



**Australian Government**  

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**International Air Services Commission**

**DETERMINATION**

**Determination:** [2011] IASC 134  
**The Route:** Fiji  
**The Applicant:** Pacific Air Express (Australia) Pty Ltd  
(ACN 074 265 553) (Pacific Air Express)  
**Public Register File:** IASC/APP/201129

## **1 The application**

1.1 On 1 December 2011, Pacific Air Express applied for an allocation of 17.5 tonnes of freight capacity per week on the Fiji route. The airline plans to use a B737-300F which has a payload of 17.5 tonnes.

1.2 The Commission published a notice on 1 December 2011 inviting other applications for the capacity sought by Pacific Air Express. No other applications were received. All material supplied by the applicant is filed on the Register of Public Documents.

## **2 Provisions of relevant air services arrangements**

2.1 The Australia – Fiji air services arrangements permit the designation of multiple Australian carriers. According to the Register of Available Capacity, there are 70 tonnes per week of freighter capacity available for allocation to Australian carriers.

## **3 Delegate's assessment**

3.1 In accordance with section 27AB of the *International Air Services Commission Act 1992* (the Act) and regulation 3A of the *International Air Services Commission Regulations 1992*, the delegate of the Commission considers the Pacific Air Express application.

3.2 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 in this case. 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.

3.3 Pacific Air Express is now an established international carrier, operating twice weekly cargo services on the PNG route. As such, it is clearly capable of obtaining the necessary approvals and of implementing its proposals. This means that there is public benefit arising from the use of the entitlements.

3.4 The delegate, on behalf of the Commission, will allocate to Pacific Air Express the capacity sought. The carrier has requested a condition that the capacity be fully used by 30 February 2012 and the delegate will include a condition to this effect.

#### **4 Determination allocating capacity on the Fiji route to Pacific Air Express ([2011] IASC 134)**

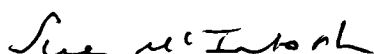
4.1 The delegate, on behalf of the Commission, makes a determination in favour of Pacific Air Express, allocating 17.5 tonnes of freight capacity per week in each direction on the Fiji route, in accordance with the Australia – Fiji air services arrangements.

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

4.3 The determination is subject to the following conditions:

- Pacific Air Express is required to utilise the capacity from no later than 30 February 2012, or such other date approved by the Commission;
- only Pacific Air Express is permitted to utilise the capacity;
- Pacific Air Express is not permitted to utilise the capacity to provide services jointly with another Australian carrier or person without the approval of the Commission;
- changes in relation to the ownership and control of Pacific Air Express are permitted except to the extent that any change:
  - results in the designation of the airline as an Australian carrier under the Australia – Fiji 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 Air Express or be in a position to exercise effective control of Pacific Air Express, without the prior consent of the Commission; and
- changes in relation to the management, status or location of operations and Head Office of Pacific Air Express 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 – Fiji air services arrangements.

Dated: 19 December 2011



Sue McIntosh  
Executive Director  
Delegate of the IASC Commissioners