

08 May 2015

John McLaren
Manager, Regulation Branch
Commerce Commission

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

Dear John,

Response to draft report of analysis on Wellington Airport's third price setting event

The Commission, on 17 April 2015, released its analysis of Wellington International Airport Limited's (WIAL) third price setting event, for prices applying to the provision of aeronautical services for the period 1 July 2014 – 31 March 2019. Feedback on this analysis was requested by 8 May 2015.

Air New Zealand has been involved in, and endorses, the response to the Commission's analysis submitted by BARNZ.

Air New Zealand wishes to, in particular, express its support for the concern expressed by BARNZ in relation to the Commission's statement at paragraph 30 of its analysis that "the announcement of price changes suggests that information disclosure has been effective at limiting Wellington Airport in its ability to earn excessive profits from specified airport services."

It must be noted that WIAL's decision to re-visit its pricing arose only because of the one-off Section 56G review of its prices by the Commission, not the information disclosure regime itself, which was in operation when WIAL set the prices which the Commission determined would result in the airport earning excessive profits.

Information disclosure, in and of itself, has proven ineffective, as evidenced by the Commission's original findings in respect of both Wellington and Christchurch airports. Air New Zealand addressed this point in its response to the Ministry of Business, Innovation and Employment's review of the effectiveness of information disclosure.

Further, the Commission's suggestion should be considered in light of:

- the Commission determination that Wellington Airport is targeting a return at the extreme top end of its 25-75 percentile range – which is subject to review and, given the Commission's conclusions in respect of other regulated industries, can be expected to be reduced;
- its reliance on a conservative approach to assessing the timing of cash-flows which is inconsistent with the approach taken by the Commission in respect of other regulated sectors; and
- the very real issues identified by BARNZ with the MVAU land valuation adopted by WIAL, which mirror concerns expressed by Darroch, the Commission's independent advisors.

In light of these issues, and the Commission's statement that the return being targeted by WIAL is "above our assessment of a normal return" Air New Zealand considers the Commission's original conclusions, that information disclosure is ineffective at limiting excessive profits at WIAL, should remain.

In searching for an example of Information Disclosure's success, it is tempting to say that prima facie, the regime has influenced WIAL as evidenced by the price re-set. Unfortunately this logic is flawed. Airports are natural monopolies, who are only facing a one-off review for one pricing round which has no enforcement mechanism. Furthermore, this reset also takes place in the context of a legislative review of the Airport Authorities Act and a High Court instigated review of WACC. These are temporary factors with a time bound impact on behaviour, yet the airports' status as a natural monopoly is by definition permanent.

The Commission made similar comments concerning 'above normal' returns in relation to Auckland International Airport Limited's (AIAL) pricing, but ultimately held them acceptable. AIAL, obliged to maximise returns to shareholder, priced at the top of the range. WIAL, with same obligations (but now heightened by the AIAL example) also priced at the top of the range.

Far from illustrating the effectiveness of information disclosure, the airports are only just limiting their behaviour during a period of temporary regulatory uncertainty. In the context of the permanence of the airports' monopoly, this is insufficient and ineffective protection for consumers.

Thank you for the opportunity to comment on the Commission's analysis and we look forward to the final report.

Yours sincerely,



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