

24 January 2014

Ms Ruth Nichols
Senior Legal Counsel
Regulation Branch
Commerce Commission
PO Box 2351
Wellington 6140

regulation.branch@comcom.govt.nz

Dear Ruth

Impact of Merits Review Judgment on Section 56G Reports

The Commerce Commission has sought feedback on its proposal to not update the analysis underlying its section 56G reports for Auckland, Wellington and Christchurch Airports in the light of the High Court's judgment amending the input methodology for the starting date for land valuations in the merits review appeals.

The High Court determined that a materially better asset valuation input methodology in respect of airport services is for the initial MVAU valuations of airport land to be one year later than the Commission had determined. Namely:

- 1 April 2010 in the case of Wellington Airport (rather than 31 March 2009); and
- 1 July 2010 in the case of Auckland and Christchurch Airports (rather than 30 June 2009).

The Commission has indicated that the later asset valuation date would not change the conclusions presented in its final s56G reports for Wellington and Auckland Airports, or the analysis presented in its draft s56G report for Christchurch Airport. BARNZ concurs.

In the cases of Wellington and Christchurch Airports, the valuations used in the analyses were prepared in 2011 and were used for price setting in 2012, which was the subject of the s56G review. No change is therefore required for the s56G reports on those two airports.

For Auckland Airport the situation is different. There the Commission's s56G analysis was based on the 2009 valuation, which is likely to be lower than a 2010 valuation would be because the valuation increased materially between 2009 and 2011. Revising the analysis would therefore lower the return expected to be made by the airport. As noted by the Commission, the revision of the s56G analysis would reduce the level of return expected to be earned, thus bringing the airport's target further within the Commission's range of what it deems to have been an acceptable return and strengthening (rather than altering) the Commission's conclusions.

In essence, while updating the s56G analysis for Auckland Airport to reflect the outcome of the merits review would result in a different quantification of the return targeted by the airport, it would not affect the Commission's overall conclusion. BARNZ therefore supports

the Commission's pragmatic proposal to not update the analysis. Such an exercise would merely cause a delay of at least six months in the finalisation of the s56G review process, while not affecting the outcome in any material way.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Beckett', with a stylized flourish at the end.

John Beckett
Executive Director