian airline Air Pacific. Qantas does not require an allocation of capacity under the Australia–Fiji air services arrangements.

3 Delegate's assessment

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Commission Amendment Regulations 2003 (No.1)*, the delegate of the Commission considers the Pacific Blue application.

3.2 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. Pacific Blue Australia is an established international carrier which is clearly capable of obtaining the necessary approvals and of

implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements. The delegate, on behalf of the Commission, will allocate to Pacific Blue Australia the 360 seats of capacity per week it has sought.

4 Determination allocating capacity on the Fiji route to Pacific Blue Australia [2008] IASC 117

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Pacific Blue Australia, allocating 360 seats of capacity per week in each direction on the Fiji route under the Australia – Fiji 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:

- Pacific Blue Australia is required to fully utilise the capacity from no later than 1 January 2009, or from such other date approved by the Commission;
- only Pacific Blue Australia is permitted to utilise the capacity;
- Pacific Blue 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;
- changes in relation to the ownership and control of Pacific Blue Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Fiji 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 Pacific Blue Australia or be in a position to exercise effective control of Pacific Blue Australia, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and head office of Pacific Blue Australia 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 – Fiji air services arrangements.

Dated: 17 September 2008

Michael Bird
Executive Director
Delegate of the IASC Commissioners