

2 April 2024

By email: infrastructure.regulation@comcom.govt.nz

Vhari McWha
Commissioner
Commerce Commission
WELLINGTON

Dear Commissioner

Further to my letter of 1 February 2024, and the Commission's email of 14 February 2024 inviting further information, I am now providing you with details of the technical errors we have identified in the estimation of asset beta and the calculation of pandemic uplift in the Commerce Commission's Final Decision on the 2023 review of the Cost of Capital Input Methodologies ("**Final Decision**").

NZ Airports wishes to emphasise that it is not our intention to re-litigate the merits of the Final Decision outside of the merits review process which is ongoing. However, we are raising these technical errors directly with the Commission because they appear to be unintentional and unambiguous coding errors.

The errors were only able to be identified when copies of the coding were made available with the release of the Final Decision. These are therefore not matters that could have been raised during the IM consultation. Had the coding been made available during the consultation period, NZ Airports, with the assistance of the expert advisers, could have raised the errors with the Commission prior to the release of the Final Decision.

We believe that the nature of these errors and the gravity of their impact is such that it is appropriate to provide the Commission with an opportunity to address the errors outside of the merits review process. We therefore appreciate the Commission's willingness to constructively engage with NZ Airports on these issues.

To assist the Commission's assessment of the errors, we are providing a report titled "Responding to Coding errors made by the NZCC", prepared jointly by Dr Tom Hird and Samuel Lam from Competition Economists Group, Jeff Balchin from Incenta, and Brendan Quach and Johnathan Wongsosaputro from HoustonKemp ("**Joint Expert Report**"). As you are aware, all of these experts provided independent expert reports during the 2023 IM review process.

The Joint Expert Report is not a critique of the Final Decision. Consistent with our intent not to relitigate the merits of the Final Decision outside of the merits review process, we instructed the experts only to address clear coding errors. We did not ask them to provide views on matters that involve the exercise of judgement, could be argued in different ways, or where the assumptions or intended approach was not explicitly set out during the consultation or in the Final Decision.

We provide a brief overview below on each of the topics covered in the Joint Expert Report.

Error in the estimation of asset beta

The first error identified in the Joint Expert Report is a coding error relating to the calculation of the pre-COVID asset beta.

The Commission's standard historical practice and stated intention in the Final Decision is to average weekly and four weekly observations. However, as noted in the Joint Expert Report, the code used only weekly observations, and addressing this error would change the "pre-COVID" asset beta from 0.63 to 0.65.

Error in calculation of pandemic uplift

The second error identified in the Joint Expert Report is a coding error relating to how the Flint method is implemented by the Commission in calculating the pandemic uplift.

The Flint method applies a Weighted Least Square (WLS) regression to ensure the appropriate weight is applied to pandemic and non-pandemic data. The Commission's use of coding provided by TDB Advisory applies an Ordinary Least Squares (OLS) regression.

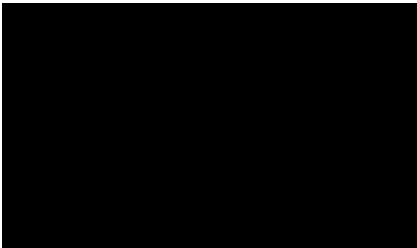
Compared to the correct implementation of the Flint WLS regression method, the OLS regression code used by the Commission materially underestimates the impact of pandemic risk on asset beta.

Conclusion

NZ Airports welcomes the opportunity to constructively engage with the Commission to address the errors identified in the Joint Expert Report. Given the materiality of the errors, we believe the Commission should revisit the relevant aspects of its Final Decision. We hope we can work with you towards a resolution outside of the merits review process.

We look forward to your response.

Yours sincerely



Chief Executive