



RENEWAL DETERMINATION

DETERMINATION NO: [2003] IASC 104
RENEWAL OF: DETERMINATION IASC/DET/9814
THE ROUTE: PAPUA NEW GUINEA
THE APPLICANT: LESSBROOK PTY LIMITED
(TRADING AS TRANSAIR)
(ACN 010 855 875)
(TRANSAIR)
PUBLIC REGISTER FILE: IASC/APP/200216

1 The application for renewal

1.1 On 30 June 1998, the Commission issued Determination IASC/DET/9814 (the Determination) allocating freight capacity on the Papua New Guinea route. Transair's allocation of freight capacity was changed to 20 tonnes per week by Commission in November 1998 (Decision IASC/DEC/9826). This change followed a revision to the air services arrangements between Papua New Guinea and Australia in August 1998.

1.2 Under the *International Air Services Commission Act 1992* (the Act) the Commission must start its consideration of the renewal of a determination at least 12 months before expiry of the Determination. The Determination expires on 29 June 2003.

1.3 Transair applied to the Commission on 17 March 2003 for a renewal of the Determination. The Commission published a notice on 16 April 2003 inviting submissions about the application, and other applications for an allocation of the capacity subject to renewal. No submissions or other applications were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

2 Commission's consideration

2.1 Under the Minister's Policy Statement (No. 3), of 23 April 1997, as amended on 9 March 1999, there is a rebuttable presumption in favour of the carrier seeking the renewal.

2.2 The Commission notes that:

- While Transair has only been utilising 10 tonnes of capacity per week it has requested retention of its full allocation for further expansion in the future;

- there are no other applicants seeking capacity on the route;
- there are 60 tonnes per week available for immediate allocation on the route and an additional 20 tonnes will become available from 30 June 2003 as another carrier has not sought to renew its allocation; and
- there is no evidence that Transair has failed to service the route effectively.

2.3 In these circumstances, the Commission concludes that the renewal of Determination IASC/DET/9814 would be of benefit to the public.

2.4 The wording of the fresh determination below reflects the view of the Commission that determinations which renew original determinations should contain updated terms and conditions consistent with the Commission's current practice and current air services arrangements. Under the Act, the Commission may make changes to the terms and conditions included in the original determination where warranted by changes in circumstances since the original determination was made.

3 Determination for renewal of Determination IASC/DET/9814 allocating capacity on the Papua New Guinea route to Transair ([2003] IASC 104)

3.1 The Commission makes a fresh determination in favour of Lessbrook Pty Limited trading as Transair, allocating 20 tonnes of dedicated freight capacity per week in each direction between Australia and Papua New Guinea.

3.2 The determination is for five years from 30 June 2003.

3.3 The determination is subject to the following conditions:

- only Transair is permitted to utilise the capacity;
- Transair is required to fully utilise the capacity from no later than 30 April 2004, or from such other date approved by the Commission
- changes in relation to the ownership and control of Transair 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 Transair or be in a position to exercise effective control of Transair, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of Transair 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: 30 May 2003

Ross Jones
Chairman

Michael Lawriwsky
Member

Stephen Lonergan
Member