



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2015] IASC 102
The Route: Papua New Guinea
The Applicant: Virgin Australia Airlines (SE Asia) Pty Ltd
(Virgin Australia)
ACN 79 097 892 389
Public Register: IASC/APP/201501

The International Air Services Commission makes a determination allocating 172 seats per week of capacity on the Papua New Guinea route valid for five years.

1 The application

1.1 On 17 February 2015, Virgin Australia applied to the Commission for an allocation of 172 seats per week on the Papua New Guinea (PNG) route. Virgin Australia intends to expand its operations on the PNG route during peak period by offering supplementary services between Brisbane and Port Moresby. The first supplementary service will be operated on 2 April 2015 with a B737-800 aircraft.

1.2 As required by section 12 of the *International Air Services Commission Act 1992* (the Act), the Commission published a notice on 17 February 2015 inviting other applications for capacity. No other applications were received.

1.3 All non-confidential material supplied by Virgin Australia is available on the Commission's website (www.iasc.gov.au).

2 Relevant provisions of the air services arrangements

2.1 According to the Register of Available Capacity, there are currently 572 seats in each direction per week available for immediate allocation to Australian airlines to operate services between Australia and PNG.

3 Commission's assessment

3.1 In considering an application for allocating available capacity, section 7 of the Act requires that the Commission must not allocate available capacity unless the Commission is satisfied that the allocation would be of benefit to the public. Section 7 further provides that the determination must not allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement, or a combination of bilateral arrangements, permitting the carriage to which the capacity relates. In assessing the benefit to the public of an allocation of capacity, the Commission must

apply the criteria set out for that purpose in the policy statement made by the Minister under section 11 of the Act.

3.2 Under paragraph 6.2 of the Minister's Policy Statement (No. 5) of 19 May 2004 (the Policy Statement), in circumstances where there is only one applicant for allocation of capacity on a route, only the criteria in paragraph 4 are applicable. Paragraph 4 provides that the use of entitlements by Australian carriers under a bilateral arrangement is of benefit to the public unless such carriers are not reasonably capable of obtaining the necessary approvals to operate on the route and are not reasonably capable of implementing their applications.

3.3 The Commission notes that:

- there are no other applicants seeking capacity on the route; and
- Virgin Australia is an established international carrier, and is therefore reasonably capable of obtaining the necessary approvals and of implementing its application.

3.4 Virgin Australia currently has a total allocation of 1060 seats per week in each direction on the PNG route. It currently operates six frequencies between Brisbane and Port Moresby giving the airline 14.2% share of the market. Virgin Australia intends to use the additional capacity on an ad hoc basis to permit the operation of supplementary services during peak periods. The other carriers operating services on the Australia-PNG route are Air Niugini with 53.1% share of the market and Qantas with 21.8% share.

3.5 The proposed capacity increase by Virgin Australia on the PNG route will provide more travel choices for passengers and likely increase competition on the route. In these circumstances, the Commission is satisfied that allocating to Virgin Australia 172 seats per week of capacity on the PNG route is of benefit to the public.

4 Determination allocating capacity to Virgin Australia on the PNG route ([2015] IASC 102)

4.1 The Commission allocates, under section 7 of the Act, 172 seats per week in each direction to Virgin Australia on the PNG route in accordance with the terms of the Australia-PNG 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:

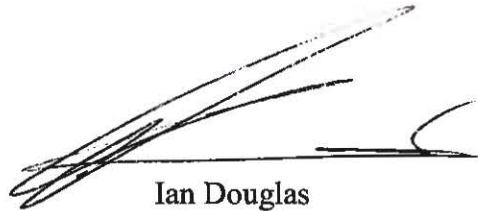
- Virgin Australia is required to fully utilise the capacity by no later than 30 April 2015, or from such other date approved by the Commission;
- only Virgin Australia is permitted to use the capacity;

- Virgin 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;
- nothing in this determination exempts Virgin Australia from complying with the Australian Consumer Law; and
- changes in relation to the ownership and control of Virgin Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia-PNG 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 Virgin Australia or be in a position to exercise effective control of Virgin Australia, without the prior consent of the Commission.

Dated: 25 February 2015



John King
Presiding Commissioner



Ian Douglas
Commissioner