

Ms Charlotte Reed

Input Methodologies Manager
Commerce Commission New Zealand
44 The Terrace, Wellington Central
Wellington, New Zealand

Via email: IM.Review@comcom.govt.nz

9 August 2023

RE: Cross-Submission on Part 4 Input Methodologies Review 2023 – Draft Decision

Dear Ms Reed,

Airlines for Australia and New Zealand (A4ANZ) welcomes the opportunity to provide a cross-submission in response to submissions received on the Commerce Commission’s draft decision.

As A4ANZ has already provided a submission in response to the Commission’s draft decision, we ask that our commentary in this cross-submission be considered together with our earlier input, as well as the contributions of our member airlines.

Submissions from investors, airport companies, and their industry representative, the New Zealand Airports Associationⁱ, all sought to raise the prospect of risk to investment in essential infrastructure as a reason to change the Commission’s draft decision. We believe that the Commission should reject these arguments – and retain its draft decision – on the basis that:

- There is no compelling evidence – rather, a reliance on supposition – that underinvestment will occur if the draft decision is upheld. In fact, the evidence from regulated airports in other jurisdictions and from other monopoly infrastructure sectors (e.g. Australian gas pipelines), suggests that investment remains strong, even when they are subjected to forms of regulation that seek to constrain their market power.ⁱⁱ
- What the airports really appear to be saying is that they are worried about constraints being placed on their ability to earn excess returns (as they have been shown to do previouslyⁱⁱⁱ), while attempting to package this as regulatory uncertainty. From Auckland Airport’s submission:

“The DD gives surprisingly little consideration of the implications of removing regulatory certainty going forward. Regulated airports, their lenders and their shareholders will find it impossible to predict with any confidence the approach that the Commission will take in future IM Reviews as it’s very hard to see what the Commission will do if and when other economic shocks inevitably work their way in and out of the data and/or the DD methodology results in a midpoint WACC estimate that no longer aligns with the Commission’s view of the right answer. This makes it impossible to predict the returns that the Commission will find acceptable over the long term from the many billions of dollars of critical multi-generational aeronautical infrastructure investment that regulated New Zealand airports are currently planning.”

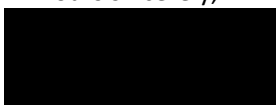
The Commerce Commission’s reviews of the Input Methodologies are a well-known part of the regulatory framework for monopoly infrastructure. The whole purpose of such reviews is to test the methodologies against best practice regulatory approaches, and assess whether settings and inputs remain fit-for- purpose. The idea that this would never result in the Commission revising its approach is simply not a realistic expectation, yet Auckland Airport’s submission seems to suggest that they have made plans on the expectation that things would always remain the same – now, and even in future reviews.

Furthermore, airports and their representatives are, on the one hand, demanding “regulatory certainty,” while at the same time asking that the Commission, in looking to the period ahead, rely upon a judgement in the Perth Airport vs Qantas case in the WA Supreme Court; a decision on aeronautical pricing which applied only to a 5-month period from 2018.^{iv,v,vi}

- Investment prospects remain positive, as monopoly airports have traditionally recovered well following global economic events (see chart on following page). And although the scale of COVID-19 was a far greater economic shock than earlier events, investors remain positive about New Zealand’s airports, and in particular, Auckland Airport,^{vii} which, prior to the pandemic, enjoyed returns far in excess of most international benchmarks^{viii} – under the same regulatory regime which exists today.
- When reading submissions where an airport threatens to reduce capex or even to not make investments to address the challenges of climate change (as AIA’s submission seems to intimate), it is a stark reminder to us all that monopoly businesses are rarely driven to improve the efficiency of their investments, without a genuine threat of regulatory intervention. Making such statements might actually be a sign that their investment was not as efficient as it could have been in the first place. Having the inputs set at an appropriate level discourages gold-plating, and instead encourages fit-for-purpose investment, the benefits of which flow through to travellers.
- Ensuring there are appropriate inputs to airport pricing such as those proposed by the Commission is actually facilitating the proper outcome of the regime as legislated, i.e. that it benefits consumers by encouraging fit-for-purpose investments. This raises questions as to the alignment between the purpose of Part 4 of the Commerce Act, and the arguments being put by the airports – which is further reason to reject them. It shouldn’t need to be said that it is not the Commission’s role or responsibility under the Act to guarantee airport shareholder returns. Undertaking periodic, rigorous reviews of their methodology, in a public and transparent manner, is exactly what all stakeholders should expect from the Commission.

A4ANZ thanks the Commission for the opportunity to make a cross-submission on the Part 4 Input Methodologies Review 2023 Draft Decision and would be pleased to discuss any part of this submission, or indeed our original submission, with the Commission.

Yours sincerely,



Dr Alison Roberts, Chief Executive Officer



Airlines for Australia & New Zealand

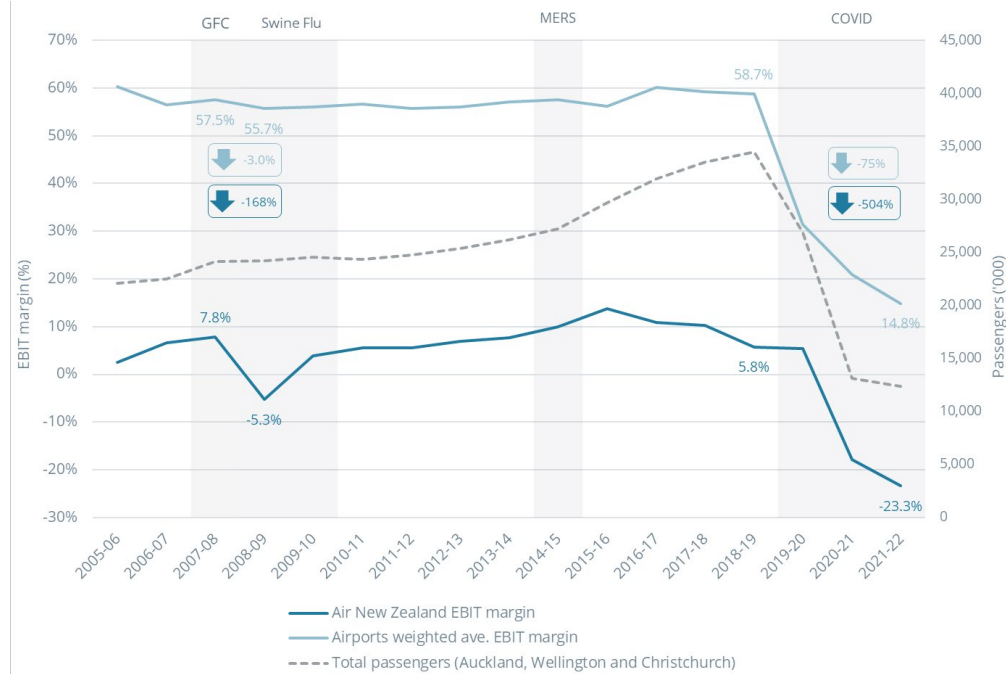
Level 26, 360 Collins Street

Melbourne Vic 3000



www.a4anz.com

Figure 1. The impact of global events on airline and airport profitability in New Zealand*



*Based on analysis by Frontier Economics, using publicly available data, Aug 2023.

ⁱ New Zealand Airports Association. 2023. Submission on Draft Decision – Part 4 Input Methodologies Review 2023. At: https://comcom.govt.nz/_data/assets/pdf_file/0017/323153/NZ-Airports-Association-Submission-on-IM-Review-2023-Draft-Decisions-19-July-2023.pdf

ⁱⁱ Airline for Australia & New Zealand. 2023. Submission in response to Aviation White Paper Terms of Reference. pp. 26-27. At: <https://www.infrastructure.gov.au/sites/default/files/documents/awptor2023-submission-a93-a4anz.pdf>

ⁱⁱⁱ Airlines for Australia & New Zealand. 2021. Civil Aviation Bill – Submission to the Transport & Infrastructure Select Committee. At: https://a4anz.com/documents/A4ANZ-Submission_Civil-Aviation-Bill.pdf

^{iv} Morrison & Co, 2023. Morrison & Co response to the Commerce Commission’s draft Input Methodologies Review 2023. At: https://comcom.govt.nz/_data/assets/pdf_file/0020/323147/Morrison-26-Co-Submission-on-IM-Review-2023-Draft-Decisions-19-July-2023.pdf

^v Wellington International Airport Limited. 2023. Submission on 2023 Input Methodologies Review Draft Decisions. At: https://comcom.govt.nz/Auckland Airport: monopoly power on display/_data/assets/pdf_file/0023/323177/Wellington-International-Airport-Ltd-WIAL-Submission-on-I-Review-2023-Draft-Decisions-19-July-2023.pdf

^{vi} New Zealand Airports Association. Op cit (i).

^{vii} Witcomb, G. 2023. Intelligent Investor – Auckland Airport: monopoly power on display. At: <https://www.intelligentinvestor.com.au/recommendations/auckland-airport-monopoly-power-on-display/152605>

^{viii} Airlines for Australia & New Zealand. 2018. Submission to the Commerce Commission’s Review of Auckland International Airport’s Pricing Decisions & Expected Performance (July 2017 – June 2022). pp. 2. At: https://a4anz.com/documents/A4ANZ_Submission_to_AIAL_PSE3_Review.pdf