



Australian Government

International Air Services Commission

DECISION

Decision: [2012] IASC 217
Variation of: [2010] IASC 120
The Route: France
The Applicant: Virgin Australia International Airlines Pty Ltd
(Virgin Australia)
(ABN 36 090 670 965)
Public Register: IASC/APP/201214

1 The application

1.1 On 26 June 2012, Virgin Australia applied for a variation to Determination [2010] IASC 120 to permit provision of joint services with Singapore Airlines on the Australia – Singapore – Paris route. The Determination allocates to Virgin 150 seats per day on an average annual basis and permits provision of joint services with Etihad Airways.

1.2 The Commission published a notice on 26 June 2012, inviting submissions about the application. No applications were received.

1.3 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 – France air services arrangements, an airline of Australia may enter into arrangements with other airlines, including airlines of third countries, to undertake services through code share, blocked space or other joint venture arrangements up to a total of 400 one way seats per day on an annual average basis.

3 Commission's consideration

3.1 Under paragraph 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 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. For an established carrier such as Virgin Australia, this means there is public benefit arising from the use of the entitlements.

3.2 Under section 15(2)(e) of the Act a carrier cannot use allocated capacity to provide joint services with any other carrier without the prior approval of the Commission. In accordance with the Minister's policy statement, the Commission is normally expected to authorise applications for the use of capacity to code share where this is provided for under the relevant air services arrangements. As noted above, the Australia – France air services arrangements provide for code sharing between airlines of either party and any other airline. In a case in which the Commission is concerned that a code share proposal may not be of benefit to the public it may subject the application to detailed assessment against the paragraph 5 public benefit criteria in the policy statement.

3.3 The Commission finds, in accordance with the requirements of section 25 of the Act, that the variation authorising the code sharing arrangement is not detrimental to the public. In making this finding the Commission notes that it has previously authorised the use of capacity in joint services between Virgin Australia and Etihad on the France route and will authorise the use of capacity in joint services with Singapore Airlines.

4 Decision ([2012] IASC 217)

4.1 In accordance with section 25 of the Act, the Commission varies Determination [2010] IASC 120 by adding the following conditions:

- the capacity may be used by Virgin Australia to provide services jointly with Singapore Airlines in accordance with:
 - the code share agreement between Virgin Australia and Singapore Airlines dated 3 February 2012; or
 - any subsequent code share agreement between Virgin Australia and Singapore Airlines, whether or not it replaces the existing agreement, with the prior approval of the Commission;
- under the arrangements with Singapore Airlines, Virgin Australia may only price and market its services on the route jointly with Singapore Airlines as long as such practices are authorised under the *Competition and Consumer Act 2010*; and

- to the extent that the capacity is used to provide joint services on the route, nothing in this determination exempts Virgin Australia from complying with the Australian Consumer Law. Virgin Australia is required to take all reasonable steps to ensure that passengers are informed, at the time of booking, of the carrier actually operating.

Dated: 12 July 2012



Jill Walker
Chairwoman



Stephen Bartos
Member

