



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2008] IASC 113
The Route: South Africa
The Applicant: Virgin Blue International Airlines Pty Ltd
(ACN 125 580 823) (V–Australia)
Public Register: IASC/APP/200815

1 The application

1.1 On 16 July 2008, V–Australia applied for an allocation of five weekly services of capacity on the South Africa route, with effect from October 2009. V–Australia plans to operate the services between Sydney and Johannesburg using B777–300ER aircraft with a capacity of 361 seats. On 31 July 2008, the airline requested that the allocation be made effective from the date of the determination, not from October 2009 as requested in the original application.

1.2 The Commission published a notice on 24 July 2008, inviting other applications for the capacity. 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 – South Africa air services arrangements, in operating services to or from Johannesburg, Capetown and/or Durban, the designated airlines of Australia may operate services with any type of aircraft. The Register of Available Capacity shows there are three services per week with any aircraft type available for immediate allocation. A further four services per week become available for use by Australian carriers from October 2009, the time at which V–Australia proposes to commence its operations. Current allocations by the Commission on the South Africa route total seven frequencies per week to Qantas.

3 Commission's consideration

3.1 V–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.

3.2 V–Australia is not yet an established international carrier. However, the Commission has previously found, in relation to an application for capacity on the United States route, that V–Australia, as a member of the Virgin Blue Group, was capable of obtaining the necessary approvals and of implementing the proposed operations. The Commission is satisfied that V–Australia is reasonably capable of obtaining the necessary approvals and of implementing its proposals in respect of the South Africa route. An allocation of capacity to V–Australia on the South Africa route would therefore be of benefit to the public.

3.3 The Commission notes that the South Africa route has been characterised by limited competition for some time. There are only two direct operators, Qantas and South African Airways (SAA), and they operate to separate points in Australia (Sydney and Perth respectively). Such competition as there is between them comes via a code share arrangement whereby each buys blocks of seats on the services of the other; an arrangement currently authorised by the Commission to 31 December 2008. The Commission anticipates that Qantas will seek continued authorisation of code sharing with SAA in due course.

3.4 Although several third-country carriers carry passengers between Australia and South Africa, they provide only limited competition for the direct carriers. The third-country airlines fly via intermediate points, making for long flying times. This makes it difficult to attract passengers away from the much quicker non-stop flights offered by Qantas and SAA, even with discounted fares.

3.5 In addition, until recently, all of the capacity available to South African and Australian airlines was being operated by Qantas and SAA. Traffic levels on the route have been growing. These factors combined have meant rising load factors on the route which have become very high during several peak months of the year. The lack of available capacity had also meant there was no threat of entry to the market by new carriers.

3.6 Taking all of these factors together, there has been little pressure on the incumbent carriers to discount air fares significantly, either to deal with competition or to attract additional traffic. However, the recent expansion of capacity entitlements available under the Australia – South Africa air services arrangements has created scope for a more competitive environment on the route by providing opportunities for Qantas to expand services and for new carriers to enter the market. The current application from V–Australia and a recent application for extra capacity from Qantas show that there is a willingness to take up these opportunities.

3.7 In response to the recent Qantas application, the Commission allocated two extra weekly frequencies to that airline – see Determination [2008] IASC 109. The first of these additional weekly flights will be operating by December 2008 and the second from April 2009. This will see Qantas operating a daily service between Sydney and Johannesburg.

3.8 In this determination, the Commission will allocate the five services per week of capacity sought by V–Australia. The allocation comprises three frequencies per week available for immediate use and a further two frequencies per week available for use from October 2009, in accordance with capacity entitlements available under the provisions of the air services arrangements. V–Australia has indicated it will commence services by 1 October 2009. The Commission will provide some flexibility in exercising the capacity by requiring it to be fully used by 31 October 2009.

3.9 The additional entitlements for Qantas and the new opportunities granted by this determination to V–Australia should create a substantially more competitive environment on the South Africa route over time. This should result in significantly improved benefits to the travelling public through increased fare competition, choice of carrier and higher frequency.

4 Determination allocating capacity on the South Africa route to V–Australia ([2008] IASC 113)

4.1 The Commission makes a determination in favour of V–Australia, allocating five services per week in each direction for services between Australia and Johannesburg, Capetown and/or Durban on the South Africa route in accordance with the terms of the Australia – South Africa air services arrangements.

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

4.3 The determination is subject to the following conditions:

- V–Australia is required to fully utilise the capacity from no later than 31 October 2009, or from such other date approved by the Commission;
- no more than three services per week in each direction may be operated before 1 October 2009;
- V–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 V–Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – South Africa 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 V–Australia or be in a position to exercise effective control of V–Australia, without the prior consent of the Commission, and

- changes in relation to the management, status or location of operations and Head Office of V–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 – South Africa air services arrangements.

Dated: 5 August 2008

John Martin
Chairman

Philippa Stone
Member

Ian Smith
Member