



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2004] IASC 122
The Route:	Fiji
The Applicant:	Pacific Blue Airlines (Australia) Pty Ltd (ACN 097 892 389) (Pacific Blue Australia)
Public Register File:	IASC/APP/200430

1 The application

1.1 On 18 November 2004, Pacific Blue Australia applied for an allocation of 1,260 seats per week on the Fiji route. Pacific Blue Australia plans to use the capacity to operate an additional seven services per week between Australia and Fiji. Pacific Blue Australia already has an allocation of 1,260 seats per week on the route of which it is utilising 1,080 seats per week. The new flights are proposed to be operated using a B737-800 aircraft with a seating capacity of 180 seats. Pacific Blue Australia proposes to utilise the majority of the additional 1,260 seats from the second quarter 2005 and fully utilise the capacity by the second quarter of 2006.

1.2 In its application Pacific Blue Australia also requested an extension to the full utilisation date of its existing determination ([2003] IASC 110) from November 2004 until the second quarter 2005.

1.3 The Commission published a notice on 24 November 2004 inviting applications for some or all of the capacity sought by Pacific Blue Australia. No 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 Under the Australia – Fiji air services arrangements, the designated airlines of Australia are entitled to operate capacity for passenger services of up to 5,000 seats per week in each direction on the specified routes to or from Sydney, Melbourne, Brisbane and/or Perth. The Register of Available Capacity shows that there are 3,740 seats of passenger capacity per week available for allocation to the designated airlines of Australia. Capacity is not restricted in serving points in Australia other than Sydney, Melbourne, Brisbane and/or Perth.

3 Commission's assessment

3.1 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 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. The Commission has previously found, in relation to applications for capacity on other routes, that the Pacific Blue Group has the financial capacity, resources, skills and experience necessary to implement its proposals successfully. The Pacific Blue Group has since established international services, with Pacific Blue (New Zealand) operating services between Australia and New Zealand and Pacific Blue Australia operating services to Fiji and Vanuatu.

3.2 The Commission is satisfied that Pacific Blue Australia is reasonably capable of obtaining the necessary approvals and of implementing its proposals. An allocation of capacity to Pacific Blue Australia on the Fiji route would therefore be of benefit to the public. The delegate, on behalf of the Commission, will allocate to Pacific Blue Australia the 1,260 seats of capacity per week it has sought. The Commission will also separately issue a resolution granting the extension of time sought for the full use of Pacific Blue Australia's existing capacity allocation.

4 Determination allocating capacity on the Fiji route to Pacific Blue Australia ([2004] IASC 122)

4.1 The Commission makes a determination in favour of Pacific Blue Australia, allocating 1,260 seats of capacity per week in each direction between any points in Australia and Fiji in accordance with the Australia – Fiji 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 Blue Australia is required to commence utilising the capacity from no later than 30 June 2005 and fully utilise the capacity from no later than 30 June 2006, 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 – Fiji 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 –Fiji air services arrangements.

Dated: 20 December 2004

John Martin
Chairman

Michael Lawriwsky
Member

Vanessa Fanning
Member