



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2021] IASC 104
The Route: Singapore
The Applicant: Tasman Cargo Airlines Pty Ltd
(Tasman Cargo)
(ACN 073 412 272)
Public Register: IASC/APP/202105

The Commission makes a determination allocating to Tasman Cargo unlimited frequencies per week to operate dedicated freight services between points in Australia and Singapore. The determination is valid for 99 years from 01 April 2021.

1 The application for capacity

1.1 On 12 March 2021, Tasman Cargo applied to the International Air Services Commission (the Commission) for five frequencies per week in each direction to operate all-cargo services between points in Australia and Singapore. In its application, Tasman Cargo proposes to operate five services per week in each direction between Melbourne and Singapore using a Boeing 767 freighter aircraft with a payload capacity of approximately 54 metric tonnes per flight subject to performance limitations.

1.2 In accordance with section 12 of the *International Air Services Commission Act 1992* (the Act), the Commission published, on 15 March 2021, Tasman Cargo's application on the Commission's website inviting other applications for capacity on the Singapore route. A notification was likewise sent by email to various stakeholders inviting other applications for capacity on the route. No other applications were received.

1.4 All non-confidential material supplied by Tasman Cargo is available on the Commission's website (www.iasc.gov.au).

2 Relevant provisions of the air services arrangements

2.1 Paragraph 7(2)(aa) of the Act provides that the Commission must not allocate available capacity contrary to any restrictions on capacity contained in a bilateral arrangement(s).

2.2 Under the Australia-Singapore air services arrangements, designated Australian airlines have unlimited frequencies and capacity to operate dedicated cargo services between Australia and Singapore.

3 Commission's consideration

3.1 Tasman Cargo is seeking the allocation of freight capacity on the Singapore route which the airline plans to use to operate five weekly services between Melbourne and Singapore using a Boeing 767 freighter aircraft.

3.2 Subsection 7(1) of the Act empowers the Commission to make a determination allocating available capacity. Subsection 7(2) requires, in part, that the Commission's determination must not allocate capacity unless the Commission is satisfied that the allocation would be of benefit to the public and would not be contrary to any restrictions on capacity contained in bilateral arrangements, or combination of bilateral arrangements.

3.3 Further, subsection 7(3) of the Act provides that in assessing the benefit to the public of an allocation of capacity, the Commission must apply the criteria set out in the policy statement made by the Minister pursuant to section 11 of the Act

3.4 Under section 11 of the Act, the Minister made the *International Air Services Commission Policy Statement 2018* (the Policy Statement) which came into effect on 28 March 2018. The Policy Statement sets out the criteria which the Commission is required to apply in assessing the benefit to the public of allocations of capacity.

3.5 Section 11 of the Policy Statement provides that where the Commission has received an application for capacity and there is unlimited capacity available for allocation under the relevant bilateral arrangement, the Commission is to have regard to the reasonable capability criterion and need not have regard to any other matter.

3.6 Under the reasonable capability criterion in section 8 of the Policy Statement, the Commission is required to assess the extent to which all Australian carriers that are, or would be, permitted to use the capacity allocated under a determination are reasonably capable of: (a) obtaining any licences, permits or other approvals required to operate on and service the route to which the determination relates; and (b) using the capacity allocated under the determination.

3.7 The Commission notes that Tasman Cargo is an established carrier operating scheduled international freight services between Australia and New Zealand. The Commission further notes a recent advice provided by the Department of Infrastructure, Transport, Regional Development and Communications that Tasman Cargo is a

designated Australian airline under the Australia-Singapore air services agreement (ASA); has an Australian International Airline Licence and holds the relevant safety and security approvals.

3.8 In light of the foregoing, the Commission considers that Tasman Cargo is reasonably capable of obtaining the relevant licences, permits and other approvals required to operate on the Australia-Singapore route and using the capacity sought to be allocated under the determination. The Commission therefore is of the view that allocating the capacity in favour of Tasman Cargo would be of benefit to the public.

3.9 Paragraph 15(2)(a) of the Act requires a determination to specify the period during which it is to be in force. Subsection 15(3) of the Act effectively provides that if the Minister's Policy Statement sets out how the period of validity of the determination is to be fixed, then the period of validity is as so fixed.

3.10 Section 20 of the Policy Statement sets out how the Commission is to fix the period during which a determination is to be in force. The Commission considers that this application is within the scope of subsection 20(2) which provides that 'where capacity is not limited under the relevant bilateral arrangement, the period during which the determination is to be in force should be fixed at 99 years'.

4 Determination allocating capacity on the Singapore route to Tasman Cargo ([2021] IASC 104)

4.1 In accordance with section 7 of the Act, the Commission makes a determination in favour of Tasman Cargo allocating unlimited capacity to operate dedicated freight services between Australia and Singapore in accordance with the Australia – Singapore air services arrangements.

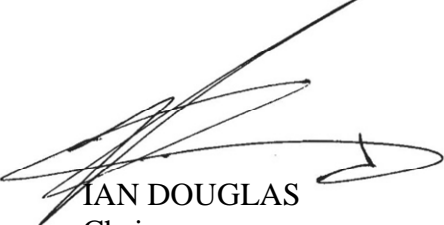
4.2 The determination is valid for 99 years from 01 April 2021.

4.3 The determination is subject to the following conditions:

- (a) Tasman Cargo is required to utilise the capacity from no later than 31 October 2021 or such other date approved by the Commission.
- (b) Only Tasman Cargo is permitted to utilise the capacity.
- (c) Tasman Cargo is not permitted to utilise the capacity to provide code share or joint services with another carrier or any other person unless approved by the Commission.
- (d) Changes in relation to the ownership and control of Tasman Cargo are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Singapore 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 Tasman Cargo or be in a position to exercise effective control of the airline, without the prior consent of the Commission.

Dated: 01 April 2021



IAN DOUGLAS
Chairperson



KAREN GOSLING
Commissioner