



Australian Government

International Air Services Commission

RESOLUTION

Resolution: [2018] IASC R05
Determination: [2017] IASC 111
The Route: China
The Applicant: Pacific Air Express (Australia) Pty Ltd
(Pacific Air Express)
ACN 074 265 553
Public register file: IASC/APP/201868

On 13 June 2017, the Commission's delegate issued Determination [2017] IASC 111 (the Determination) allocating to Pacific Air Express unlimited capacity and frequencies to operate all-cargo services between Australia and China in accordance with the Australia-China air services arrangements. The Determination is subject to certain conditions including the requirement to fully utilise the capacity from no later than 30 April 2018, or such other date approved by the Commission. Upon Pacific Air Express's request, the Commission extended the date of utilisation to 31 March 2019.

On 13 November 2018, Pacific Air Express requested the Commission to remove the condition in the Determination requiring the capacity to be fully used, in accordance with regulation 9 of the International Air Services Regulations 2018.

Regulation 9 of the International Air Services Regulations 2018 (which came into force and effect on 1 October 2018), provides as follows:

For the purposes of paragraph 15(2)(c)(ii) of the Act¹, a determination is not required to include a condition that capacity allocated by the determination be fully used if available capacity is not restricted by the bilateral arrangement or combination of arrangements permitting the carriage to which the capacity relates.

The Commission notes that in December 2016, the Government authorities of Australia and China agreed to liberalise the air services arrangements between the two countries permitting the designated airlines of their respective countries to determine the frequency, capacity and aircraft type to be operated between Australia and China.

¹ Paragraph 15(2)(c)(ii) of the Act provides "Without limiting section (1), the determination must include a condition that the capacity be fully used, except so far as:(ii) the regulations otherwise permit;..."

In light of the liberalisation of the air services arrangements between Australia and China providing for unrestricted capacity entitlements to operate international air services between Australia and China, the Commission resolves to delete the following condition in Determination [2017] IASC 111, in accordance with regulation 9 of the International Air Services Regulations 2018:

“Pacific Air Express is required to fully utilise the capacity from no later than 31 March 2019, or from such other date approved by the Commission;”

Date: 10 December 2018



IAN DOUGLAS
Chairperson



JAN HARRIS
Commissioner



KAREN GOSLING
Commissioner