



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2010] IASC 102
The Route:	Cook Islands
The Applicant:	Pacific Blue Airlines (Australia) Pty Ltd (ACN 097 892 389) (Pacific Blue Australia)
Public Register:	IASC/APP/201003

1 The application

1.1 On 29 March 2010, Pacific Blue Australia applied for an allocation of two frequencies each way per week on the Cook Islands route. Pacific Blue Australia proposes to operate two additional weekly services between points in Australia and the Cook Islands using 180-seat B737-800 aircraft. An allocation of 360 seats is required to facilitate the two weekly services. Pacific Blue Australia proposes to progressively introduce these services and fully utilise the capacity by 1 April 2011.

1.2 The Commission published a notice on 30 March 2010 inviting applications from interested parties for some or all of the capacity available on the route. No applications were received.

1.3 All material supplied by the applicant is filed on the Commission's Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The proposed services by Pacific Blue Australia are consistent with the air services arrangements between Australia and the Cook Islands. The Register of Available Capacity shows that there are 2,460 seats per week of capacity for passenger services available for allocation to Australian carriers for services on the Cook Islands route. The Commission has previously allocated a total of 540 seats per week on the route to Pacific Blue Australia which currently operates three B737-800 services per week on the Cook Islands route.

3 Delegate's assessment

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Commission Amendment Regulations 2003 (No. 1)*, the delegate of the Commission considers the Pacific Blue Australia application.

3.2 Under paragraph 4, the use of entitlements by an Australian 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. Pacific Blue Australia is an established international carrier which is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements. The delegate, on behalf of the Commission, will allocate to Pacific Blue Australia the 360 seats of capacity per week it has sought.

4 Determination allocating capacity on the Cook Islands route to Pacific Blue Australia ([2010] IASC 102)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of Pacific Blue Australia, allocating an additional 360 seats of capacity each way each week on the Cook Islands route under the Australia – Cook Islands air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Pacific Blue Australia is required to fully utilise the capacity from no later than 1 April 2011, or from such other date approved by the Commission;
- only Pacific Blue Australia is permitted to utilise the capacity;
- Pacific Blue 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;
- changes in relation to the ownership and control of Pacific Blue Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Cook Islands 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 Blue Australia or be in a position to exercise effective control of Pacific Blue Australia, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and head office of Pacific Blue Australia 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 – Cook Islands air services arrangements.

Dated: 9 April 2010

Ilona Balint
Senior Adviser
Delegate of the IASC Commissioners