



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2010] IASC 105  
**The Route:** Papua New Guinea  
**The Applicant:** Pacific Air Express (Australia) Pty Ltd  
(ACN 074 265 553) (Pacific Air Express)  
**Public Register File:** IASC/APP/201008

#### 1 The application

1.1 On 4 June 2010, Pacific Air Express applied for an allocation of 17.5 tonnes of freight capacity per week on the Papua New Guinea (PNG) route. The airline plans to use the capacity to add a second weekly service between Brisbane and Port Moresby using B737-300 freighter aircraft. Pacific Air Express implemented its initial once weekly B737 service in April 2010. Pacific Air Express stated that the additional capacity would be utilised as soon as approvals have been obtained from the Australian and PNG aeronautical authorities.

1.2 The Commission published a notice on 7 June 2010 inviting other applications for the capacity sought by Pacific Air Express. An application was received on 11 June 2010 from Pionair for an allocation of 12 tonnes of freight capacity per week, but as there is sufficient capacity available to meet Pionair's requirements separate to the capacity sought by Pacific Air Express, Pionair has in effect sought capacity other than that applied for by Pacific Air Express. The Commission will consider the Pionair application in a separate determination.

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

#### 2 Provisions of relevant air services arrangements

2.1 The Australia – Papua New Guinea air services arrangements permit the designation of multiple Australian carriers. According to the Register of Available Capacity, there are 30 tonnes per week of freighter capacity available for allocation to Australian carriers. The Commission has previously allocated 100 tonnes of freight capacity per week on the PNG route comprised of 82.5 tonnes per week to HeavyLift Cargo Airlines and 17.5 tonnes to Pacific Air Express.

### **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 Regulations 1992*, the delegate of the Commission considers the Pacific Air Express application.

3.2 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 (4(b)(i)) and of implementing its proposals (4(b)(ii)) is of benefit to the public. Pacific Air Express is now an established international carrier, operating services on the PNG route. As such, it is clearly capable of obtaining the necessary approvals and of implementing its proposals. This means that there is public benefit arising from the use of the entitlements.

3.3 The delegate, on behalf of the Commission, will allocate to Pacific Air Express the capacity sought. The carrier has requested a condition that the capacity be fully used by 31 July 2010 and the delegate will include a condition to this effect.

### **4 Determination allocating capacity on the Papua New Guinea route to Pacific Air Express ([2010] IASC 105)**

4.1 The Commission makes a determination in favour of Pacific Air Express, allocating 17.5 tonnes of freight capacity per week in each direction on the Papua New Guinea route, in accordance with the Australia – Papua New Guinea 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 Air Express is required to utilise the capacity from no later than 31 July 2010, or such other date approved by the Commission;
- only Pacific Air Express is permitted to utilise the capacity;
- Pacific Air Express is not permitted to utilise the capacity to provide services jointly with another Australian carrier or person without the approval of the Commission;
- changes in relation to the ownership and control of Pacific Air Express are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – Papua New Guinea 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 Air Express or be in a position to exercise effective control of Pacific Air Express, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Pacific Air Express 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 – Papua New Guinea air services arrangements.

Dated: 15 June 2010

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners