



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2008] IASC 107  
**The Route:** France - Route 3 (New Caledonia)  
**The Applicant:** OzJet Airlines Pty Ltd  
(ACN 108 659 972)(Ozjet)  
**Public Register File:** IASC/APP/200811

### 1 The application

1.1 On 4 June 2008, Ozjet applied to the Commission for an allocation of 0.5 units of capacity per week on the France - Route 3 (New Caledonia) route to enable it to introduce two B737 return services per week on the route. Ozjet sought a five year determination. On 5 June 2008, Ozjet advised that it planned to commence the services by 1 October 2008 and that the services would be operated with B737-200 aircraft with a capacity of 106 seats.

1.2 The Commission published a notice on 11 June 2008 inviting other applications for an allocation of the capacity. No other applications were received.

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 air services arrangements between Australia and France permit the designation of multiple airlines for each side. Under the arrangements, the designated airlines of Australia are entitled to operate 2.5 units of capacity per week and one B737 freighter per week in each direction on France - Route 3. According to the Register of Available Capacity there are 0.75 units of capacity per week available for allocation, as Qantas holds allocations totalling 1.75 units of capacity per week and HeavyLift has an allocation of one B737 freighter per week. An aircraft substitution formula in the arrangements specifies that aircraft with fewer than 150 seats are equivalent to 0.25 units of capacity.

### 3 Delegate's consideration

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

3.2 Ozjet is the only applicant for the capacity. Under paragraph 6.2 of the Minister's policy statement, 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 The delegate notes that Ozjet was recently allocated capacity by the Commission on the Indonesia route (see Determination [2008] IASC 101). In that case, the Commission undertook a detailed examination of the ability of Ozjet to meet the paragraph 4 criteria in the Minister's policy statement. The Commission was satisfied that Ozjet was reasonably capable of obtaining the necessary approvals and of implementing its proposals. Subsequently, the delegate allocated capacity on the New Zealand route to Ozjet.

3.4 Given the Commission's recent detailed assessment of Ozjet's capabilities to operate international services, and that Ozjet proposes to operate with the same equipment and on a similar scale in the France - Route 3 (New Caledonia) route, the delegate is satisfied that Ozjet meets the paragraph 4 criteria in this case. An allocation of 0.5 units of capacity per week will enable Ozjet to operate its planned twice weekly B737 services. Accordingly, the delegate will allocate to Ozjet the capacity sought for a period of five years.

#### **4 Determination allocating capacity on the France - Route 3 (New Caledonia) route to Ozjet ([2008] IASC 107)**

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Ozjet, allocating 0.5 units of capacity per week in each direction on the France - Route 3 (New Caledonia) route in accordance with the terms of the Australia – France 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:

- Ozjet is required to utilise the capacity from no later than 31 October 2008, or from such other date approved by the Commission;
- only Ozjet is permitted to utilise the capacity;
- Ozjet 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 Ozjet are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – France (Route 3 - New Caledonia) 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 Ozjet or be in a position to exercise effective control of Ozjet, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Ozjet 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 – France (Route 3 - New Caledonia) air services arrangements.

Dated: 18 June 2008

Michael Bird  
Executive Director  
Delegate of the IASC Commissioners