



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2009] IASC 103
The Route: Indonesia
The Applicant: Pacific Blue Airlines (Australia) Pty Ltd
(ACN 097 892 389) (Pacific Blue Australia)
Public Register File: IASC/APP/200902

1 The application

1.1 On 5 February 2009, Pacific Blue Australia applied for an allocation of capacity on the Indonesia route. The capacity sought is 720 seats per week, to enable the airline to add four weekly B737-800 services between Perth and Denpasar. The aircraft have a seating capacity of 180 seats.

1.2 The capacity was expected to be fully used by no later than April 2010. Two weekly frequencies would be introduced in March/April 2009 with a further two flights per week planned to start later in 2009.

1.3 The Commission published a notice on 17 February 2009 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 Indonesia. The Register of Available Capacity shows that there are 2,928 seats per week of capacity for passenger services available for allocation to Australian carriers for services between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia. Unlimited capacity is available for operations between other Australian points and points in Indonesia.

2.2 The Commission has previously allocated 1,980 seats per week to Pacific Blue Australia, 5,484 seats per week to Qantas and 408 seats per week to Ozjet from the seat entitlements available for operations between Sydney, Melbourne, Brisbane and Perth and points in Indonesia. Airnorth and Sky Air World have allocations of unlimited capacity for operations between points in Australia except Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia.

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 of the Minister's policy statement, 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 720 seats of capacity per week it has sought. The airline will be required to fully utilise the capacity by April 2010.

4 Determination allocating capacity on the Indonesia route to Pacific Blue Australia [2009] IASC 103

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Pacific Blue Australia, allocating 720 seats of capacity per week in each direction on the Indonesia route in accordance with the terms of the Australia – Indonesia 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 April 2010, 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 – 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 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 – Indonesia air services arrangements.

Dated: 25 February 2009

Michael Bird
Executive Director
Delegate of the IASC Commissioners