



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2009] IASC 113
The Route:	Indonesia
The Applicant:	Pacific Blue Airlines (Aust) Pty Ltd (ACN 097 892 389) (Pacific Blue Australia)
Public Register:	IASC/APP/200920

1 The application

1.1 On 14 July 2009, Pacific Blue Australia applied for an allocation of 720 seats per week of capacity on the Indonesia route. The allocation was sought to enable Pacific Blue Australia to operate an additional four weekly B737-800 services per week between points in Australia and Indonesia. These aircraft are configured with 180 seats. Pacific Blue Australia indicated that the capacity would be fully utilised from 1 April 2010.

1.2 Qantas concurrently sought an allocation of 125 seats per week, which was subsequently amended to an application for 48 seats per week. That application is dealt with in Determination [2009] IASC 114.

1.3 The Commission published a notice on 16 July 2009 inviting other applications for the capacity. No applications were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The Register of Available Capacity shows that 768 seats per week remain available for allocation for services between Sydney, Melbourne, Brisbane and Perth and points in Indonesia. Pacific Blue Australia holds earlier allocations from the Commission totalling 3,780 seats per week for services on this part of the Indonesia route

3 Commission's consideration

3.1 Under paragraph 6.2 of the Minister's policy statement (No. 5), of 19 May 2004, the Commission is required only to apply the criteria in paragraph 4 of the policy statement in this case. Under paragraph 4, the use of Australian entitlements by a carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals 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 its proposal. This means that there is public benefit arising from the use of the entitlements. The Commission will allocate to Pacific Blue Australia the capacity it has sought.

4 Determination allocating capacity on the Indonesia route to Pacific Blue Australia ([2009] IASC 113)

4.1 The Commission, makes a determination in favour of Pacific Blue Australia, allocating 720 seats per week in each direction on the Indonesia route, in accordance with 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: 11 August 2009

John Martin
Chairman

Philippa Stone
Member

Ian Smith
Member