

1 June 2012

Dr Mark Berry
Chairman
Commerce Commission
P O Box 2351
Wellington

Dear Dr Berry

- 1 We have now received the Commission's "Process and Issues" paper dated 31 May 2012 regarding section 56G reports into airport services. We have serious concerns with both the process you have set out and also the manner in which you are consulting on that process. We would like to meet with you at your earliest convenience to discuss our concerns – are you available on Tuesday afternoon or Wednesday of next week (i.e. 5th/6th June)?
- 2 We have a range of concerns around your process (detailed below) that we think are fundamental and warrant open-minded consideration. However, while you claim (at paragraph 13) to be interested in matters of process, we are being asked to provide our views at the same time as providing substantive input into that very same process in respect of which we have real concerns. This strongly suggests pre-determination of process matters – indeed the conflation in the title of your document "Process **and** Issues" suggests this there is no process consultation here at all. The Commission is effectively skipping straight past "process" into "issues".
- 3 Our immediate concerns on process are as follows:

Inefficient

- 3.1 The Commission's process will be grossly inefficient with largely identical issues being canvassed in triplicate in quick succession at great cost to all interested parties and the Commission itself.

Unfair

- 3.2 This is a unique regulatory process. Wellington International Airport Limited (WIAL) as first "cab off the rank" has effectively been charged with establishing the relevant regulatory precedent for others to follow. This places an unfair burden on WIAL and it potentially could have substantively adverse commercial implications to the extent that WIAL is unable to develop its own response to issues arising specifically in the context of subsequent processes involving Auckland or Christchurch Airports.

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Lacking in rigour

- 3.3 Any Commission report on these issues should reflect a pan-industry view, having accounted for all relevant comparative data and with all perspectives properly accounted for. The Commission has trumpeted the success of its IM conferences where a range of views were made available at the same time. Why divert from this model now? This cross-fertilisation of views cannot happen with a sequential approach – at least not for WIAL. Under this process the reports (assuming it is lawful for the Commission to generate multiple reports) will improve over time as the aggregate learnings are taken into account. Again, this is unfair for WIAL, which should receive equivalent treatment to the other airports regulated under Subpart 11.

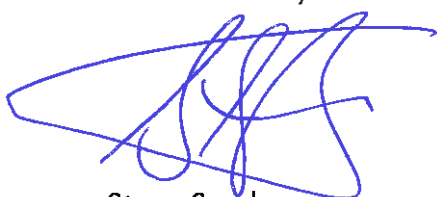
Inconsistent with the Act

- 3.4 The Commission under section 56G(1)(c) needs to report on *how effectively the existing regulation is promoting the purpose in section 52A*. This is a broad brief and it is not at all clear that the Commission can do this properly only looking at one of the airports in isolation.

Onerous and unworkable

- 3.5 The timing proposed for participating in this process is unworkable. The questions addressed to WIAL go to the most fundamental and complex issues facing our business – and yet we have only three weeks to respond. Again, this is simply unfair. We need at least six weeks to answer these questions and a minimum of two weeks to make cross-submissions in any instance.
- 4 We cannot understand why the Commission feels the need to run these processes separately in a manner that gives rise to such serious issues of fairness when the alternative is simply to wait a short time until all three airports have completed their consultations. It would surely only be “practicable” to do this important task properly, once, together.
- 5 Accordingly, when we meet we will be seeking the Commission’s assurance that it has not designed this process in response to lobbying by interested parties (e.g. customers of the airports or their agents).
- 6 Can you please confirm a time and a date when we can meet with you and your team? It is absolutely critical for our business and we can accommodate any time suitable to the Commission.

Yours sincerely



Steve Sanderson
Chief Executive