



Australian Government

International Air Services Commission

RESOLUTION

Resolution: [2018] IASC R03
Determination: [2016] IASC 106
The Route: China
The Applicant: Virgin Australia International Airlines Pty Ltd
(Virgin Australia)
ABN 63 125 580 823
Public register file: IASC/APP/201864

On 17 June 2016, the Commission's delegate issued Determination [2016] IASC 106 (the Determination) allocating to Virgin Australia 1,925 seats of capacity in accordance with the Australia-China air services arrangements. The Determination is subject to certain conditions including the requirement to fully utilise the capacity from no later than 1 June 2017, or such other date approved by the Commission. Upon Virgin Australia's request, the Commission extended the date of utilisation to 24 March 2018 and subsequently to 30 March 2019.

On 1 November 2018, Virgin Australia requested the Commission, in accordance with regulation 9 of the International Air Services Regulations 2018, to remove the condition requiring the capacity to be fully used.

Regulation 9 of the International Air Services Regulations 2018 (which came into force and effect on 1 October 2018), provides as follows:

For the purposes of paragraph 15(2)(c)(ii) of the Act¹, a determination is not required to include a condition that capacity allocated by the determination be fully used if available capacity is not restricted by the bilateral arrangement or combination of arrangements permitting the carriage to which the capacity relates.

The Commission notes that in December 2016, the Government authorities of Australia and China agreed to liberalise the air services arrangements between the two countries permitting the designated airlines of their respective countries to determine the frequency, capacity and aircraft type to be operated between Australia and China.

In light of the liberalisation of the air services arrangements between Australia and China providing for unrestricted capacity entitlements to operate international air services between

¹ Paragraph 15(2)(c)(ii) of the Act provides "Without limiting section (1), the determination must include a condition that the capacity be fully used, except so far as:(ii) the regulations otherwise permit;..."

Australia and China, the Commission resolves to delete the following condition in Determination [2016] IASC 106, in accordance with regulation 9 of the International Air Services Regulations 2018:

“Virgin Australia is required to fully utilise the capacity from no later than 30 March 2019, or from such other date approved by the Commission;”

Date: 10 December 2018



IAN DOUGLAS
Chairperson



JAN HARRIS
Commissioner



KAREN GOSLING
Commissioner