



Australian Government

International Air Services Commission

DETERMINATION

Determination:	[2005] IASC 101
The Route:	New Zealand
The Applicant:	HeavyLift Cargo Airlines Pty Ltd (ACN 102 571 746) (HeavyLift)
Public Register:	IASC/APP/200503

1 The application

1.1 On 8 February 2005, HeavyLift applied for an allocation of freight capacity on the New Zealand route. HeavyLift proposes to operate four return services per week between Australia and New Zealand using B727-51C aircraft.

1.2 On 11 February 2005, the Commission published a notice inviting applications from interested parties for allocations of capacity on the route. No applications were received. 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 Operation of the capacity involved in the application is consistent with the provisions of the Australia - New Zealand air services arrangements.

2.2 Under the arrangements with New Zealand there is unlimited capacity available to Australian designated carriers to operate freight services between any points in Australia and any points in New Zealand and between New Zealand and third countries.

3 Delegate's consideration

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 HeavyLift application.

3.2 The Commission has previously undertaken detailed assessments of HeavyLift's financial position and proposals in relation to earlier applications for operation in the south-west Pacific region. Since those assessments were undertaken, HeavyLift has established itself as an international freight airline, having operated for

some time now on routes in the south-west Pacific region. The current application is for operations of a similar scale to those currently being undertaken by HeavyLift in the south-west Pacific region.

3.3 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. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public. For an established international freight carrier such as HeavyLift, this means that there is public benefit arising from the use of the entitlements.

3.4 The delegate concludes that an allocation to HeavyLift of freight capacity on the New Zealand route would be of benefit to the public.

3.5 The Commission has previously made interim (three year) determinations in favour of HeavyLift. Given that HeavyLift has demonstrated its ability to operate successfully and there is unrestricted freight capacity available on the New Zealand route, the Commission proposes to make a ten year determination in favour of HeavyLift. The Commission will require HeavyLift to start services on the New Zealand route by 1 November 2005. The Commission considers this provides sufficient lead time for HeavyLift to commence services, and is consistent with the Commission's approach of providing applicants entering new routes with reasonable flexibility to deal with any unforeseen circumstances in establishing services.

4 Determination allocating freight capacity on the New Zealand route to HeavyLift ([2005] IASC 101)

4.1 The delegate, on behalf of the Commission, makes a determination in favour of HeavyLift, allocating unlimited freight capacity between Australia and New Zealand under the Australia – New Zealand air services arrangement.

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

4.3 The determination is subject to the following conditions:

- HeavyLift is required to utilise the capacity from no later than 1 November 2005, or from such other date approved by the Commission;
- only HeavyLift is permitted to utilise the capacity;
- HeavyLift 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 HeavyLift are permitted except to the extent that any change:

- results in the designation of the airline as an Australian carrier under the Australia - New Zealand 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 HeavyLift or be in a position to exercise effective control of HeavyLift, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of HeavyLift 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 – New Zealand air services arrangements.

Dated: 17 March 2005

Michael Bird
Executive Director
Delegate of the IASC Commissioners