



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2011] IASC 103  
**The Route:** United States  
**The Applicant:** Strategic Airlines  
(ACN 131 128 571) (Strategic Airlines)  
**Public Register:** IASC/APP/201108

#### 1 The application

1.1 On 14 April 2011, Strategic Airlines applied for an allocation of unlimited passenger capacity on the United States route. Strategic Airlines plan to commence services between Australia and the United States from September 2011 and proposes to utilise the capacity by 31 August 2012.

1.2 Strategic Airlines has requested a determination for ten years from the date of this determination.

1.3 The Commission published a notice on 21 April 2011, 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 air services arrangements between Australia and the United States permit the designation of multiple Australian airlines. According to the Register of Available Capacity, there is unlimited capacity for designated Australian carriers to operate scheduled passenger and cargo services between Australia and the United States.

#### 3 Delegate's consideration

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

3.2 Strategic Airlines is the only applicant for capacity. 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. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public.

3.3 Strategic Airlines is an established international carrier. It already holds allocations of capacity from the Commission for operations on the Indonesia and Thailand route. Strategic Airlines has therefore demonstrated its ability to obtain the necessary approvals and to implement its proposals. The delegate is satisfied that the Strategic Airlines proposal meets the paragraph 4 criteria i.e. that there is a public benefit arising from the use of entitlements.

#### **4 Determination allocating capacity on the United States route to Strategic Airlines ([2011] IASC 103)**

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Strategic Airlines, allocating unlimited passenger and cargo capacity on the United States route in accordance with the terms of the Australia – United States air services arrangements.

4.2 The determination is for ten years from the date of the determination.

4.3 The determination is subject to the following conditions:

- Strategic Airlines is required to utilise the capacity from no later than 31 August 2012, or from such other date approved by the Commission;
- Strategic Airlines 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 Strategic Airlines are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – United States 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 Strategic Airlines or be in a position to exercise effective control of Strategic Airlines, without the prior consent of the Commission.
- changes in relation to the management, status or location of operations and Head Office of Strategic Airlines 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 – United States air services arrangements.

Dated: 10 May 2011

Sue McIntosh  
Executive Director  
Delegate of the IASC Commissioners