



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2011] IASC 110
The Route: Indonesia
The Applicant: Virgin Australia Airlines (Virgin Australia)
(ABN 36 090 670 965)
Public Register: IASC/APP/201116

1 The application

1.1 On 1 July 2011 Virgin Australia applied for an allocation of 2,800 seats per week on the Indonesia route to be utilised by Virgin Australia. Subject to other regulatory approvals, Virgin Australia proposes to introduce additional services between Australia and Denpasar using Boeing 737-800 aircraft configured with two classes from April 2012. Virgin Australia proposes to fully utilise the capacity by April 2014. Specifically, Virgin Australia anticipates utilising the 900 seats of the capacity by April 2012; an additional 900 seats by April 2013; and the remaining 1,000 seats by April 2014.

1.2 The Commission published a notice on 4 July 2011 inviting other applications for capacity. No applications for any portion of the capacity sought by Virgin Australia were received by the closing time of close of business 11 July 2011. All public material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Operation of the capacity is consistent with the provisions of the Australia – Indonesia air services arrangements.

2.2 According to the Register of Available Capacity the following seats are available per week in each direction:

- 10,200 seats to Sydney, Melbourne (including Avalon), Brisbane and Perth; and
- an additional 2,500 seats to Sydney, Melbourne (including Avalon), Brisbane and Perth provided such services operate via or beyond a point in Australia other than Sydney, Melbourne (including Avalon), Brisbane and Perth.

3 Commission's consideration

3.1 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.

3.2 Virgin Australia is an established airline which is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. In terms of paragraph 4, this means that there is public benefit arising from the use of the entitlements on each of the routes concerned.

3.3 The Commission will allocate to Virgin Australia the capacity it has sought on the Indonesia route.

4 Determination allocating capacity on the Indonesia route to Virgin Australia ([2011] IASC 110)

4.1 The Commission makes a determination in favour of Virgin Australia allocating 2,800 seats on the Indonesia route.

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

4.3 The determination is subject to the following conditions:

- Virgin Australia is required to fully utilise the capacity from no later than 1 April 2014 or from such other date approved by the Commission;
- only Virgin Australia is permitted to utilise the capacity;
- Virgin 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 Virgin 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 Virgin Australia or be in a position to exercise effective control of Virgin Australia, without the prior consent of the Commission; and

- changes in relation to the management, status or location of operations and Head Office of Virgin 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: August 2011



Dr Jill Walker
Chairwoman



Stephen Bartos
Member