

19 July 2023

To: Vhari McWha
Commissioner
Commerce Commission
PO Box 2351
Wellington 6140

By email: IM.Review@comcom.govt.nz

Re: IM Review: Draft Decisions

BARNZ represents 26 member airlines, as well as ground handling companies, waste management and catering services supplying to aviation. Our members are proud to supply air services to and within Aotearoa, ensuring New Zealanders are connected locally and internationally. Air services to and within New Zealand also ensure New Zealand remains connected for import and export of goods.

Air services are critical for the wellbeing of people in our isolated island nation. BARNZ thanks the Commerce Commission (the Commission) for ensuring the regulatory rules which underpin the regime which monitors monopoly airports are reflective of a relative market, and deal with black swan events such as the Covid-19 pandemic appropriately.

BARNZ is pleased to submit to the Commission's Draft Decisions on the Part 4 IM Review, and particular on the Cost of Capital Topic Paper. Alongside this cover letter, we supply a further paper from TDB Economics for the Commission's consideration. This paper makes specific comment on a range of matters in the Cost of Capital paper, especially as relate to airports. This cover letter, and the TDB submission, are able to be published in full on the Commission's website.

Interaction between the IM Review and Price Setting Events

The Input Methodology Review (IM Review) of the Commerce Commission should not have an effect on prices airlines pay airports. This is because the IM Review is a review of the rules underpinning the regulatory regime. Properly, these rules would be set, and then applied by participants. However, as the Commission will be aware, Auckland International Airport Limited (AIAL) has applied assumptions evidenced during the IM Review process into the prices it has imposed on airlines effective 1 July 2023. This means that BARNZ members are

now paying prices which rely on assumptions now in conflict with the Draft Decision on Cost of Capital.

The IM Review is not the process of review of AIAL's Price Setting Event 4 (PSE4). However, given the delay of AIAL's PSE4, the significant costs of the capital plan set out by AIAL, and AIAL's application of weighted average cost of capital (WACC) inputs arising from the IM Review, the Cost of Capital Determination of the Commission is extremely consequential for airlines required to pay prices set by AIAL. Capex and prices are so significant they are likely to have demand consequence, with an effect on other airports around New Zealand.

BARNZ asks the Commission to consider what mechanisms exist for it to more tightly regulate Price Setting Events (PSEs) which are delayed (or advanced) to ensure timing of PSE cannot advantage the monopoly. Requests for delay (or advance) of PSE should be considered in the context of IM Review timing. This is particularly relevant for regulated airports, who are able to justify a departure from the regulated WACC.

BARNZ also asks that the Commission consider what mechanisms exist, or could exist, to explicitly disallow regulated monopolies from lifting inputs from future IM Review processes and applying these to live price setting events. The complications which now arise from AIAL's application of the IM Review process to its PSE4 will no doubt be a matter for the Commission's PSE4 review which will commence later this year.

Draft Cost of Capital comment

While the TDB paper represents the view of BARNZ and its members, we make brief comment below.

Comparable companies

BARNZ is extremely supportive of the refined list of comparable companies. This grouping now includes companies which operate core aeronautical services and excludes those offering alternative services and under unusual financing arrangements. Comparable companies should be comparable – and this grouping is now appropriate.

In particular, we are supportive of the inclusion of Sydney Airport despite de-listing. Sydney is comparable to Auckland, and de-listing should not automatically exclude it from consideration.

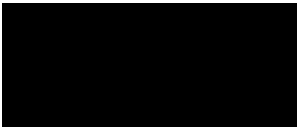
Treatment of risk of Covid-like events

BARNZ supports the Commission's treatment of the risk of a repeat of an event similar to Covid-19. Absent any treatment, the effect of Covid-19 will be made permanent in this cycle of IM Review even taking into account a ten year consideration. The Commission's proposal to apply a premium to account for Covid-19 would mean that the risk of recurrence is accounted for disproportionately.

Should there be a further global pandemic, it is likely that states would have learned much from their experiences in recent years, both in treatment of risk and appropriate response. Global border closures of the nature seen in 2020-2022 are unlikely to repeat at similar scale or for similar duration. BARNZ supports the methodology as put forward by TDB which provides a reasonable method to consider this risk. Our thanks to the Commission for their careful exploration of this thinking.

BARNZ refers the Commission to TDB submission for our further detailed views. We are available to discuss these comments as may assist the Commission in their work.

Ngā mihi -



Cath O'Brien
Executive Director
Board of Airline Representatives New Zealand