



Australian Government

International Air Services Commission

DECISION

Decision:	[2008] IASC 214
Variation of:	[2008] IASC 101
The Route:	Indonesia
The Applicant:	Ozjet Airlines Pty Ltd (Ozjet) (ACN 108 659 972)
Public Register:	IASC/APP/200819

1 The application

1.1 On 14 August 2008, Ozjet applied for a variation to Determination [2008] IASC 101 (the determination) to increase the capacity allocated by 102 seats per week to a total of 408 seats per week on the Indonesia route. The airline plans to utilise the extra capacity to introduce an additional weekly B737-200 service between Perth and Denpasar (Bali) from 5 September 2008. Ozjet also asked for the determination to be varied to extend its duration for a further twelve months for an effective duration of three years from the date of the determination (20 February 2008).

1.2 The Commission published a notice on 18 August 2008 inviting other applications for the capacity and submissions from interested parties. No applications or submissions were received. 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 – Indonesia air services arrangements, the current passenger capacity entitlement for the designated airlines of Australia for operations between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia is 10,800 seats per week in each direction. The Commission has previously allocated 4,716 seats per week on this route – 4,410 seats to Qantas and 306 seats to Ozjet. This means that there are 6,084 seats per week available for allocation.

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 Ozjet application.

3.2 When considering an application to vary determinations, the Commission must decide whether the determinations, as varied, would be of benefit to the public. Under

section 6.3 of the Minister's policy statement, where a carrier requests a variation of a determination to allow it flexibility in operating its capacity and no submission is received about the application, only the criteria in paragraph 4 of the policy statement are applicable. 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.

3.3 The Explanatory Memorandum to the Minister's policy statement provides guidance to the Commission in relation to requests to vary determinations to add minor amounts of capacity. It states that a minor increase in capacity would not generally exceed one B747 equivalent per week. In this case, the additional once-weekly frequency sought by Ozjet would be operated by a B737-200 aircraft with a seating capacity of 102 seats, a much smaller capacity than that of a B747 aircraft. Accordingly, the delegate will vary the determination as sought by Ozjet.

3.4 Turning to Ozjet's request to extend the duration of the determination to three years, the delegate notes that paragraph 11.1 of the Minister's policy statement allows the Commission to make standard determinations for a shorter period than the usual five years if this is requested by the applicant. The determination was originally made for a period of two years at the request of Ozjet at the time of its initial application for capacity. As the extended period sought by Ozjet is still less than five years, the delegate will vary the determination as requested by Ozjet.

4 Decision [2008] IASC 214

4.1 In accordance with section 24 of the Act, the delegate, on behalf of the Commission, varies Determination [2008] IASC 101, as requested by Ozjet, by:

(a) *removing* the following from paragraph 5.1 of Determination [2008] IASC 101

- “allocating 306 seats per week in each direction on the Australia - Indonesia route, in accordance with the terms of the Australia – Indonesia air services arrangements.”

replacing it with

- “allocating 408 seats per week in each direction on the Australia - Indonesia route, in accordance with the terms of the Australia – Indonesia air services arrangements”;

(b) *removing* the following from paragraph 5.2 of Determination [2008] IASC 101

- “The determination is for two years from the date of the determination”;

replacing it with

- “The determination is for three years from the date of the determination”.

Dated: 26 August 2008

Michael Bird
Executive Director
Delegate of the IASC Commissioners