



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2011] IASC 102
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/201104

1 The application

1.1 On 28 March 2011, 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 third weekly B737-300 freighter service between Brisbane and Port Moresby. Pacific Air Express noted that it has been the only cargo airline operating freighter services on the PNG route for the past 12 months. It stated that the development of air freight volume on the route had been constrained by a shortage of available air freight capacity. Pacific Air Express stated that its flights are regularly overbooked. Additional capacity would accommodate increased activity related to the growth in the PNG energy and mining sectors.

1.2 The Commission published a notice on 29 March 2011 inviting other applications for the capacity sought by Pacific Air Express. No other applications were received. 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 18 tonnes per week of freighter capacity available for allocation to Australian carriers. The Commission has previously allocated 112 tonnes of freight capacity per week on the PNG route comprised of 65 tonnes per week to HeavyLift Cargo Airlines, 35 tonnes to Pacific Air Express and 12 tonnes per week to Pionair.

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 twice weekly cargo 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 2011 and the delegate will include a condition to this effect.

4 Determination allocating capacity on the Papua New Guinea route to Pacific Air Express ([2011] IASC 102)

4.1 The delegate, on behalf of 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 2011, 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: 5 April 2011

Michael Bird
Executive Director
Delegate of the IASC Commissioners