



## Australian Government

### International Air Services Commission

#### DETERMINATION

<b>Determination:</b>	<b>[2008] IASC 120</b>
<b>The Route:</b>	<b>Indonesia</b>
<b>The Applicant:</b>	<b>Pacific Blue Airlines (Australia) Pty Ltd (Pacific Blue Australia) (ACN 097 892 389)</b>
<b>Public Register:</b>	<b>IASC/APP/200826</b>

#### 1 The application

1.1 On 19 September 2008, Pacific Blue Australia applied for an allocation of 1,980 seats per week in each direction of capacity on the Indonesia route. Pacific Blue Australia plans to operate between Denpasar and Brisbane, Perth and Adelaide. Pacific Blue Australia proposes to commence these services in December 2008 using Boeing 737-800 aircraft configured with 180 seats.

1.2 Pacific Blue Australia intends to operate five services per week on the Brisbane-Denpasar sector, four services per week on the Perth-Denpasar sector and two services per week on the Adelaide-Denpasar sector.

1.3 The Commission published a notice on 26 September 2008 inviting applications from interested parties for some or all of the capacity available on the route. No applications were received.

1.4 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 The Australia – Indonesia air services arrangements permit the multiple designation of airlines by both parties to the arrangements. According to the Register of Available Capacity, there are 5,982 seats of passenger capacity per week currently unallocated and therefore available in each direction between Sydney, Melbourne, Brisbane and Perth and authorised points in Indonesia. There is also unrestricted capacity between other points in Australia and authorised points in Indonesia.

2.2 The Commission has previously made determinations allocating a total of 5,892 seats of passenger capacity per week in each direction on the Indonesia route to Qantas and OzJet, as well as an allocation of unrestricted capacity to Airnorth.

### **3 Commission's consideration**

3.1 Pacific Blue Australia is the only applicant for capacity. 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. Pacific Blue Australia is an established carrier which is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements. The Commission will allocate to Pacific Blue Australia the 1,980 seats of capacity per week sought.

3.2 The Commission notes that Pacific Blue Australia will be the fifth Australian airline on the Indonesia route. Indonesia is Australia's eighth largest market and has grown strongly in the last year. The recent growth has been driven by Australian resident traffic which grew by 39.9% in the year ending July 2008. The Indonesia market remains much smaller than it was prior to the Asian financial crisis and other subsequent events in Indonesia that affected the market. The Commission welcomes the introduction of additional competition in this significant and rapidly growing market.

3.3 Pacific Blue Australia proposes to fully utilise the capacity by December 2008. The Minister's policy statement allows the Commission discretion in specifying a time by which a carrier must fully utilise allocated capacity. Consistent with the Pacific Blue Australia proposal, the Commission will require Pacific Blue Australia to fully use the capacity by the end of December 2008.

### **4 Determination allocating capacity on the Indonesia route to Pacific Blue Australia ([2008] IASC 120)**

4.1 The Commission makes a determination in favour of Pacific Blue Australia, allocating 1,980 seats per week in each direction on the Indonesia route under the Australia – Indonesia air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Pacific Blue Australia is required to fully utilise the capacity from no later than 31 December 2008, 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 – Indonesia 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 – Indonesia air services arrangements.

Dated: 8 October 2008

John Martin  
Chairman

Philippa Stone  
Member

Ian Smith  
Member