AIR BP

SUBMISSION TO THE PRODUCTIVITY COMMISSION REVIEW

INQUIRY INTO PRICE REGULATION OF AIRPORT SERVICES

Summary

Air BP is pleased to provide a submission to the Productivity Commission inquiry into the price regulation of airport services.

Air BP strongly supports the inquiry; of particular concern is the considerable market power of airport operators and the uncompromising use of such power in regards to Fuel Throughput Fees.

Air BP is opposed to Fuel Throughput Fees as they are currently applied for the following three key reasons:-

- The lack of justification for charging Fuel Throughput Fees;
- Fuel Throughput Fees significantly increase the cost of refuelling services; and
- Airport Operators use of overwhelming market power.

The attached document discusses these in detail.

In addition we firmly believe that Fuel Throughput Fees as currently imposed should fall into the category of 'aeronautical service' and should not be exempt from future price regulation or price monitoring. This includes both recent Fuel Throughput Fees and Fuel Throughput Fees introduced under the old Federal Airports Corporation (FAC) lease clauses.

Air BP remains supportive of the Australian Competition and Consumer Commission (ACCC) report from May 2001 entitled "Submission to the Productivity Commission's Inquiry into Price Regulation of Airport Services". In particular the recommendations that price regulation and price monitoring be applied to airports which have higher market power and that such price cap coverage include aircraft fuelling related charges by Airports.

Lack of justification for charging Fuel Throughput Fees

Fuel Throughput Fees initially charged (1998/1999) to joint venture companies were introduced on the basis of lease and licence contracts. The current lease contracts were negotiated and put in place by the FAC prior to the airports being privatised. These lease contracts had the provision for Fuel Throughput Fees, in addition to normal lease and licence arrangements, however these were never activated.

Since the privatisation of airports some new airport operators have introduced Fuel Throughput Fees solely on the basis that they legally can according to the terms of the contracts.

The airport operator only provides the land that the refuelling site is located on. They do not own or provide the assets required for fuel storage or refuelling. These are constructed, owned, operated and maintained by the joint venture companies. The joint venture companies pay the airport operators for the use of this land in the way of fair, market rate rents and commercial licence fees (which are regularly reviewed on a market valuation basis). Fuel Throughput Fees are charged in addition to these lease and licence charges.

Where Fuel Throughput Fees have been introduced the airport operators have not related these extra charges to increasing costs of providing refuelling services. Nor have airport operators offset any existing charges. Nor have airport operators proposed any additional services or facilities to the joint venture companies in support of the Fuel Throughput Fees. The sizes of the Fuel Throughput Fees are unrelated to the actual cost of providing the refuelling service.

Airport operators are already adequately compensated for the costs they incur as a result of the refuelling activities. There is no commercial justification to the introduction of Fuel Throughput Fees. Fuel Throughput Fees imposed as a concession by airports are very similar in nature to a Tax or Duty.

Fuel Throughput Fees significantly increase the cost of refuelling services

At the airports where Fuel Throughput Fees are charged, the size of the Fuel Throughput Fee is considerable and has significantly increased the cost to joint venture companies to provide a refuelling service. In some cases the Fuel Throughput Fee is much greater than the actual operating cost at that airport.

Examples of the scale and impost that Fuel Throughput Fees have:

Airport A

At Airport A the Fuel Suppliers pay a market rate rental/licence charge for the land containing the Oil Industry Joint Venture (including associated pipework under the apron). In addition to this charge the airport operator charges a Fuel Throughput Fee, generating additional costs for the Fuel Suppliers and hence their customers. At Airport A the total cost of the Fuel Throughput Charge is equivalent to over seven times the actual rent/licence charge.

Airport B

At Airport B the Fuel Suppliers pay a market rate rental/licence charge for the land containing the Oil Industry Joint Venture (including associated pipework under the apron). In addition to this charge the airport operator charges a Fuel Throughput Fee, generating additional costs for the

Fuel Suppliers and hence their customers. At Airport B the total cost of the Fuel Throughput Charge is equivalent to over eight times the actual rent/licence charge.

Over the past decades the joint venture companies have been involved in many initiatives at airports to make the refuelling safer and more efficient. With a significant amount of effort, we have been successful in reducing refuelling costs (in many cases with better designed equipment, better work practices, joint ventures etc...), however the imposition of Fuel Throughput Fees has far outweighed any cost savings.

It is Air BP's view that the Fuel Throughput Fee as applied by airport operators is effectively a tax which we have little control over and is an impost on our business and our customers. In such cases we are transparent with our pricing to customers and hence these costs are passed onto our customers. This in turn has had a significant impact on fuel prices to airlines who have in many cases little alternative. In turn we would expect airlines pass this charge onto their customers (passengers).

Ultimately we feel at the locations where Fuel Throughput Fees are charged passengers pay higher prices for travel.

Market Power

The introduction of Fuel Throughput Fees arises purely from the considerable market power of airport operators. With respect to Fuel Throughput Fees, airport operators are in a position where such market power can be exercised at their advantage without the countervailing power from Fuel Suppliers (or Airlines). We would point to the commentary on Market Power of Airport Operators in the May 2001 "ACCC Submission to the Productivity Commission's Inquiry into Price Regulation of Airport Services" on this point. As stated above the charging of Fuel Throughput Fees cannot be justified on the basis of additional costs of providing a refuelling service, new investment requirements or any other enhancements to service quality.

At the locations where Fuel Throughput Fees are charged to oil companies and in turn passed onto airlines, the airlines have a very real cost impost.

In almost all situations the airlines cannot avoid purchasing fuel at locations with Fuel Throughput Fees. They do not have the option of either landing at alternative airports or refuelling at alternative airports. In some instances the airlines may-be able to do this but at significant, uneconomic operational costs to the airlines. The airlines often have no choice but to refuel at their departure point as the next destination is too far away. Where airlines can tanker fuel to avoid or limit fuel purchases at locations with Fuel Throughput Fees there is an additional cost because the aircraft is heavier and hence burns more fuel.

Since the introduction of Fuel Throughput Fees, significant revenues have been generated for airport operators. This has encouraged other airport operators to also introduce Fuel Throughput Fees into new leases which have created difficult lease renewal discussions. Fuel Supplier attempts to exclude the introduction of Fuel Throughput Fee clauses into new airport leases have usually been unsuccessful. Through the airport operators "sole supplier" position they are able to generate and use considerable market power over Fuel Suppliers who often have large capital investment facilities at stake on airport site leases. Commercial and market forces in such instances provide little opportunity for Fuel Suppliers to reject the introduction of Fuel Throughput Fees unless they are prepared to walk away from that market and suffer the resulting financial loss.

By the imposition of no added value Fuel Throughput Fees the airports are indirectly adding an aeronautical charge to the airlines. It is disingenuous for the airports to pretend otherwise as they have been variously and repeatedly approached by airlines and their industry representatives to highlight this issue. In effect we feel airport operators, through their considerable market power, are "double dipping" by charging aeronautical charges to airlines directly and Fuel Throughput Fees to airlines (indirectly through Fuel Suppliers).

To justify Fuel Throughput Fees airport operators often quote Fuel Throughput Fees in place at other overseas airports. However in the vast majority of cases the overseas Fuel Throughput Fees are either:-

- Fees to recover the operating and capital costs of fuelling facilities; or
- The income generated from the Fuel Throughput Fees are used to offset or reduce the basket of aeronautical charges.

This was most recently recognised in Germany where Fuel Throughput Fees were significantly reduced after agreement was reached between the airport operators and German airlines. (The structure for provision of fuelling services to the airlines is similar to Australia.)

In the UK, Fuel Throughput Fees are agreed and set after clear consultation between the airport operators and the airlines.

In Australia, the airport operators appear to vigorously oppose such discussions with airlines because their argument is not rationally sustainable as it is a clear business impost on the airlines and the ultimate customer.

Fuel Throughput Fees that are charged when normal lease/rental costs are paid at full market rates are, in our view, an aeronautical charge.