

23 December 2013

Dr Mark Berry
Chair
Commerce Commission

By email mark.berry@comcom.govt.nz

Dear Dr Berry

Request for Review of Cost of Capital Input Methodology

I am writing to you on behalf of airline, passenger and freight consumers of specified airport services to support the request by Consumer NZ, the Employers and Manufacturer's Association and the Major Electricity Users Group for the Commission to review its cost of capital input methodology as soon as possible.

In its merits review decision the High Court noted that it had 'significant doubt' and 'scepticism about using a WACC substantially higher than the mid-point' as well as 'some sympathy with MEUG's submission that the Commission's approach to the asymmetric costs of over and underestimating the WACC lacks a solid base'. The Court stated:

[1479] In our view, applying the 75th percentile estimate to the initial RAB is unlikely to be necessary to promote incentives to invest and innovate. Future investment choices by suppliers must rationally be influenced by expected earnings on those future investments, not by earnings on past investments. (The experience with past investments may of course be relevant to future investments, but that is another story.)

Input methodologies are required to be reviewed 'no later than 7 years' after their determination. There is nothing to prevent the Commission initiating a review process within the seven year period, and we believe that the observations of the High Court in relation to the Commission's use of the 75th percentile have created a situation where the Commission should not wait for four years to review its cost of capital input methodologies.

The Court specifically referred to the future review of the input methodologies by the Commission in reaching its decision not to amend the input methodologies. We therefore urge the Commission to commence that review as soon as possible so that any amended WACC range can be reflected in regulatory and pricing decisions at the earliest opportunity.

Yours sincerely



John Beckett
Executive Director