

29 May 2020

Attn: Jenna Raeburn
Head of Regulatory Affairs
Wellington International Airport

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

Dear Jenna,

Amendment to exemption for Wellington International Airport Limited price setting disclosure due 1 June 2020

1. On 14 August 2019, the Commerce Commission (**Commission**) granted Wellington International Airport Limited (**Wellington Airport**) an exemption (**2019 Exemption**)¹ from disclosing certain information as required by clause 2.5(1) of the Airport Services Information Disclosure Determination 2010 (**ID Determination**).² This exempted Wellington Airport from disclosing this information until 1 June 2020.
2. The Commission understands that Wellington Airport's passenger forecasts and capital expenditure plan has changed significantly due to COVID-19. As a result of this, Wellington Airport has requested a further deferral of the price setting disclosure until June 2021.
3. By this notice we amend the end date of the 2019 Exemption and extend it to 1 June 2021. To facilitate submission of complete and meaningful information disclosure in light of the disruption resulting from COVID-19, Wellington Airport must disclose the information specified in clause 2.5(1) of the ID Determination by 1 June 2021.

Price setting disclosure requirements

4. Under clause 2.5(1) of the ID Determination, every airport regulated under Part 4 of the Commerce Act 1986 (**regulated airport**) must disclose certain information relating to its forecast total revenue requirement following a price setting event. This disclosure must be made either within 40 working days following a decision to fix or

¹ The 2019 Exemption was made in accordance with clause 2.9(1)(a) of the ID Determination and is available on the Commission's website at: https://comcom.govt.nz/data/assets/pdf_file/0024/168171/Wellington-International-Airport-Exemption-request-response-14-August-2019.PDF

² The ID Determination is available on the Commission's website at: https://comcom.govt.nz/data/assets/pdf_file/0020/155009/Airport-services-information-disclosure-determination-2010-consolidated-18-June-2019.pdf

alter a price that will cause a price setting event (**PSE**), or within five consecutive years of the regulated airport's previous disclosure under clause 2.5(1).

5. Wellington Airport's most recent disclosure under clause 2.5(1) was made on August 2014. As it has not fixed or altered a price to trigger a PSE since then, Wellington Airport was required to disclose the information specified in clause 2.5(1) by 20 August 2019 for the fourth PSE period (**PSE4**).
6. On 14 August 2019, the Commission granted Wellington Airport the 2019 Exemption which gave effect to an extension of this deadline to 1 June 2020. This was to allow Wellington Airport to complete its consultation programme with customers regarding its forward pricing (as required under the Airport Authorities Act 1966) and draft 2040 master plan before prices for PSE4 were set.
7. At that time, Wellington Airport advised us that it agreed with its customers a 12-month extension to its consultation programme to allow it to work through the consultation on its draft 2040 master plan. Wellington Airport believed it would not have been able to provide accurate and meaningful disclosures required under clause 2.5(1) until it had finalised its capital expenditure plan and completed its pricing consultation with its customers.

Request for extension of 2019 Exemption

8. Wellington Airport has completed its consultation on PSE4 and new prices were due to be announced on 1 April 2020.
9. However, we understand that the event of COVID-19 has seen major changes to Wellington Airport's passenger forecasts and capital expenditure plans, which were not foreseen during the consultation on PSE4.
10. After discussions with its key customers, Wellington Airport has decided to hold all charges at current rates for another year, with new prices expected to be set by 1 April 2021. As such, Wellington Airport has requested an extension to the 2019 Exemption to allow for another year's delay in the requirement to set prices, instead providing a PSE disclosure under ID requirements by June 2021.
11. We understand that Wellington Airport has consulted its key airline customers on this approach and that they have expressed agreement with it.
12. We note that Wellington Airport has kept the Commission informed during this time, and has proposed to voluntarily disclose its record of PSE4 consultation with airline customers to date.

Extension of 2019 Exemption granted

13. The Commission considers that the further extension of time for Wellington Airport to provide its pricing and associated disclosures is appropriate given the disruption

and uncertainty caused by the COVID-19 pandemic, particularly to the airline industry.

14. Allowing Wellington Airport another year for this disclosure will also provide Wellington Airport some relief from regulatory requirements in the short term, at a time of great strain for the industry.
15. We note that the voluntary disclosure by Wellington Airport of the aspects of pricing discussed with airlines before the COVID-19 pandemic will provide some transparency to stakeholders.
16. As such, under clause 2.9(1)(b) of the ID Determination, the Commission makes the following amendment to the 2019 Exemption:
 - 16.1 The Commission amends paragraph 11.2 of the 2019 Exemption by replacing the words “1 June 2020” with the words “1 June 2021”.
 - 16.2 This amendment has the effect of continuing Wellington Airport’s exemption from the requirement in clause 2.5(1) of the ID Determination to disclose information relating to its forecast total revenue for PSE4. Wellington Airport is now required to disclose the information specified in clause 2.5(1) of the ID Determination by **1 June 2021**.

Further information

17. The 2019 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.
18. A copy of this exemption amendment notice will be published on the Commission’s website.
19. The amendment in this notice has been made on an exceptional basis in light of the COVID-19 pandemic.
20. The Commission recognises that the situation with COVID-19 in New Zealand is constantly changing and evolving, and further changes to timeframes or exemptions may be appropriate in the future. We will remain open and responsive to industry feedback, to ensure that companies are able to focus on providing essential goods and services during the COVID-19 pandemic.
21. We intend to be pragmatic in our approach to enforcement where regulated suppliers can demonstrate that any compliance issues have arisen as a consequence of prioritising efforts to protect customers, security of supply and safety or as a consequence of factors entirely outside of the supplier’s control. We would appreciate WIAL continuing to keep us informed of any decisions it makes that may lead it to breach its disclosure, or other, regulatory requirements.

22. If you have any questions regarding this matter, please contact regulation.branch@comcom.govt.nz.

Yours sincerely

A handwritten signature in blue ink that reads "Sue Begg". The signature is written in a cursive style with a large initial 'S'.

Sue Begg
Deputy Chair