

SUBMISSION ON PROCESS UPDATE AND OPPORTUNITY TO SUBMIT ON THE REVIEW OF AUCKLAND INTERNATIONAL AIRPORT

INTRODUCTION

1. This is the New Zealand Airports Association ("**NZ Airports**") submission on the paper entitled Airport Services - section 56G Reports: Process update and opportunity to submit on the Review of Auckland International Airport. It is made on behalf of Auckland International Airport Limited, Wellington International Airport Limited and Christchurch International Airport Limited ("together, **Airports**").
2. The NZ Airports contact for matters regarding this submission is:

Kevin Ward Chief Executive
PO Box 11 369
Manners Street
Wellington 6011
DDI: (04) 384 3127
Mobile: 021 384 524
Email: kevin.ward@nzairports.co.nz
3. We have reviewed the proposed timeframe for the Auckland Airport tranche of the Review under section 56G of the Commerce Act ("**Review**"). On the whole, it will be demanding but achievable.
4. The Commission has now firmly established its approach of separate reviews for each airport. NZ Airports will not repeat its earlier submissions on this point. However, it encourages the Commission to reconsider the proposal to present separate final reports to Ministers. It is inevitable that the Commission's and interested parties' views and understanding of the effectiveness of information disclosure regulation under Part 4 ("**ID**") will continue to evolve and develop as new issues are raised and tested in relation to each airport. NZ Airports believes that the risk of prejudice to individual airports, or inconsistent treatment between Airports, would be mitigated if the Commission finalised its views and reports for each airport after considering the totality of evidence for all Airports.
5. The Commission has invited feedback on a number of questions in relation to Auckland International Airport Limited ("**Auckland Airport**"), which are similar in scope and content to the questions for Wellington International Airport Limited ("**WIAL**"). NZ Airports will leave Auckland Airport (and other airports) to respond to those questions. Consistent with its engagement on the WIAL Review, the NZ Airports' submission focuses on relevant statutory framework issues that are important to the Auckland Airport Review.

EXECUTIVE SUMMARY

6. As the Auckland Airport tranche of the Review commences, some important statutory framework issues remain unresolved. This submission seeks to assist the Commission to resolve those issues.
7. There appears to be common ground that:

- (a) The Review requires an assessment of incentives faced by regulated suppliers and actual market outcomes. In NZ Airports' view:
 - (i) The Commission should focus on whether the ID regime it has established is creating the right incentives for Airports to promote outcomes consistent with all objectives of the Part 4 Purpose Statement ("**Purpose Statement**"); and
 - (ii) Actual market outcomes should be the primary focus of the Review, subject to the Commission's acknowledgement that there is insufficient time series data to draw solid conclusions on actual performance.¹
- (b) ID is intended to actively promote the Purpose Statement. However in NZ Airports' view, this does not necessarily mean that Airports' behaviour and performance needs to change to be consistent with the Purpose Statement. If the correct incentives are in place, Airports will either consolidate existing behaviour or performance that is consistent with the Purpose Statement, or initiate change to their behaviour and performance if it is inconsistent. Those incentives are provided by the transparency that robust ID provides.

8. NZ Airports makes the following additional key points in this submission:

- (a) In relation to the role of the Input Methodologies ("**IM**") in the Review:
 - (i) The primary relevance of IMs to the Review is that disclosed information is compiled using those methodologies and they will also be applied by the Commission when assessing that information.
 - (ii) They are also relevant because they provide consistent disclosures that should improve understanding of airport performance over time. They are also having an impact on airport conduct in practice.
 - (iii) However, the test of the effectiveness of ID cannot be whether it replicates price control. An effective ID regime is not one in which pricing outcomes result from a strict application of the IMs.
 - (iv) Accordingly, a decision by an airport not to use an IM:
 - (aa) Should not be interpreted as being inconsistent with promoting the Purpose Statement. As the Commission acknowledges, workable competition produces a broad range of outcomes and there may be a number of approaches to inputs that promotes outcomes that fall within that range;²
 - (bb) Should not be viewed in isolation. There may be occasions where the Commission is concerned that the inputs to a pricing decision are not consistent with promoting the Purpose Statement. In such instances, the Commission needs to assess the inputs and forecast pricing outcomes as a package, rather than being drawn into an isolated input by input assessment.

¹ Commerce Commission, Airport Services Section 56G Report Process and Issues Paper, at paragraph 11.

² Commerce Commission, Input Methodologies Airport Services Reasons Paper, December 2010, 2.5.3.

- (b) A counterfactual analysis should be used with caution, if at all. NZ Airports considers that it may not be possible to identify an immediate impact of ID given that:
- (i) The industry and regulatory regime prior to the introduction of ID was working well, albeit certain improvements to ID were required as noted later in this submission. The sector was in good health, with good investment, innovation and quality supported by efficiencies and reasonable returns; and
 - (ii) ID has only just begun and is yet to be fully implemented, including a sufficient time series of data together with the Commission's reviews and monitoring reports.
- (c) It is relevant to the Review that an effective ID regime should preserve the incentives for airlines and Airports to reach mutually beneficial commercial arrangements. An approach by the Commission founded on assessment of pricing inputs as occurs in price control regulation introduces significant risk that commercial agreements will be disincentivised.
- (d) The actual performance over time is critical, with annual and price setting event disclosures now published by each of the Airports being the key means to assess that performance. The Airports have spent considerable time and resource preparing those disclosures. That information comprehensively covers all aspects of the Purpose Statement, and should allow a full assessment of outcomes. It will bring further credibility to the ID regime if the Commission demonstrates a full and robust analysis of that information, rather than being distracted by calls for the assessment to be simply based on whether IMs have been applied in pricing and/or whether other inputs into pricing have changed from the first Price Setting Event ("**PSE**") to the second PSE.
- (e) Above all, it is critical to keep in mind that a myriad of outcomes are consistent with outcomes in workably competitive markets. ID was intended to promote a cost-effective but deeper and broader understanding of the complexities of airport performance, so that accurate assessments could be made. It would therefore be wrong to allow conclusions based on shallower and narrower assessments of isolated inputs into pricing decisions.

WHAT IS EFFECTIVE INFORMATION DISCLOSURE?

9. A key area of ongoing debate is how to assess whether ID is being effective. It appears that differing opinions on how ID should properly operate are the root cause of that debate.
10. In particular, a key difference appears to be:
- (a) Air New Zealand ("**Air NZ**") and BARNZ are concerned that Airports continue to rely on their right to set prices under the Airport Authorities Act 1966 ("**AAA**"), and that this is effectively "trumping" the effectiveness of ID; and
 - (b) Airports are concerned to ensure that when assessing the effectiveness of ID, the purpose and scope of information disclosure is not taken beyond its proper bounds. For example, there should not be an undue focus on the extent to which IMs have been applied in pricing.
11. This debate has continued in the absence of a firm statement by the Commission regarding how it interprets the key requirement of assessing whether ID is "effectively

promoting" the Purpose Statement.³ NZ Airports would welcome clarification from the Commission at the earliest opportunity.

12. Despite the above differences, we believe that there is some common ground between the parties on how ID should operate.
13. NZ Airports accepts that ID should establish a regulatory environment that actively promotes the Purpose Statement. Although we are firm in our view that an effective information disclosure regime is one that ensures sufficient information is available to interested parties, we accept that the key reason for monitoring and analysing that information is to assess whether the Purpose Statement is being promoted. That is the process by which Airports are encouraged to promote the Purpose Statement. We therefore agree with Air NZ that ID regulation should put pressure on Airports to perform consistently with the Purpose Statement.⁴
14. NZ Airports' concern is that in an environment where a myriad of outcomes are consistent with the Purpose Statement, ID regulation should not put pressure on Airports to favour certain outcomes over others, if all of those outcomes are consistent with the Purpose Statement. The experts' report to the Commission on the EDB-GPB Reasons Paper emphasises this point:⁵

It is not to be expected ... that a workable or effective competition standard will be narrowly prescriptive as to the types and forms of economic organisation and business conduct that might be considered consistent with such competition.

15. NZ Airports remains strongly of the view that the core of an effective ID regime is to allow robust evaluation of airport performance. That is the first step. The next step, following the full evaluation of outcomes, is to assess whether there is any evidence that outcomes inconsistent with the Purpose Statement exist and, if so, whether there is any evidence that ID will fail to provide incentives for Airports to address these matters over time.
16. Accordingly, the Review should not start from the point of asking whether the right inputs have been applied in pricing and whether these have changed since ID commenced. That gets things the wrong way around, and risks turning ID into a form of regulation that sits somewhere between ID and price control, which does not exist under Part 4.
17. NZ Airports believes considering the ID regime from the correct starting point will assist the Commission to assess whether it is functioning effectively (or whether improvements need to be made).

HOW SHOULD EFFECTIVENESS BE ASSESSED?

18. NZ Airports has previously stated its views on what section 56G requires. In essence, the words mean what they say. The Commission must report "*as to how effectively information disclosure regulation under this Part is promoting the purpose in respect of the specified airport services*". It does not ask how effective ID has been, whether it has failed or succeeded, or whether another form of regulation could be better. It requires a progress report on how effectively ID regulation "is promoting" the Purpose Statement.⁶
19. During the Wellington conference the Chair stated that:⁷

³ In saying this, we appreciate that the Commission has provided helpful views on its approach to other aspects of section 56G.

⁴ Air NZ, Post-conference cross-submission, section 56G Review of WIAL ("**Air NZ, WIAL Conference Cross-Submission**"), at paragraphs 17 and 51.

⁵ Yarrow, Cave, Pollit and Small, Asset Valuation in Workably Competitive Markets - A Report to the New Zealand Commerce Commission, May 2012, at 2.5.4.

⁶ Commerce Act 1986, Section 56G1(c).

⁷ Commerce Commission, Mark Berry (Chairman), Wellington Conference Transcript 7 August 2012, page 119.

Airports are saying that, you know, there was no identification of a problem and that shadow regulation was never intended, and we have full submissions on that in the course of the input methodology hearings and we've heard the airports touching on that today.

In contrast, the airlines are pointing to parts of the legislative history that identify that some kind of price effect was anticipated to be likely as a result of this new information disclosure Regime. And it seems to me that when we report back to the Ministers we have to make an assessment of two worlds, one with and one without information disclosure Regulation, what if any difference has occurred as a result of that.

20. We appreciate that the type of factual and counterfactual analysis proposed by the Chair may be attractive on its face. However, we suggest that it will need to be undertaken with some caution, if at all, under the Review. In particular:

- (a) ID regulation existed prior to the introduction of Part 4. Combined with the discipline imposed by the AAA consultation regime (which remains in force), there were already strong incentives for Airports to achieve efficient outcomes. There is no doubt that ID under Part 4 was intended to result in a more robust ID regime that would promote outcomes consistent with the Purpose Statement.⁸ But that does not mean that it follows that there will be an immediate and material change in pricing decisions, which are primarily governed by the discipline imposed by the AAA. In other words, the factual and counterfactual analysis risks an incorrect assumption that outcomes prior to Part 4 were problematic such that there should be noticeable change under the new regime;
- (b) Under section 53A of the Act the purpose of ID regulation is to ensure that sufficient information is readily available to assess whether the Purpose Statement is being met. This makes it very clear that the goal of ID is to promote transparency. The difference under Part 4 is that it is more specific as to what the disclosed information should allow interested parties to assess and what methodologies should be used to compile that information. But that does not change the fact that, as with information disclosure under the AAA, information disclosure is not meant to directly control particular outcomes. It simply reports the outcomes that are occurring or have occurred. It is the knowledge of such transparency that places discipline on regulated entities to appropriately manage their conduct; and
- (c) The Commission has acknowledged that:⁹

An effective information disclosure regime provides transparency to interested persons on the performance of regulated suppliers, and provides an ongoing source of information so that trends can be identified and monitored over time.

This reinforces that an approach should not be followed that assumes ID will have an immediate impact on outcomes, that those outcomes will be clear and identifiable, and that immediate conclusions can therefore be reached regarding how effective ID is compared to previous information disclosure under the AAA.

21. If the Commission does continue with the proposed factual and counterfactual analysis, it should also ensure that it does not end up inappropriately retrospectively judging airport performance before airport regulation commenced. By way of example, BARNZ has encouraged the Commission to assess WIAL's profits since ID commenced by

⁸ BARNZ has produced a helpful table that demonstrates the improvements. See BARNZ, Post Conference Cross-Submission on Section 56G Review, page 33.

⁹ Commerce Commission, ID Reasons Paper 22 December, at paragraph 2.24.

incorporating returns and revaluation gains from periods prior to the commencement of regulation.¹⁰ Such a retrospective approach to regulation would clearly be inappropriate.

22. The airlines have supported the factual and counterfactual analysis, and have argued that "nothing has changed". That is, they argue that Airports' pricing behaviour has not changed, and the inevitable conclusion is that ID is ineffective. In the view of BARNZ and Air NZ, effective change means adopting the Commission's IMs for pricing purposes.¹¹ NZ Airport believes that this is an unhelpful and inappropriate way to approach the Review.

HOW ARE INPUT METHODOLOGIES RELEVANT TO THE REVIEW?

23. There is no question that IMs are important contributors to the effectiveness of the ID regime, and that they are a material consideration under the Review. In this regard, it appears that Air NZ and BARNZ have misunderstood NZ Airports' position on the relevance of IMs.

24. Air NZ (and to a lesser extent BARNZ) has provided a legal analysis regarding the relevance of IMs to the Review.¹² We understand that analysis to boil down to two key propositions:

- (a) IMs are relevant because information to be assessed has been compiled (at least in part) by applying the relevant IMs; and
- (b) The Commission will use the WACC IM as part of its assessment of the information disclosed.

25. NZ Airports agrees that IMs are relevant in this way (subject to its view that the WACC IM is a subjective measurement tool). As we have previously stated:¹³

Of course, annual financial disclosures are compiled using the IMs. Focussing on what that information tells interested parties about airport performance is not only the most appropriate approach to the Review (bearing in mind the limited time series of data), but is also the key way to give full effect to the IMs.

26. The materiality and relevance of whether the IMs have been applied in pricing is perhaps the most difficult statutory framework issue for the Commission to resolve. The basic tension is that:

- (a) From a legal perspective, IMs are set for the purpose of prescribing rules and requirements for ID, and are not required to be applied for pricing decisions under the AAA; but
- (b) From a practical perspective, IMs have a very real influence on pricing decisions, and in that way can contribute to promoting outcomes consistent with the Purpose Statement.

27. On a strict analysis, it could be argued that whether or not IMs have been applied in pricing is not material to the question of whether ID is effectively promoting the Purpose Statement.¹⁴ Although Airports take full account of the IMs by considering them and justifying any departures from them in pricing, this has no conclusive bearing on the

¹⁰ BARNZ, Post Conference Cross-Submission on Section 56G Review, pages 9 and 12.

¹¹ Air NZ, WIAL Conference Cross-Submission, paragraph 25 and BARNZ, Post Conference Cross-Submission on Section 56G Review, pages 22 to 23 and 34.

¹² Air NZ, WIAL Conference Cross-Submission, at paragraphs 38 to 45.

¹³ NZ Airports, Cross-Submission on the Commerce Commission's Wellington Airport Conference held on 7 August 2012 ("**NZ Airports, WIAL Conference Cross-Submission**"), at paragraph 12.

¹⁴ NZ Airports, WIAL Conference Cross-Submission, at paragraph 7.

question of whether ID is effectively promoting the Purpose Statement. In this context, Air NZ and BARNZ acknowledge that:¹⁵

Input methodologies do not have a direct role in price setting by regulated airports. The only legal obligation on regulated airports with respect to input methodologies is that they apply those input methodologies in the preparation of information for disclosure in accordance with the Commission's requirements. This does not dictate the outcomes impact directly on regulated airport pricing practices; there is no direct regulatory control over the pricing of specified airport services. The regulated airports retain, as a matter of law, the right to price as they see fit.

28. This is accurate, albeit does not capture the fact that in practice, whether or not to apply the IMs in pricing weighs heavily on the Airports' minds. NZ Airports anticipates that, by the conclusion of the Review process, each airport will have provided evidence regarding the careful deliberations they undertook in relation to whether the IMs should be applied in their pricing models.
29. We therefore take issue with Air NZ's views that a decision not to apply IMs without "a compelling or any reasonable justification for that deviation" in pricing is evidence of a failure of ID to influence airport behaviour.¹⁶ Such a submission:
- (a) Directly contradicts the evidence provided by Airports (and to be provided) that the IMs were at the forefront of their considerations during pricing consultations, and that any departures were carefully considered and were on occasion at the request of airlines (eg Auckland Airport's continuation of the asset valuation moratorium);
 - (b) Ignores practical constraints (including limits on available information about a regulated businesses activities) on the Commission's ability to design IMs that, when applied to a particular regulatory instrument, will promote outcomes consistent with those in competitive markets.¹⁷ It is implicit that the Commission's IMs are only one (and not necessarily the best) method of achieving the desired outcomes under the Purpose Statement;
 - (c) Ignores that during the consultation on IMs Airports put forward what were, in their view, compelling reasons for adopting materially better alternative methodologies under Part 4, and those methodologies are now subject to appeal. Air NZ must also believe that it has compelling reasons for its appeal of the IMs. It cannot therefore credibly be submitted that Airports' and airlines' reasons for their respective views on why the IMs might be deviated from in pricing have not been made clear;
 - (d) Is inconsistent with Air NZ's correct position that the purpose of IMs are to ensure information is disclosed in a consistent manner, using methodologies that allow a full assessment of whether the Purpose Statement is being promoted. In that context, if an airport sets prices using an asset value different to that produced by the Commission's IM, it will consider and be mindful that its disclosed return on investment will be calculated using the disclosed asset base using the IM, and not the pricing asset base. They will also be mindful that, when making their disclosure, they will need to address the challenges that using different asset values presents for reporting; and
 - (e) Is inconsistent with evidence that Auckland Airport will provide that airlines have not consistently advocated all IMs should be applied in pricing, namely

¹⁵ Air NZ, WIAL Conference Cross-Submission, 17 August 2012, at paragraph 47.

¹⁶ Air NZ, WIAL Conference Cross-Submission, at paragraphs 51 to 53 and 72.

¹⁷ EDB-GPB Reasons Paper, CBD 3;7 at 24.19.

asset valuation. Airlines cannot coherently argue on the one hand that a failure by Airports to apply IMs represents a failure of ID but on the other that the asset valuation IM should not be applied in some cases.

Inputs and outputs

30. In NZ Airports' view, the tension described above can best be relieved during the Review by focusing on the outcomes (actual and forecast) of pricing decisions, rather than the inputs into those decisions.
31. Inputs, including the IMs, are relevant to this assessment because they feed into the resulting outcomes, but inputs should not be the Commission's primary, nor its exclusive, focus.
32. This is reinforced by considering Part 4 in its proper context. Unlike Parts 2 and 3 of the Commerce Act, which focus on structure and conduct, Part 4 focuses on outcomes that would be observed in competitive markets. The High Court¹⁸ has recently affirmed the following analysis:¹⁹
- Therefore, while Parts 2 and 3 are designed to protect this market process from contractual or market structures which hinder or undermine the incentives for firms to invest and innovate, lower their costs and prices, and improve quality so as to gain custom and generate profits, Part 4 provides a remedial mechanism with the purpose of providing regulatory incentives and constraints with the goal of mimicking outcomes which would be achieved in a workably competitive market place. It seeks to achieve this goal by restricting the ability of firms not facing workable or potential competition from acting in a manner that is inconsistent with competitive outcomes.
33. The danger with focussing on pricing structure and inputs is that it risks paying undue attention to single inputs into Airports' pricing decisions to the exclusion of others. The reality is that pricing and investment outcomes are a product of a complex package of inputs. Airports take into account a range of factors when making pricing decisions, including:
- (a) Expert advice which may or may not support taking a different approach to the IMs on points of economic principle;
 - (b) Instances where thorough consultation airlines have suggested Airports depart from the IMs;
 - (c) Business or industry conditions that apply to specific airports;
 - (d) Trends in international markets; and
 - (e) Site specific factors.
34. By treating the IMs as practically relevant to, but not a requirement of, Airports' pricing decisions, the benefits of commercial decision-making by Airports can continue to be realised. This includes better risk-taking and investment decision making and Airports' promotion of economic growth in their region and competition in other downstream markets. Retaining these benefits is relevant to assessing the effectiveness of the ID regime, and a strict application of IMs would undermine them.
35. Above all, it is critical to keep in mind that IMs will not represent the only outcomes that are consistent with the Purpose Statement. The IMs represent the Commission's view on the best methods to be applied to information disclosure to allow an assessment of

¹⁸ *Vector v Commerce Commission* HC Wellington, CIV-2011-485-536, 26 September 2011 at [34].

¹⁹ Gault (ed) *Gault on Commercial Law* (online looseleaf of Brookers) at 2B.1.

whether outcomes consistent with workably competitive markets are being promoted. It follows that there are a range of pricing inputs that may deviate from the IMs but still result in outcomes consistent with the Purpose Statement.

36. In summary, we strongly doubt whether any definitive conclusions can be drawn regarding the effectiveness of information disclosure by asking whether IMs have been applied in pricing. The application (or not) of IMs forms part of a much broader and complex interaction of matters that impact on Airports' incentives to promote the Purpose Statement, and therefore should not be considered in isolation.

Promoting commercial agreements

37. NZ Airports believes that the AAA regime has fostered and promoted commercial agreements between Airports and airlines.²⁰ This is evidenced by the existence of commercial agreements by all Airports both historically and currently. It is critical that the new ID regime does not inhibit such agreements in the future.
38. A theme of the airline submissions to date is that they have not experienced any material difference in consultation processes as a result of ID regulation. The assertion is that Airports still do not seek to negotiate or reach commercial agreements, and therefore set prices on a unilaterally imposed basis.²¹
39. As has previously been submitted to the Commission, Airports would welcome further commercial agreements with their substantial customers, in addition to those they have already successfully negotiated. However, it is perhaps unrealistic to expect that mutual agreement on key issues will be forthcoming, now that airlines are unlikely to agree with any approach that does not incorporate IMs that Airports do not agree with. On a more general level, if regulatory methodologies are too prescriptive, it removes any incentive for the parties to seek agreement. The Australian Productivity Commission noted in 2002 (in light of Australia's move from price control to lighter information disclosure regulation) that to be successful, commercial agreements would need to be negotiated voluntarily, without automatic recourse to the regulator and without prescriptive requirements.²² Rather than establishing prescriptive requirements, the Australian Productivity Commission recommended some initial aeronautical pricing principles to Airports and airlines to help guide pricing.
40. Accordingly, if the Commission follows an approach to the Review that entrenches an expectation that IMs must be applied in pricing in order for ID to be effective, that is likely to inhibit the type of positive commercial decision-making that is conducive to further commercial agreements (where parties typically share risk and reward on a forward looking basis).

WHAT ARE THE IMPLICATIONS FOR ASSESSING EFFECTIVENESS OF ID?

41. The Review should focus on examining the relevant information disclosed to the Commission and assessing whether this information shows that the ID regime is effectively promoting the Purpose Statement.
42. The comparison of outcomes (forecast and actual) produced by Airports against the objectives under the Purpose Statement should not be an inquiry focussed only on calculation of price or returns. Rather, an assessment of the full range of incentives and outcomes sought under the Purpose Statement must be made.

²⁰ As supported by the Australian Productivity Commission, see Australian Productivity Commission, Inquiry Report "Economic Regulation of Airport Services" ("**APC Report**"), 14 December 2011, page 183.

²¹ See for example Air NZ, WIAL Conference Cross-Submission, at paragraph 9 and Commerce Commission, Wellington Conference Transcript 7 August 2012, pages 120 to 121.

²² Australian Productivity Commission, Inquiry into Price Regulation of Airport Services, May 2002, page xxxiv.

43. The consultation process so far has drawn out information that shows both differences and similarities in the views of Airports and airlines in regard to WIAL - service quality is an example that was evident at the conference where all parties share the same views.²³ It is NZ Airport's view that the same will be true for Auckland Airport.²⁴ This was hinted at in the Wellington conference, where airlines indicated they supported some of Auckland Airport's decisions and opposed others. The Airports' consultation processes in their recent PSEs also exposed areas of agreement and disagreement. While NZ Airports appreciates the consultation process is not focussed on those areas where there is already agreement, where parties have differing views can easily be accentuated, and areas of agreement overlooked.
44. In light of this, we urge the Commission to carefully assess the full array of information disclosed under the ID Determination and under the Review process. This means examining and taking account of areas where Airports and airlines:
- (a) Agree. These are areas where there is common ground or has been compromise and positive change by either Airports or airlines or both. More specifically this means taking proper account of the areas where Airports have moved to accommodate the views of airlines; and
 - (b) Disagree. There are areas where Airports' and airlines' positions are harder to compromise on and are less flexible. It is easy for these areas to be unduly focussed on by the extensive attention they receive in the consultation process (both under the Commission's Review under section 56G and the price setting consultations under the AAA). The IMs have gone some way to diminishing those areas of contention between both sides, by creating clear points of reference to enable assessment under an objective IM framework. However, the extensive consultation process being undertaken means the remaining differences are drawn out and magnified.
45. In conclusion, Airports are working hard under the new ID regime, and they readily accept that there will be room for improvement in their performance. However they strongly believe that they are doing many good things and are achieving outcomes consistent with the Purpose Statement. They trust that the Review will take a balanced approach to that assessment.

²³ The level of service quality being provided by WIAL is one example where both sides shared the view that it was not a major issue, see Commerce Commission, Wellington Conference Transcript 7 August 2012, page 9.

²⁴ We note that Auckland Airport's submission will explain these areas of agreement and disagreement in more detail.