

12 October 2021

Attn: Jenna Raeburn
GM Corporate Affairs
Wellington International Airport Limited

By email only: jenna.raeburn@wellingtonairport.co.nz

Dear Jenna,

Response to Wellington International Airport Limited's request for an exemption from disclosure requirements under the Airport Services Information Disclosure Determination 2010

1. We write in response to Wellington International Airport Limited's (**WIAL**) email received on 1 March 2021 requesting the Commission provide:
 - 1.1 an exemption from the requirement under clause 2.4(2) of the Airports Services Information Disclosure Determination 2010 (**ID Determination**) to April 2022; and
 - 1.2 a 'partially retrospective' exemption for Q3 and Q4 of the 2020 calendar year.
2. We respond to your exemption requests below. We outline the background and basis for the decision on the current exemption request; and clarify the Commission's position on 'retrospective' exemptions.

Background

3. Under clause 2.4(1) of the ID determination, within five months after the end of each disclosure year, every airport regulated under Part 4 of the Commerce Act 1986 (**Act**) (**regulated airport**) is required to disclose information relating to the quality of its specified airport services.
4. Clause 2.4(1)(a)(iv) requires the disclosure of the *Report on Passenger Satisfaction Indicators* set out in Schedule 14, and clause 2.4(1)(b) requires the public disclosure of those reports.

5. Under clause 2.4(2) of the ID Determination, every three months, every regulated airport must complete a passenger satisfaction survey for:
 - 5.1 passengers about to board a domestic flight (**domestic surveying**); and
 - 5.2 passengers about to board an international flight (**international surveying**) (together **passenger surveying**).
6. On 31 March 2020, through our powers under clause 2.9(1)(a) of the ID Determination, the Commission granted regulated airports (including WIAL) an exemption from:
 - 6.1 the requirement to complete a passenger satisfaction survey in accordance with clause 2.4(2) of the ID Determination, for the first two quarters of calendar year 2020; and
 - 6.2 the requirement to publicly disclose the associated Passenger Satisfaction Indicators for those quarters in Schedule 14 of the ID.¹

Current Exemption Request

7. On 1 March 2021, WIAL requested a further exemption from requirements to undertake passenger surveying and to publicly disclose the associated information, as required under clauses 2.4(1)(a)(iv), 2.4(1)(b), 2.4(2)(a) and 2.4(2)(b), until April 2022.
8. WIAL presented the view that COVID-19 (**Covid**) continues to have a substantial effect on its operations, and as such, has affected its ability to measure domestic and international passenger satisfaction.

¹ The exemption issued to WIAL on 31 March 2020 can be found [here](#) on the Commission's website.

Exemptions granted

9. Under clause 2.9(1)(a) of the ID determination, by this notice, subject to the condition outlined below, the Commission grants WIAL an exemption from:
 - 9.1 the requirement to complete a passenger satisfaction survey in accordance with:
 - 9.1.1 clause 2.4(2)(a) of the ID Determination, for the quarters starting 1 July 2021 and ending 31 March 2022; and
 - 9.1.2 clause 2.4(2)(b) of the ID Determination, for the quarters starting 1 July 2021 and ending 30 June 2022; and
 - 9.2 the requirement to complete and publicly disclose the associated Passenger Satisfaction Indicators for those quarters in Schedule 14 (*Report on Passenger Satisfaction Indicators*) of the ID Determination.
10. We notified WIAL staff of the decisions via e-mail, on 27 August 2021 in response to the international surveying request, and on 16 September 2021 in response to the domestic surveying request.
11. The exemption for domestic surveying is granted on a conditional basis. This condition is outlined in paragraph 25 of this letter.
12. The Commission considers it appropriate to grant WIAL the exemptions outlined above from 1 July 2021 for the reasons outlined below.

International Surveying

13. We acknowledge the airports industry continues to deal with the effects of Covid. As such, we understand regulated airports are struggling to meet the obligation for international surveying for several reasons, including:
 - 13.1 an unclear path to recovery for international tourism;
 - 13.2 health and safety considerations relating to field workers and data collection; and
 - 13.3 the volume of international passengers remains very low compared to pre-Covid levels and as such, robust sampling of data may not be possible.

14. Earlier this year, the New Zealand government implemented a 'Trans-Tasman bubble' with Australia to support the recovery of international tourism. Due to multiple outbreaks of Covid in recent months, periodic and regional lockdowns continue to be put in place across Australia and New Zealand. As such, we acknowledge the path to recovery for international tourism remains unclear, and it is likely to be some time before the industry can return to a normal operating environment.
15. We understand, since the previous exemption expired, WIAL has not completed international surveying and publicly disclosed the associated passenger indicators due to health and safety concerns. We acknowledge this concern.
16. Further, WIAL implies that even if these surveys were carried out, the relatively small number of respondents would make it difficult to undertake robust sampling of data. We agree that, based on the limited volume of international travellers, the dataset of international passengers is likely to be too small for accurate sampling measures to be used that are representative of the population dataset.
17. We consider that for international surveying, under these circumstances, the purpose of ID is currently unable to be fully met because of health and safety issues, insufficient passenger numbers, and the passenger satisfaction data being unavailable as a result of Covid.

Domestic surveying

18. WIAL outlined that it is struggling to meet its domestic surveying obligation due to the impact of Covid-19, including the cost-cutting measures from 2020 that are still in place.
19. The Commission is mindful of the need to implement a cost-effective regulatory regime. We consider that we should balance the costs associated with surveying and reporting on airport service quality, against the benefit these quality disclosures are intended to provide to interested persons.
20. In the current circumstances, we consider that passenger surveying obligations are likely to impose a greater relative cost on WIAL.

21. We also consider there is a reduced benefit in passenger satisfaction disclosures under the Covid-affected environment for the following reasons:
 - 21.1 Covid has had a material impact on operational activities of all airports, and as such, the disclosures relating to individual airport service quality performance will have reduced the value of benchmarking; and
 - 21.2 due to a reduction in travel numbers, survey results are likely to be less statistically reliable than they would otherwise be.
22. Taking these factors into account, we consider granting an exemption is appropriate.
23. A decision on the domestic surveying request was made shortly before New Zealand entered alert level 4 lockdown. Given the change in circumstances compared to when WIAL first submitted its application, we sought additional information from WIAL.
24. Ultimately this information has not materially affected our decision to grant the requested exemption.

Condition for exemption

25. As a condition of the domestic surveying exemption, we expect WIAL to continue collecting service quality information using the alternative survey outlined in its application. WIAL developed a survey that continues to collect some service quality information, which it will share with its stakeholders every 4 months.

Our expectations

26. WIAL requested an exemption from passenger surveying on 1 March 2021. In its letter, WIAL did not define a start date. Based on the retrospective request excluding Q1 of 2021, we understand the forward-looking exemption request to be from 1 January 2021 (Q1 of calendar year 2021).
27. As set out in our administrative guidance² parties should not presume in advance that exemptions will be granted, and short notice requests reduce the scope for the Commission to grant any requested exemption. However, we recognise that the on-going effects of Covid-19 on the industry may have impacted the regulated airports' ability to submit exemption applications in a timely manner.
28. WIAL also requested an exemption for Q3 and Q4 of 2020 (i.e. a retrospective exemption).

² Our administrative guidance for exemption requests can be found [here](#) on the Commission's website.

29. The Commission does not provide an exemption where non-compliance has already occurred. Where non-compliance occurs, the Commission considers this in line with our enforcement criteria, which are extent of harm, seriousness of conduct, and public interest.³
30. We expect WIAL to closely monitor international travel volumes and to keep us informed of any change in circumstances that may allow it to re-instate international surveying when reasonably practicable.

Further Information

31. This exemption may be revoked or further amended by the Commission at any time in accordance with clause 2.9(1)(b) of the ID determination.
32. A copy of this exemption response letter will be published on the Commission's website.
33. If you have any questions regarding this matter, please contact Rhys Williams at rhys.williams@comcom.govt.nz.

Yours sincerely



Sue Begg
Deputy Chair

³ More information about our Enforcement Criteria can be found [here](#) on the Commission's website.