



## Australian Government

### International Air Services Commission

#### DETERMINATION

**Determination:** [2009] IASC 134  
**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/200939

#### 1 The application

1.1 On 3 December 2009, 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 operate once weekly services between Brisbane and Port Moresby using B737-300 freighter aircraft leased from Airwork Flight Operations Ltd. Airwork holds a foreign air operator certificate for the PNG route.

1.2 Pacific Air Express stated that the B737-300 is used for scheduled freighter services to the Solomon Islands and Vanuatu. It advised that existing customers have considerable freight requirements on the PNG route and said that the new services would introduce competition on the route. Pacific Air Express stated that it believes its application meets the paragraph 4 criteria of the Minister's policy statement. The capacity is intended to be fully utilised by 31 March 2010.

1.3 The Commission published a notice on 7 December 2009 inviting other applications for an allocation of the capacity. No other 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 Australia – Papua New Guinea air services arrangements permit the designation of multiple Australian carriers. According to the Register of Available Capacity, there are 17.5 tonnes per week of freighter capacity available for allocation to Australian carriers. The Commission has previously allocated 82.5 tonnes of freight capacity per week on the PNG route to HeavyLift Cargo Airlines.

### **3 Commission's consideration**

3.1 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.

3.2 The Commission has previously found Pacific Air Express to be reasonably capable of obtaining the necessary approvals and of implementing its proposals in relation to applications for capacity on the Papua New Guinea route, most recently in August 2009 in a contested case for capacity on the route. Also in August 2009, the Commission allocated cargo capacity to Pacific Air Express on the Vanuatu route. The Commission is satisfied that Pacific Air Express meets the paragraph 4 criteria in this case. The implementation of services by Pacific Air Express should add to competition for freight carriage on the PNG route.

### **4 Determination allocating capacity on the Papua New Guinea route to Pacific Air Express ([2009] IASC 134)**

4.1 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 30 March 2010, 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: 17 December 2009

Philippa Stone  
Member Presiding

Ian Smith  
Member