



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2011] IASC 133
The Route: Vietnam
The Applicant: Strategic Airlines Pty Ltd
(trading as Air Australia Airways)
(ACN 131 128 571) (Strategic Airlines)
Public Register: IASC/APP/201128

1 The application

1.1 On 15 November 2011, Strategic Airlines applied for an allocation of four frequencies per week from Sydney, Melbourne (including Avalon), Brisbane and Perth and for unlimited capacity from all other Australian points.

1.2 Strategic Airlines has requested a determination for five years from the date of this determination and stated that the capacity will be fully utilised by 28 February 2013.

1.3 The Commission published a notice on 18 November 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 Vietnam permit the designation of multiple Australian airlines. According to the Register of Available Capacity, there is available 14 frequencies weekly with any aircraft type to and from Sydney, Melbourne (including Avalon), Brisbane and Perth and unrestricted capacity to and from all other points in Australia.

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, Thailand and US routes. 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.

4 Determination allocating capacity on the Vietnam route to Strategic Airlines ([2011] IASC 133)

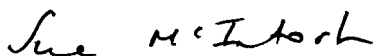
4.1 The delegate, on behalf of the Commission, makes a determination in favour of Strategic Airlines, allocating four frequencies per week to and from Sydney, Melbourne (including Avalon), Brisbane and Perth and unlimited capacity to and from all other points in Australia.

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

4.3 The determination is subject to the following conditions:

- Strategic Airlines is required to fully utilise the capacity by no later than 28 February 2013, 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 – Vietnam 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 – Vietnam air services arrangements.

Dated: 8 December 2011



Sue McIntosh
Executive Director
Delegate of the IASC Commissioners