



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2008] IASC 102
The Route: New Zealand
The Applicant: OzJet Airlines Pty Ltd
(ACN 108 659 972)(Ozjet)
Public Register File: IASC/APP/200803

1 The application

1.1 On 4 February 2008, Ozjet applied to the Commission for an allocation of unlimited capacity and frequency on the New Zealand route. Ozjet proposes to introduce six B737-300 two-class return services per week on the route from 31 March 2008. Four services per week would be operated between Brisbane and Palmerston North, with a further two services per week to be flown between Sydney and Palmerston North. Ozjet is planning to secure B737-300s with a capacity of 130 seats, somewhat more than the airline's existing 106 seat capacity B737 aircraft.

1.2 Ozjet noted that twenty-six percent of the New Zealand population lives within a 200 kilometre radius of Palmerston North. Ozjet considered Palmerston North to provide an opportunity to complement its existing network of services.

1.3 The Commission published a notice on 8 February 2008 inviting other applications for an allocation of the capacity. No other applications were received.

1.4 All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 The air services arrangements between Australia and New Zealand permit the designation of multiple Australian airlines. According to the Register of Available Capacity, there is unlimited capacity for designated Australian carriers to operate scheduled passenger services between Australia and New Zealand.

3 Delegate's consideration

3.1 In accordance with section 27AB of 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 Under paragraph 6.2 of the Minister's policy statement, 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.

3.3 The delegate notes that Ozjet was recently allocated capacity by the Commission on the Indonesia route (see Determination [2008] IASC 101). In that case, the Commission undertook a detailed examination of the ability of Ozjet to meet the paragraph 4 criteria in the Minister's policy statement, as Ozjet had not previously operated regular scheduled international services to and from Australia. The Commission was satisfied that Ozjet was reasonably capable of obtaining the necessary approvals and of implementing its proposals, noting, amongst other supporting evidence, that Ozjet had been operating on the Indonesia route for some months on a charter basis.

3.4 Given the Commission's recent detailed assessment of Ozjet's capabilities to operate international services, and that Ozjet proposes to operate with the same equipment and on a similar scale in the New Zealand market, the delegate is satisfied that Ozjet meets the paragraph 4 criteria in this case. Accordingly, the delegate will allocate to Ozjet the capacity sought.

3.5 Under paragraph 11.1(b) of the Minister's policy statement, where capacity and routes are unrestricted, Commission determinations are to be for a period of ten years, unless the determination is an interim determination, in which case the duration is to be for a three year period. Ozjet has requested that the determination be for a period of three years. Given this request, and that Ozjet is not yet an established regular public transport carrier in international markets, the delegate will issue an interim three year determination. The carrier plans to implement services from the end of March 2008. Consistent with its approach of giving airlines reasonable flexibility to deal with unforeseen circumstances in establishing services, the delegate will require Ozjet to start services by 31 October 2008.

4 Interim determination allocating capacity on the New Zealand route to Ozjet ([2008] IASC 102)

4.1 The delegate, on behalf of the Commission, makes an interim determination in favour of Ozjet, allocating unlimited passenger capacity in each direction on the New Zealand route in accordance with the terms of the Australia – New Zealand air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Ozjet is required to utilise the capacity from no later than 31 October 2008, or from such other date approved by the Commission;
- only Ozjet is permitted to utilise the capacity;

- Ozjet 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 Ozjet 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 Ozjet or be in a position to exercise effective control of Ozjet, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Ozjet 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: 21 February 2008

Michael Bird
Executive Director
Delegate of the IASC Commissioners