

7 March 2019



BARA

Board of Airline
Representatives
of Australia Inc



**Submission to the Productivity Commission's
Draft Report: Economic regulation of airports**

Overview of BARA



The Board of Airline Representatives of Australia (BARA) is the industry body that supports the safe and efficient operations of international airlines serving Australia for the benefit of consumers, businesses and tourism.

The Australian Competition and Consumer Commission (ACCC) has authorised BARA to undertake voluntary, non-binding negotiations on behalf of its members for international flights with major international airports, Airservices Australia and other providers of essential aviation-related services to improve the efficiency and safety of international aviation.

BARA's Vision and Outcomes

To guide BARA's work and clearly articulate its ideals, BARA's members have developed a [Vision and outcomes for international aviation in Australia](#), available at www.bara.org.au. The vision for Australia's international aviation is 'High quality, adaptive and efficient'. Underpinning this vision, BARA has identified four key outcomes to boost the competitiveness and productivity of safe aircraft operations. These are:

Outcome 1: [Timely and reasonably priced airport infrastructure](#)

Outcome 2: [Competitive supply of jet fuel](#)

Outcome 3: [Safe and efficient air navigation services](#)

Outcome 4: [Environmentally sustainable growth](#)

The Australian Government plays a critical role in shaping the international aviation environment and fostering BARA's identified industry outcomes.

BARA's member airlines

AIRASIA X	CHINA SOUTHERN AIRLINES	PHILIPPINE AIRLINES
AIRCALIN	DELTA AIR LINES	QANTAS AIRWAYS
AIR CANADA	EMIRATES	QATAR AIRWAYS
AIR MAURITIUS	ETIHAD AIRWAYS	ROYAL BRUNEI AIRLINES
AIR NEW ZEALAND	EVA AIR	SINGAPORE AIRLINES
AIR VANUATU	FIJI AIRWAYS	SOUTH AFRICAN AIRWAYS
ALL NIPPON AIRWAYS	GARUDA INDONESIA	SRILANKAN AIRLINES
AMERICAN AIRLINES	JAPAN AIRLINES	THAI AIRWAYS
ASIANA AIRLINES	LATAM AIRLINES GROUP	TURKISH AIRLINES
CATHAY PACIFIC AIRWAYS	MALAYSIA AIRLINES	UNITED AIRLINES
CHINA EASTERN AIRLINES		VIETNAM AIRLINES
		VIRGIN AUSTRALIA

Executive Summary

BARA's submission provides its position on the Productivity Commission's Draft Report on the economic regulation of airports, including competition in jet fuel supply. The submission focuses on what BARA considers are inaccurate findings in the Draft Report in relation to the provision, management and pricing of airport services for international flights. Specifically, BARA provides:

1. Additional evidence highlighting the need to improve the provision, management and pricing of airport services for international flights, which also confirm the findings of BARA's member survey.
2. Information on specific issues raised by the Commission, covering agreement terms and pricing, anti-competitive clauses, noise mitigation and slot allocation at Sydney Airport.
3. Additional information on jet fuel supply arrangements, including Sydney Airport's fuel throughput levy (FTL).

Each section is briefly summarised below.

Different performance expectations

International airlines are not convinced the airport operators have delivered good airport services outcomes for the prices paid. BARA rejects the unsubstantiated assertion that international airlines 'might' have sought to 'game' the Commission in their evidence.

There is scope to deliver \$270m in efficiencies over five years through improved airport services. BARA considers that some highly unacceptable outcomes in airfield services at Sydney Airport are in breach of the Aeronautical Pricing Principles.

Other issues raised by the Commission

BARA provides its position on agreement terms and aeronautical pricing, anti-competitive clauses, noise management and slot allocation at Sydney Airport.

BARA's voluntary, non-binding collective negotiations align with competitive and progressive outcomes. Communities are sensitive to noise mitigation issues, and any review should be structured to ensure they can have effective input.

Competition in jet fuel

BARA appreciates the Commission's analysis of competition in jet fuel supply in Australia based on the information made available. BARA provides additional information that explains why Sydney Airport's fuel throughput levy (FTL) cannot be justified.

If the providers of jet fuel infrastructure do not voluntarily provide information, then it should be formally requested from them. BARA estimates that through its FTL, Sydney Airport earns an excess 400% annual return on the value of the land it leases to Sydney JUHI.

Different performance expectations

BARA was surprised to learn the Productivity Commission questions the motivation of international airlines in raising concerns about the quality of airport services. There is no basis to assert that international airlines have sought to ‘game’ the regulatory system by giving low ratings. As far as BARA is concerned, that assertion is without substance and should be withdrawn. BARA provides more evidence that covers international on time performance, baggage and some highly unacceptable airfield services outcomes at Sydney Airport. There is a large gap between the performance benchmarks used in the Draft Report and the outcomes international airlines reasonably expect for the prices paid. International airlines require appropriate and balanced airport services agreements to support the delivery of improved outcomes in airport services. BARA is challenged to see where the necessary improvements will come from through a revamped airport monitoring report.

It has obviously been disappointing for BARA to report to international airlines that the Commission’s Draft Report has downplayed their genuine and legitimate concerns over the provision and pricing of airport services for international flights across Sydney, Melbourne, Brisbane and Perth airports. There are ongoing issues with the provision and management of airport services that impair the operating performance of international flights and reduce the quality of outcomes for passengers and freight forwarders.

Airlines pay the operators of the major international airports over \$800 million annually in airport services for international flights, and BARA estimates they incur over \$250 million in additional operating costs due to aviation infrastructure inefficiencies.¹ There are large and sustained productivity gains that can be achieved through improvements in the provision and management of airport services. Member airlines are disappointed the Commission did not seek to investigate these matters in greater detail.

Carefully detailing the problems faced by international airlines, and the commercial standards necessary to lift performance, effectively gave an opportunity for the economic regulatory regime to proceed towards its intended objectives. That is, responsive airport services and sound airport services agreements. This opportunity is closing under the Draft Report findings and recommendations.

International airlines do not have countervailing market power to ensure progressive outcomes are implemented through the negotiation of airport services agreements with the operators of the major international airports. Indeed, as documented in this submission, international airlines do not even have the countervailing market power to obtain satisfactory resolutions to poorly delivered and highly unacceptable airport services outcomes. This situation will persist without recognition of the problems in airport services for international flights and suitable commercial benchmarks established in the airport services agreements.

¹ See BARA estimates in its submission 3 September, p.67.

Identified problems in airport services and BARA's member survey

The commentary in the Draft Report conveys to the international airlines and interested parties that the Productivity Commission has taken an explicit position to discount the performance assessments of airport services provided by the airlines, as the Commission believes their evidence is biased. In particular, the Commission's comment in Box 5.1 of its Draft Report, when referring to the Australian Competition and Consumer Commission's (ACCC) airline survey in the airport monitoring report and BARA's members survey, states that:

or airlines might be motivated to 'game' the regulatory system by giving low ratings.²

BARA rejects this position. The international airlines have not sought to game the Commission's inquiry through the information they have provided. Rather, they have provided an informed assessment of airport services, both positive and areas of concern, with an emphasis on the ability of airport services to support their efficient operations at the airport. This is done consistent with BARA's objective to support safe and efficient international aviation for Australia.

The member survey is consistent with the ongoing information and feedback BARA has been providing to the airport operators over many years. As explained in BARA's initial submission:

These are issues BARA has raised on behalf of its members with the airport operators for some years and should therefore not be a surprise to them.³

BARA notes that the operators of the major international airports have acknowledged the quality of the information provided by BARA to them over the provision and management of airport services. In Box 1 are comments from Sydney, Melbourne, Brisbane and Perth airports in their submissions to the ACCC on BARA's collective negotiation authorisation.

Box 1. Comments by the airport operators on information provided by BARA

Sydney Airport

BARA provides local representation for international carriers and a unified voice for various aspects of airline dealings and operations at Sydney Airport...BARA gives fair representation to a large number of smaller airlines...⁴

Melbourne Airport:

BARA has provided effective representation for international airline customers of Melbourne Airport on a range of commercial, policy and service-related issues, including the negotiation of commercial agreements for the provision of airport services.⁵

Brisbane Airport:

From BAC's experience during this process and other processes over the years, BAC has had significant and productive engagement with BARA.⁶

Perth Airport:

BARA is in a position to better understand the broader requirements and engage with PAPL in a meaningful way regarding capital requirements and traffic forecasts.⁷

² Draft Report, p.138.

³ See BARA submission 3 September, p.14.

⁴ Sydney Airport submission to the ACCC (20 November 2014), p.1.

⁵ Melbourne Airport submission to the ACCC (26 November 2014), p.1.

⁶ Brisbane Airport submission to the ACCC (2 December 2014), p.1.

⁷ Perth Airport submission to the ACCC (26 November 2014), p.1.

A representative example of the input BARA has provided to the airport operators over the provision and management of airport services is provided in the confidential appendix. There is a marked consistency between this information and the ratings provided in the member survey.

As one example, BARA was raising problems with Melbourne Airport about airside bussing in 2016. As part of the negotiations over the current airport services agreement, BARA again raised the need for Melbourne Airport to have a detailed process map for bussing operations, including ensuring all parties had enough resources to deal with the expected increase in airside bussing operations, such as the specialist equipment to assist passengers with reduced mobility (PRM). The safe and efficient transfer of PRMs between the aircraft to the terminal is necessary for both meeting their needs and ensuring airlines can meet their aircraft turnaround targets.

Despite BARA's efforts, not enough action was taken by Melbourne Airport. As a consequence, in reaction to the obvious problems that resulted from increased airside bussing, the issue is now being considered at the established quality forum with airlines. In the meantime, airlines and passengers persist with the sub-standard services.

If international passengers are rating the quality of airport services they experience higher than international airlines, this is not evidence of biased ratings by international airlines.⁸ As documented in this submission, there are problems with airport services reducing the operating efficiency of international airlines in the areas of on time performance, baggage and the efficiency of airfield operations.

International airlines are rating services that international passengers are not asked about, which means the two groups of services being surveyed are different. The fact that passengers may be well satisfied about the quality of the shopping experience in the international terminal does not mean international airlines have been biased in reporting that highly unacceptable levels of foreign object debris (FOD) around the international terminal are reducing the efficiency of their operations and causing damage to their aircraft. Another example is the baggage system, which passengers experience the outcomes of at their destination airport, well after they are surveyed at the airport.

BARA considers that it is inappropriate to conclude the international airlines may have sought to manipulate its evidence to this Inquiry for their own commercial gain. If it is asserted that international airlines have sought to manipulate their evidence, which is a serious allegation, then BARA would have expected the Commission to have requested further evidence that justified the service ratings given by international airlines.

Service level arrangements and purported airport operator achievements

BARA considers the Draft Report greatly overstates the quality of the existing service level arrangements and the assumed industry benefits of some actions by the airport operators.

On the service level arrangements, the Commission has stated that:

Negotiated agreements also typically include agreed service outcomes defined in a service level agreement...⁹

BARA disagrees with this assessment as it implies acceptable outcomes are being reached. The airport services agreements with international airlines are in fact characterised by their lack of

⁸ Draft Report, p.153.

⁹ Draft Report, pp.11–12.

defined service outcomes and minimum standards, especially on issues that impair the operating performance of airlines.

As explained in BARA's initial submission to the Commission, many of the commercial agreements put to BARA suggest most airport operators have come to expect that airlines should accept they will have no contractual rights to enforce any minimum standard over the availability of services, and no financial remedy if the services are either not available or substandard.

It is quite unclear to BARA how the Commission has reached its conclusions given BARA's detailed knowledge of the airport services agreements and the lack of commercial value they have had in practice when airlines are faced with sub-standard service outcomes. High level statements over the need to maintain the airport service assets together with a key performance indicator (KPI) regime lack the substantive obligations for airport operators to ensure international airlines can operate reasonably efficiently and not experience persistent significant delay as a result of unavailable or substandard airport services.

If high quality service level arrangements were in place with international airlines, then BARA would have no reason to raise concerns with the Commission. Rather, BARA would be reporting the success of the arrangements it has been actively pursuing with the airport operators over many years. Unfortunately, BARA sees little prospect of useful improvement towards arrangements that will promote continuous improvement in airport services given the Draft Report findings.

On identified airport operator initiatives in the Draft Report, BARA offers the following comments on the reality for international airlines in the following three examples:

1. Rebates for service failures.¹⁰ As stated in BARA's initial submission, current rebate schemes only cover a narrow range of issues that do not extend to effective management of available capacity. When rebates are paid, airlines are also effectively being handed back some rebate money they have already collectively pre-paid to the airport operator through higher pricing. The airport operator has no genuine financial exposure to service delivery capability.

To be clear on this matter. The airport operators include in the building block model their position on a 'competitive market rate of return' in setting their level of profitability in pricing. BARA considers this rate of return is associated with the services working and being fit for purpose. Under current rebate arrangements, the airport operator increases its allowable operating costs to cover the cost of a capped level of rebates. This means it obtains the same profits even if the services consistently fail and are not fit for purpose. It is disingenuous to claim that this represents any serious commercial accountability or consequences in the delivery of airport services.

2. Acceptable levels of information provision, such as Perth Airport's publicly accessible website.¹¹ Given the information provided on Perth Airport's website offered little opportunity for genuine engagement or negotiations with international airlines, Perth Airport agreed with BARA to discontinue the process it had established. Simply making the information available on a website does not mean it is fit for purpose in negotiating the provision and pricing of airport services. As requested by BARA, Perth Airport then started to meet with international airlines to

¹⁰ Draft Report, p.109.

¹¹ Draft Report, p.123.

gain insights into their service needs. New information and proposals are now being developed in response, which BARA continues to proactively assist.

3. Melbourne Airport's capital consultation group.¹² While this process has allowed an external consultant to highlight areas for improvement in Melbourne Airport's approach to planning and service delivery, it has not delivered on its main purpose, namely effective engagement with international airlines. In November 2018, BARA asked airline station managers out at the airport about the quality of the process and their level of involvement. Their response, as recorded in the minutes from the Melbourne Airport Airline Operators Committee (Melbourne AOC), states: 'Consensus from AOC is that there is some engagement but it is minimal and highly technical/engineering orientated.'

Some activities by the airport operators that have delivered little or no useful value in practice or appropriate commercial accountabilities are championed as notable achievements in the Draft Report. This is not helpful for BARA's efforts to encourage the development and implementation of arrangements that can deliver value to the industry.

As stated in BARA's initial submission, BARA is concerned with the notable disconnection between the performance assumed by airport management and the actual quality of services delivered to member airlines for the prices paid. When the Draft Report discounts the service issues faced by international airlines and overstates the benefits of airport operator initiatives, it only encourages the airport operators to become further disconnected.

Performance benchmarks – sustained exercise of market power vs good outcomes supporting increasingly efficient international aviation

As noted by the Commission, airport services are critical infrastructure for Australia's aviation industry and it is important to promote the efficient operation of, and timely investment in, airport services.¹³

The international airlines do not consider that the operators of the major international airports are delivering value for money in airport services or achieving the intended benefits of the light-handed economic regulatory arrangements. This is because they are not providing and pricing airport services in a way that best supports good outcomes for passengers and freight forwarders and the operating efficiency of international flights.

BARA considers that the performance benchmarks used in the Draft Report do not necessarily agree with the intended outcomes of light-handed economic regulation, namely:

Light-handed regulation is intended to achieve outcomes that would be consistent with those found in markets with effective competition....¹⁴

The Draft Report benchmarks are based around trying to find instances of a sustained exercise of market power. Successful businesses in competitive markets, however, strive to deliver high performance and value for money. They do not demonstrate to customers how they are performing a bit better than sustained poor outcomes.

¹² Draft Report, p.122

¹³ Draft Report, p.3.

¹⁴ Draft Report, p.5.

For BARA, this highlights a problem with the light-handed economic regime. An airport operator can pass the Commission’s ‘health check’ in poor, but not terrible condition. This is not consistent with maximising the value of Australia’s international aviation industry to its economy and people. It can encourage outcomes below what should be achieved and lead the airport operators to actions that amount to little more than ‘style over substance’, as highlighted in the examples provided earlier.

BARA provides additional evidence and analysis to substantiate the scope of the lost efficiency benefits in the areas of international on time performance and baggage, and some highly unacceptable airfield services outcomes occurring at Sydney Airport. BARA recommends the Commission’s ‘operational efficiency’ criteria, as presented in Figure 5.2 of the Draft Report, be separated for international and domestic flights in its Final Report. This would better highlight the airport service issues international airlines face.

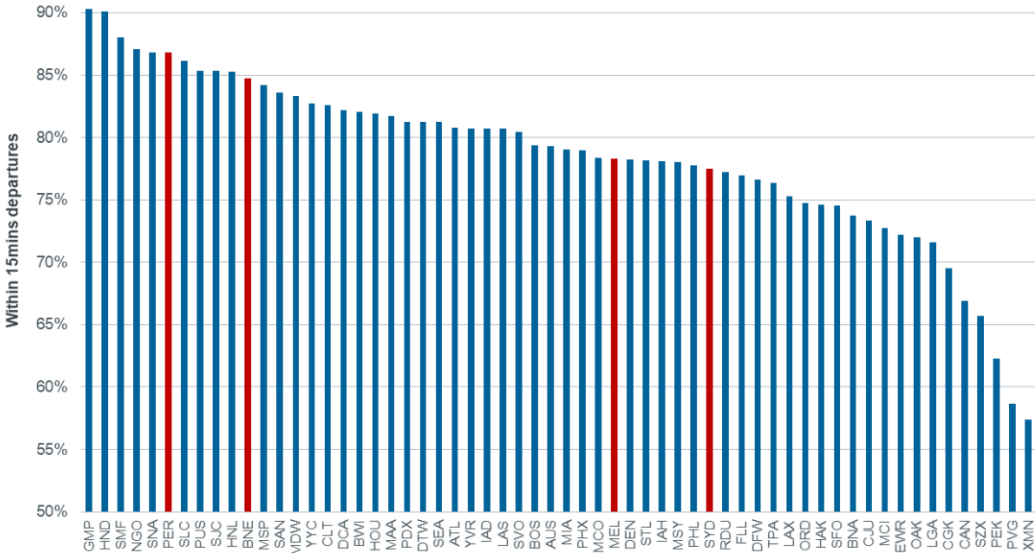
International airline on time performance – lost improvement opportunities

At Sydney and Melbourne airports, on time departure performance for international flights is about average when measured against comparable overseas airports (Figure 1).¹⁵ Outcomes for Brisbane and Perth airports are higher, in part reflecting the simpler operations for international flights.

If on time performance at Sydney and Melbourne airports was lifted so it could equal the 10th best comparable overseas airport of the sample, this would generate about a six percentage point improvement in average on time departures performance for international flights. The benefits to passengers and the efficiency of Australia’s international aviation would be substantial.

BARA estimates the achievable improvements in international on time departure performance would generate airline cost savings of about \$130 million and \$80 million over 5 years at Sydney and Melbourne airports, respectively, and deliver better outcomes to passengers (Table 1).

Figure 1. Within 15 minutes departures performance, international flights, 2014 to 2018 average



Notes: Time period 1 January 2014 to 31 December 2018;
Source: Flightstats

¹⁵ Comparable airports based on the Commission’s listed airports that are greater than 10 million passengers per year with less than 50% international passengers; excludes DAL airport (no international flight data).

Table 1. Estimates of achievable efficiency gains from improved on time departures performance

	Sydney Airport	Melbourne Airport
Current average departures performance	77.5%	78.3%
Current average delay cost per flight	\$3,097	\$3,005
Estimated delay cost at 10 th best airport	\$2,409	\$2,380
Efficiency gain per departing flight	\$689	\$626
Five-year improvement value	\$131m	\$79m

Source: BARA estimates based on Flightstats and IATA (2014) Operations Cost Management

Notes: Assumes delay costs of 0–15 mins (\$1,000), 16–30 mins (\$5,000), 31–45 mins (\$11,000), 46–60 mins (\$17,000); regression analysis used to estimate the relationship between on time departures performance and delay costs; five-year benefit based on the number of departing flights in 2018.

These benefits are measured only for departing flights. Similar benefits might also be available for arriving international flights. Analysis here would require information on how long aircraft are left waiting for a contact gate or bussing bay after landing. Such important information is currently not available for analysis or included as part of the airport operator KPI regimes.

Achieving these efficiency gains would involve additional costs on the part of the airport operators in lifting their service delivery capabilities to the standards promulgated by the Airports Council International.¹⁶ Specific initiatives identified by international airlines that are within the control of the airport operators include:

1. Improving wayfinding (type and placement of information): to help those passengers that have difficulties in working their way through the terminal to their departure gate. Available signage can be dominated by retail advertising rather than necessary flight information, which is especially noticeable at Sydney Airport international terminal.
2. Investing in retained knowledge in aircraft turnaround processes: to ensure operational changes do not reduce the ability of airlines to ready their aircraft for departure. This should extend to better consistency in the application of gate allocation rules.
3. Ensuring the adequate maintenance of aerobridges: power failures, unreliable ground power units and leaking aerobridge canopies during wet weather all contribute to delayed boarding. BARA has raised such issues directly with Sydney Airport.
4. Managing flights to available capacity: scheduling flight demand to the theoretical capacity of the service assets (eg contact gates) during peak times is unlikely to be achievable in practice and additional operating resources are necessary to support airline operations. Greater understanding of practical capacity, rather than theoretical planning estimates, is necessary in supporting efficient airline operations.
5. Improving equipment and cargo staging areas: providing enough space to support efficient ground handling operations, linked to supporting efficient aircraft turnaround processes. Ground handlers can be left with inadequate areas and support, and then be blamed for operational and other problems out on the airfield.

¹⁶ See BARA submission 3 September, p.40.

Importantly, with an assumed position that the airport operator has limited influence,¹⁷ it is therefore to be expected they are not actively managing those issues that would support improved on time performance of international airlines. For both airport operators and international airlines, notions of only 'full control' or 'no/little influence' are unhelpful. It demonstrates to BARA a lack of innovation and proactive approach to the delivery and management of airport services.

While BARA does not have access to the costs the airport operators would incur in implementing these initiatives, *prima facie*, they would be far less than the available efficiency gains. They would mainly be annual operating costs in investing in people, processes and information systems. As such, while measured airport operator costs would increase, total industry costs would decrease. The fact the airport operators have not actively engaged in these efficiency measures is an indication of their market power over international airlines.

Consistency with the BARA's member survey

Members rated the airport operators' efforts at Sydney and Melbourne airports below acceptable thresholds for maintaining service standards during the morning peak period to support their efficient operations. This is consistent with average on time performance outcomes for international flights and the initiatives they consider the airport operators should be establishing to support their efficient operations.

A fundamental role of the airport operators is to effectively manage and maximise the available capacity at the airport, as promulgated by Airports Council International.¹⁸ Allowing scheduled flights to well exceed the practical capacity of the infrastructure, such as occurs for Melbourne Airport's runways, has obvious negative consequences for on time performance for international flights.

The poorly delivered increase in bussing operations at Sydney and Melbourne airports also contributes to the average on time performance outcomes. Up to 20% of departing flights during the morning peak from Sydney Airport are served by bussing operations rather than contact gates.

As explained in BARA's initial submission, there are underlying problems with airside bussing operations that reduce the operating efficiency and on time performance of international flights. While the Commission ignored the concerns raised by international airlines about poorly provided airside bussing operations in its Draft Report, bussing is reducing the efficiency of Australia's international aviation on a daily basis at Sydney and Melbourne airports.

Brisbane Airport is characterised by a relatively short morning peak for international operations. This means the capacity Brisbane Airport is building to meet this peak will likely serve relatively few passengers and flights. This type of investment strategy can be inefficient and in part explains the high pricing for international flights as noted in the Draft Report, and hence the low value for money score. This outcome also fits with the high number of contact gates per million passengers as contained in the Draft Report.¹⁹

Perth Airport rated higher with members over the availability of infrastructure, which is consistent with the higher on time performance outcomes. BARA continues to work with Perth Airport in developing solutions to the widely recognised very poor quality of some of the contact gates for international flights, and progress is now being made on this issue. Further, BARA has discussed

¹⁷ See for example, Sydney Airport's position that the two arrivals on-time performance (OTP) measures are largely outside the control of Sydney Airport', Sydney Airport submission 3 September 2018, p.63.

¹⁸ See BARA submission, 3 September 2018, p.40.

¹⁹ Draft Report, p.16.

the member survey results in detail with Perth Airport, which was useful in understanding both positive comments by member airlines as well as areas identified for improvement. The positive engagement further highlighted to BARA the value of its member survey.

International baggage – the cost of poor airport services

A core outcome for international passengers is they can collect their bags when they arrive at their destination airport. ‘Mishandled’ bags impair the travel experience of affected passengers. In 2018, BARA estimates there were almost 100,000 mishandled international bags, which also cost international airlines some \$30 million in additional operating expenditures.²⁰ The airport operators do not suffer such costs, and so do not have the same financial incentive to actively support baggage outcomes consistent with the expectations of passengers and airlines.

To foster a better understanding of industry performance, BARA and its supply partner Unisys Australia (Unisys) have invested in measuring the final outcomes for international passengers’ bags departing from Sydney, Melbourne, Brisbane and Perth airports. Unisys data covers 40 international airlines and over 60% of all departing international flights. The data is disaggregated by whether the bag was checked-in directly at the international terminal or transferred from a domestic or international flight.²¹

BARA has encouraged the airport operators to include this data in their KPI regimes. It is notable that it has been necessary for the international airlines to invest in developing data to provide insights into the service capability of airport baggage systems in Australia, as no airport operator has provided suitable data.

Direct check-in bags

Most mishandled bags are those directly checked in by passengers at the international terminals.²² In 2018, the rate of mishandled directly checked in bags at Sydney and Melbourne airports averaged 3.4 and 2.5 bags per thousand, respectively (Figure 2). These results are up from 2.7 and 2.3 bags per thousand in 2017, respectively. This is above an achievable standard of about 1.5 bags per thousand. This performance benchmark is based on available overseas data and BARA’s knowledge of service expectations given its ongoing consultation with member airlines.²³

BARA notes Western Sydney Airport’s stated position that it is seeking to eliminate mishandled bags.²⁴ While this is probably not possible at Australia’s major international airports, it is notable that there is no set minimum standards or benchmarks for mishandled bags in any of the airport services agreements with Sydney, Melbourne, Brisbane or Perth airports. At best, there is only the reporting of the poor outcomes occurring at Sydney Airport.

²⁰ The estimated number of mishandled bags in 2018 is based on data BARA obtains through the management of the Account for and Authorise Baggage Reconciliation Service. Assumes a cost to airlines of \$300 per mishandled international bag.

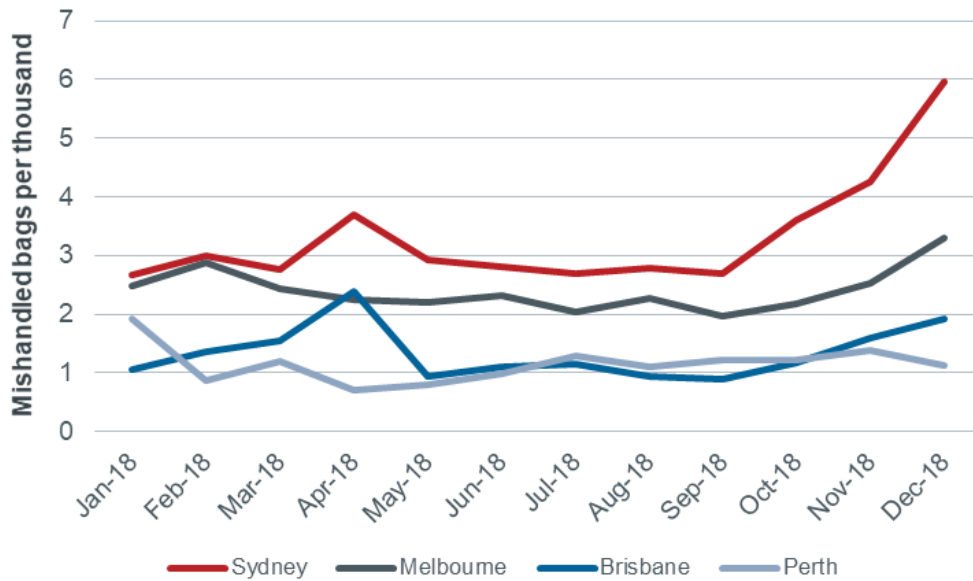
²¹ A mishandled bag is one that is not on passenger’s flight and is delivered via a later flight. The data Unisys provided is for general information and Unisys does not represent or warrant the suitability of the data or information for any particular purpose.

²² In its submission dated 23 November 2018, Sydney Airport claims: ‘the KPIs in the 2015 BARA ASA have indicated that the difficulties associated with baggage predominantly relate to transfer bags rather than direct bags and are therefore primarily influenced by airline and ground handler processes in the use of the baggage system.’ (p.19) This claim does not tally with the baggage data.

²³ The SITA 2018 Baggage Report calculates the global average of 5.57 mishandled bags per thousand. Using the Australian proportion of direct to transfer bag proportions and adjustments for arriving bags and loading errors, this suggests a global average of direct check-in mishandled bags of about 2.7 per thousand. This indicates the rate of mishandled bags through Melbourne Airport is currently about average and well above the average at Sydney Airport.

²⁴ *The Australian*, 1 March 2018, ‘Lost luggage challenge’, p.24.

Figure 2. Mishandled bag rates, direct check-in, 2018



Source: Unisys Australia. The data Unisys provided is for general information and Unisys does not represent or warrant the suitability of the data or information for any particular purpose.

At Brisbane and Perth airports, the rate of mishandled directly checked-in bags in 2018 was 1.3 and 1.2 per thousand, respectively. Given the lower bag volumes and less complicated international operations into these airports, a rate of no more than one bag per thousand should be achievable.

If BARA's performance benchmarks for direct check-in bags were achieved, there would have been some 25,000 fewer direct check-in international mishandled bags in 2018, improving passenger outcomes and saving airlines \$7.5 million in operating costs (\$38 million over 5 years).²⁵

Transfer bags

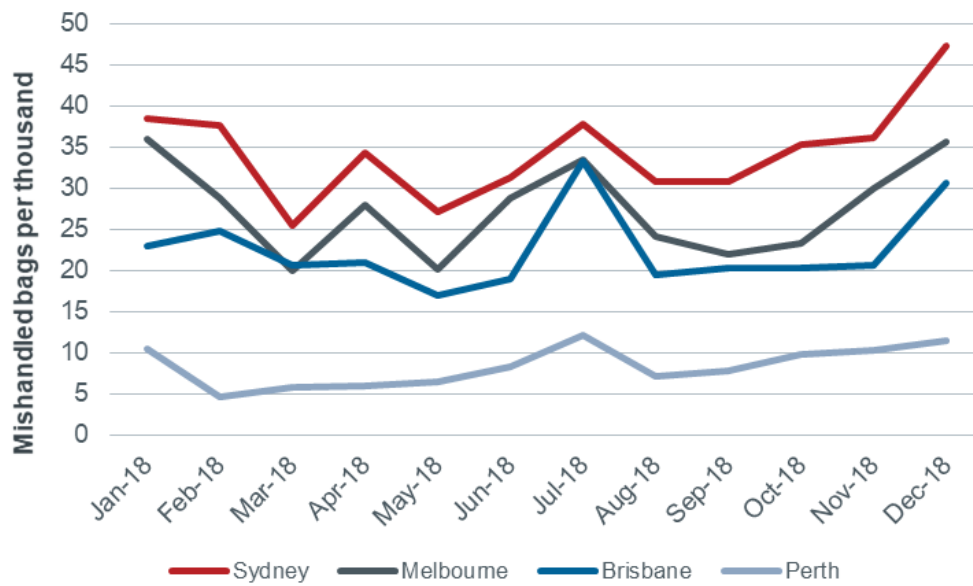
Rates of mishandled transfer bags, from domestic flights to international flights and international to international flights, are much higher (Figure 3). Given the differences in the rate of mishandled bags by source of bag, comparisons across airports based on average mishandled bag rates are uninformative. This is because the average outcome for the airport is influenced by the proportion of transfer bags in total bag numbers.

The higher rate of mishandled transfer bags reflects several factors, including delayed arriving flights and transfer issues between airlines and different ground handlers. The airport operators, however, still have an important role in the quality of infrastructure provided, such as baggage transfer points, and are involved in developing and supporting baggage transfer processes between ground handlers. Melbourne Airport's oversubscribed runways during the morning peak cause delays to arriving flights, which in turn can increase the number of mishandled transfer bags.

If the average rate of mishandled bags at Sydney, Melbourne and Brisbane airports was reduced to 20 per thousand, this would reduce the number of mishandled international transfer bags by about 16,000 per year, saving airlines some \$4.8 million per year (\$24 million over 5 years).

²⁵ Assumes a cost to airlines of \$300 per mishandled bag.

Figure 3. Mishandled bag rates, transfer, 2018



Source: Unisys Australia. The data Unisys provided is for general information and Unisys does not represent or warrant the suitability of the data or information for any particular purpose.

Projects that would help improve baggage outcomes for international passengers include: equal priority for baggage makeup space; improved maintenance of baggage systems; tracking bags across handover points; and working with external parties, such as telecommunication providers, to ensure highly quality connections for all remotely operated equipment (eg bag scanners in the baggage rooms).

Consistency with BARA's member survey

The high rates of mishandled international bags through Sydney Airport are consistent with the member survey ratings, and the usually poor performance rating of Sydney Airport's international baggage system, as contained in ACCC's annual airport monitoring report.

For Melbourne Airport, a key finding of the member survey was that members are reporting a gradual but sustained lower assessment of Melbourne Airport given its new, more complex operating environment. This is consistent with the observed increase in the proportion of mishandled direct check-in (2.3 per thousand in 2017 to 2.5 in 2018) and transfer bags (25 per thousand in 2017 to 28 in 2018).

At Brisbane and Perth airports, mishandled bag rates are still higher than need be given the relatively uncomplicated international operations and lower bag volumes at these airports.

Foreign object debris: highly unacceptable outcomes at Sydney Airport

In negotiating the 2015 Aeronautical Services Agreement (2015 ASA) with Sydney Airport, member airlines tasked BARA with addressing the key issues of basic standards of service provision in the areas of airfield services, including foreign object debris (FOD); and cleaning and maintenance in the international terminal.

While cleaning and maintenance in the international terminal for most areas has improved from the poor standards observed, significant problems with FOD remain, as highlighted in BARA's initial

submission to the Commission.²⁶ In the recently released Airport Monitoring Report 2017–18, the ACCC also noted that:

Airlines said congestion at aprons was an issue at Sydney Airport and attributed it to factors such as limited apron facilities and their poor design and layout. Some airlines also noted their concern about foreign object debris. (p.140).

FOD is generated by infrastructure and equipment operations at terminal gates, cargo aprons, taxiways and runways. It describes a wide range of items, including broken equipment and loose hardware such as bolts and metal fragments, pavement rubble, catering supplies and luggage parts. FOD is recognised worldwide as an issue that must be actively managed at all airports. This should occur daily to systematically maintain a safe, clean area for aircraft operations.

Inspections between 2013 and 2015, including with staff from Sydney Airport, identified many instances of poor cleaning and maintenance standards, including extensive rubbish from retail shops being left in passenger terminal areas. BARA also observed extensive FOD, such as metal parts, general litter and rubbish on the aircraft aprons around the international terminal gates in its 2015 inspection.

Member airlines consider the standard of airfield services at Sydney Airport, especially the active management and removal of FOD from around the terminals, remains highly unacceptable. The lack of active management of FOD is both making aircraft operations less efficient and causing damage to international aircraft.

The confidential Appendix A to this submission provides additional evidence supporting the concerns of member airlines. The information in the appendix highlights the unacceptable service problems the international airlines spend their time addressing at Sydney Airport.

BARA has confirmed with airlines that FOD at Melbourne, Brisbane and Perth airports is generally well managed, and is a priority for senior management.

It is important to emphasise that the onus for active management of FOD lies with Sydney Airport. There should be no need for airlines and their representative bodies to continually raise the issue with Sydney Airport for its urgent attention – the problem is in plain sight.

To date, the collective efforts of BARA and the Sydney Airport Airline Operators Committee (Sydney AOC) to address the problem have proven unsuccessful. This is despite the 2015 ASA having clear requirements for Sydney Airport to provide airfield services that are clean, safe and in accordance with good airport management.

The highly unacceptable FOD issues at Sydney Airport are to the detriment of efficient international airline operations. Damage to aircraft and aviation equipment is imposing additional costs on the airlines. As noted in BARA's initial submission, the airport services agreements have little or no recourse for airlines in the face of falling or substandard airport services.²⁷ The current airport monitoring regime is also of no assistance on important matters that need to be addressed.

BARA considers the FOD problems at Sydney Airport represent a breach by the airport operator of the Aeronautical Pricing Principles, namely 'that service-level outcomes for aeronautical services

²⁶ See BARA submission, 3 September 2018, p.15.

²⁷ See BARA submission, 3 September 2018, p.28.

provided by the airport operators should be consistent with users' reasonable expectations' (Principle E).

Consistency with BARA's member survey

The highly unacceptable FOD issues at Sydney Airport highlight the differences between the performance standards represented by the airport and the reality of the issues the international airlines face, which is an ongoing cost to their efficient operations.

In BARA's member survey results for Sydney Airport, airlines highlighted that FOD was a key concern for them. So it should be unsurprising that airlines have scored Sydney Airport low on value for money, given the problems in airfield services that affect their daily operations and which they are seeking to address through avenues other than their airport services agreement.

Seeking to silence international airlines

BARA is disturbed by Sydney Airport's attempt to silence any criticism or comment by international airlines about the standard of services and outcomes at the airport. BARA has been made aware of Sydney Airport's lease terms for some of the offices of international airlines. These require the airline to ensure they 'do not do anything that would bring negative attention to the brand, image or reputation of Sydney Airport'. The airline is also required to ensure these provisions are enforced with its employees and agents, including the absurd requirement that airlines include these conditions in all airline employee contracts and the contracts of their agents.

A copy of these legal clauses is provided in the confidential appendix to this submission.

If implemented and enforced, these terms could severely restrict the ability of international airlines to raise service issues occurring at Sydney Airport. On behalf of its member airlines, BARA has no intention of complying with such draconian directions. BARA will continue to publicly raise issues affecting the safety and efficiency of Australia's international aviation regardless of any efforts Sydney Airport may make to silence criticism.

BARA has not been involved in detailed representation of member airlines for office leases at Sydney Airport for a few years. BARA can only assume that, given an assumption the Commission will only review its main airport services agreement, Sydney Airport has decided to incorporate these highly unacceptable clauses that are against the public interest in associated agreements, such as office leases.

There are already confidentiality provisions in place that protect the legitimate business interests of the airport operators. The airport services agreements require the international airlines to keep commercially-sensitive information confidential. There is no legitimate basis for an additional requirement that airlines do not do anything that would bring negative attention to the brand, image or reputation of Sydney Airport. This is a blatant attempt to stop the airlines from raising issues that involve matters in the public interest.

BARA, therefore, requests the Commission recommend the Aeronautical Pricing Principles be expanded to explicitly ban attempts by the airport operators to suppress airlines from publicly raising service and performance issues about Australian airports beyond the normal requirements to keep commercially sensitive information confidential.

Effectiveness of the current airport services agreements

The efficiency gains from achievable performance improvements in airport services are estimated to be worth over \$270 million for international aviation over the next 5 years.²⁸ This translates into about \$4 per departing passenger at Sydney Airport. Similar gains in efficiency per arriving passenger should also be possible.

BARA notes the Commission's concern over Sydney Airport's high charges for international flights.²⁹ Adding \$4 per passenger to this already high charge further highlights the large gap between the performance benchmarks applied by the Commission in its Draft Report and the performance standards international airlines reasonably expect in airport services.

BARA's desired commercial benchmarks

To achieve these efficiencies, international airlines need appropriate and balanced airport services agreements. The current agreements with the operators of the major international airports will not lead to the attainable improvements in the provision and management of airport services.

BARA's detailed desired commercial benchmarks and progressive commercial principles would provide all parties with better incentives to identify and achieve improvements in service quality and airline operating efficiency. They would also strengthen the ability of international airlines to deal with highly unacceptable service outcomes directly with the airport operator. BARA also saw merit in guidance material on airport rates of return, which could encourage negotiations around the delivery of valued outcomes for the level of profitability sought.

BARA remains open to negotiating modern and progressive airport services agreements with the operators of the major international airports. Unfortunately, this will not be a requirement under the findings and recommendations contained in the Commission's Draft Report. As in its initial submission to the Commission, the current airport services agreements have little value in the face of falling service outcomes, especially those detrimental to the operating efficiency of international flights.

Revamped monitoring

BARA is challenged to see how a revamped monitoring regime will address the problems international airlines have with the provision and management of airport services at Australia's major international airports. BARA agrees with the Commission's position that the current monitoring report is not adequately meeting the needs of any parties.³⁰ For international airlines, it is particularly deficient in monitoring the core responsibilities of the airport operators in the delivery of airfield, contact gate, airside bussing and baggage services. As the Commission has discounted these concerns in its Draft Report, it is to be expected the proposed economic regulatory response will be inadequate.

Changes to the monitoring data are unlikely to solve the performance issues. The issues must be addressed in what underpins these outcomes, namely the airport services agreements between the international airlines and airport operators.

²⁸ See BARA Submission 3 September 2018, p.60

²⁹ Draft Report, p.19.

³⁰ Draft Report, p.303.

The Commission's proposal is for the ACCC to try and develop indicators that will meet the needs of stakeholders. BARA has reservations as to whether this will generate any useful improvement in practice for the following reasons:

Inappropriate commercial accountabilities: the airport operators currently accept little to no commercial accountability in supporting airlines in the key areas of on time performance, aircraft turnaround times and baggage. As occurs today, declining on time performance, increasing aircraft turnaround times, and rising mishandled bag rates due to airport services do not affect the profitability of the airport operators. Without an appropriate allocation of commercial accountability, the foundations for encouraging improved outcomes do not exist.

Necessary data does not currently exist: at most airports, KPI data is generally at a basic level and does not cover issues such as aircraft turnaround times and the availability of infrastructure for use by airlines within a reasonable timeframe. This will inherently lead to the ACCC choosing from the limited data available. The industry is still a long way from being able to accurately measure and understand its performance given the quality of airport services provided.

Stakeholders will become normalised to poor and average outcomes: as occurs today, with no action on identified problems with individual services identified in the monitoring report, average to poor standards will likely become the accepted standards in Australia through time. When the Commission reviews the data in 2024, it will presumably seek to understand poor service outcomes in assessing whether an airport has exercised its market power.

No accountability for poor performance: as occurs today, the ACCC's airport monitoring report does little more than stimulate a series of press releases by industry stakeholders each year, ranging from apparently demonstrating what a success the economic regulatory arrangements are, to how they are occurring at the expense of passengers and the economy more generally. This will do nothing to encourage improved performance. There has been no follow-up action on the identified sustained poor delivery of services, such as the consistently identified poor performance of Sydney Airport's international baggage system.

In conclusion

Members know from experience there is considerable scope to improve upon current performance in airport services. The evidence for this includes BARA's member survey, available data on international on time departures performance and baggage, and the identified issues with FOD at Sydney Airport. Unfortunately, international airlines are unable to satisfactorily address these issues directly with the airport operators given the environment in which they are placed under the current economic regulatory arrangements.

In its initial submission to the Commission, BARA identified the key commercial outcomes necessary to motivate performance that would generate the most value from Australia's international aviation for its economy and people. It also canvassed different reform pathways to improved performance.

Without change to the underlying commercial accountabilities, BARA does not expect the industry to realise the attainable efficiency improvements in airport services. The non-binding Aeronautical Pricing Principles are not assisting international airlines, which do not have the countervailing market power to achieve acceptable commercial outcomes.

Ultimately, international airlines will operate to Australia's airports to the best of their ability given the quality of services on offer. Whether the benefits of superior performance in airport services are delivered for the Australian economy and people will depend on the willingness to achieve them rather than simply accept current standards or only look for sustained poor outcomes.

Other issues raised by the Commission

BARA comments on four issues raised in the Commission's draft report covering agreement terms and aeronautical pricing, anti-competitive clauses, noise mitigation and slot management at Sydney Airport.

Agreement terms and aeronautical pricing

The Commission is seeking further information on 'take-it-or-leave-it-offers' (Information Request 4.1) and on the ways in which airports and airport users share risks through negotiated agreements (Information Request 4.2).

BARA notes it provided detailed information for public scrutiny on risk-sharing arrangements and commercial accountabilities in its initial submission, including why current arrangements do not fit with supporting continuous improvement in the delivery of airport services.³¹ The Commission, however, saw no issues of concern, meaning no need for improvement.³² BARA, however, argues that the problems with the quality of the commercial agreements is fundamental to the problems in airport services for international flights, as documented in this submission.

On unacceptable terms that should have no place in airport services agreements, BARA has consistently rejected the following items put forward by the airport operators:

- Airport operator's right to amend any agreement clause subject to consultation with airline (unilateral right to amend).
- Airlines required to acknowledge the agreement is 'fair and reasonable' (deeming clauses).
- Airlines to accept any agreement published by the airport operator, including pricing, if a new agreement is not reached (future agreement).

These terms can be found in many of the current agreements between the airport operators and international airlines.

On commercial risk sharing, this issue was explained in detail in BARA's initial submission. BARA comprehensively analysed the agreement terms, which assessed the overall ability of international airlines to obtain acceptable minimum service outcomes for the prices paid, and the extent the agreement encouraged continuous improvement in service delivery. Focusing on some individual clauses within an airport services agreement generally has limited value. What needs to be assessed is its overall ability to support the delivery of good service outcomes for the prices paid.

In summary, the current airport services agreements contain some onus on the airport operator to maintain the service assets at the airport in reasonable condition but fall well short of a requirement to actively manage service outcomes at the airport. They represent a basic level of accountability for the airport operator, which is consistent with international airlines being able to achieve average on time departures performance together with high rates of mishandled international bags for passengers.

³¹ See BARA submission 3 September 2018 covering Contractual accountabilities and negotiations and Desired commercial benchmarks.

³² Draft Report, p.2.

In all current agreements negotiated through BARA, the airport operator accepts little to no financial exposure to its service delivery capability for international flights. This means the commercial agreements have little value for airlines given falling service standards. Highly unacceptable service outcomes can emerge and persist, as is occurring at Sydney Airport for airfield services for international flights.

Aeronautical pricing

On pricing, BARA maintains that, based on the level and stability of the returns earned by the airport operators on their aeronautical investments relative to other infrastructure providers in Australia, combined with the lack of accountability over service outcomes, the prices paid for airport services by international airlines are excessive. BARA's policy document, [Timely and reasonably priced airport infrastructure](#), contains benchmarking outcomes that show the returns earned by the airport operators on their aeronautical investments are both higher and more stable than other infrastructure and transport service providers.³³

An analysis would also likely find other infrastructure service providers accept higher amounts of commercial accountability over service outcomes. As explained in BARA's initial submission, member airlines consider the airport operators are benefiting financially from the strong growth in international passenger volumes but handing back the operational difficulties and issues associated with these increased traffic volumes to international airlines.

Overall, BARA considers the Commission's interests are too narrowly focused on whether the economic regulatory arrangements give the airport operators incentives to invest, rather than supporting increasingly efficient safe aircraft operations.³⁴ Member airlines are focused on their ability to operate efficiently at the airports, which is a much broader set of issues than just the size and number of projects contained in an airport operator's 'indicative capital program'.

Anti-competitive clauses

BARA's voluntary, non-binding collective negotiations fit with competitive and progressive outcomes. BARA does not negotiate anti-competitive clauses, which makes no sense across its diverse membership. As noted by Perth Airport:

PAPL has never experienced BARA's involvement as anti-competitive. In fact, BARA's position has consistently been to seek equitable distribution of common use facilities.³⁵

The ACCC also investigated this as part of BARA's last collective negotiation re-authorisation and found no issue. It remains open for any airport operator to lodge a complaint about BARA with the ACCC. As such, extensive avenues to address any such conduct by BARA currently exist.

³³ BARA (April 2014), [Timely and reasonably priced airport infrastructure](#), p.11.

³⁴ See for example, Draft Report, p.129.

³⁵ Perth Airport submission to the ACCC, 26 November 2014, p.2.

Agreements on common use aeronautical services and facilities

BARA does not negotiate agreements that include take-or-pay clauses or request any 'most favoured nation' provisions that reference price or terms and conditions agreed with non-BARA members. These would be issues for individual members and the airport operators in their bilateral negotiations.

BARA negotiates a common or 'rack rate' price for the provision of common use aeronautical services and facilities for its member airlines. These pricing arrangements are generally on a 'per passenger' basis, with some cost items subject to periodic reconciliations of costs and revenues (eg government mandated security services) so as to achieve a revenue neutral result.

BARA negotiates the terms and conditions of the acquisition of services that may then be offered to its members without reference to price or non-price terms and conditions offered to non-BARA members. BARA has no knowledge of the terms and conditions offered to non-BARA members, which may or may not vary from those offered to BARA members, other than through public sources such as information available on an airport operator's website.

Aircraft noise mitigation

In its Draft Report the Commission has invited comments about 'the potential costs and benefits of reforms to Sydney Airport's regulatory constraints on aircraft movements that can also meet current noise objectives' (Information request 7.1).³⁶ BARA has explained its position on noise mitigation in its policy document, [Environmentally sustainable growth](#), including why 'Australia's regulatory frameworks for mitigating the impacts of aircraft noise require modernisation to allow international airlines to improve their operational and environmental performance.'³⁷

BARA's members understand aircraft noise is an issue of significant concern to communities and that the industry needs to actively participate in developing and implementing aircraft noise mitigation strategies. BARA supports structured community consultation and engagement to gain wide support in developing and applying modernised frameworks to mitigate and equitably share aircraft noise.

Modernising the way aircraft noise is managed

The noise each plane generates is influenced by many factors, including the aircraft's acoustic design. Improvements in aircraft design are leading to new aircraft with a noise footprint on average 15% smaller than the aircraft they are replacing. Aircraft equipped with engines meeting the latest noise standards are quieter by seven Effective Perceived Noise decibels (7 EPNdB).

Improved noise outcomes for Australian communities can be achieved by modernising the way aircraft noise is managed. It requires progressively moving away from fixed regulations and measures towards specifying the outcomes that the industry needs to reach.

Changes to aircraft, airport operations and airport infrastructure will be necessary to support growing traffic volumes, including building new runways at some airports in the future. Precision approaches with flight paths designed to minimise the impact on noise-sensitive residential areas where practically possible, and multiple flight paths that allow accurate noise sharing on individual flight paths, can reduce and equitably share noise.

³⁶ Draft Report p.35

³⁷ BARA 2018, *Environmentally Sustainable Growth*, International Aviation Policy Series.

Allowing aircraft with enhanced capabilities to operate efficiently will deliver better noise outcomes for the community. The international aviation industry has a strong interest in actively participating in the development and implementation of improved noise mitigation strategies. Making the best use of new generation aircraft to the benefit of communities is necessary to help justify the investments made in their capabilities.

Aircraft noise mitigation at Sydney Airport

The most prescriptive and extensive requirements exist for Sydney Airport, and cover almost all aspects of airline operations. Night-time curfews, hourly movement caps, noise-sharing modes and flight path restrictions are all used to mitigate aircraft noise at Sydney Airport.

There are opportunities to develop and implement more effective measures of aircraft noise impacts and respite than the existing runway end movement numbers, for example, removing the cap on actual movements at Sydney Airport but retaining a cap on scheduled movements. Allowing industry to efficiently manage its daily operations will deliver better outcomes overall for communities and passengers.

The combination of the industry recognising it must reduce its environmental impacts and the constant drive to improve efficiency provides an imperative for continual advancements in aircraft technologies and air navigation services. The best environmental outcomes are achieved when air navigation services enable modern aircraft to operate as efficiently and quietly as possible.

Sydney Airport slot allocation scheme

In its Draft Report the Commission has recommended the Australian Government should commission a public review of the Sydney Airport Slot Management Scheme 2013 (Cwlth) following the outcomes of the International Air Transport Association's review into the Worldwide Slot Guidelines (Draft Recommendation 7.3).

BARA is unaware of situations where a member airline considers they did not get fair treatment from the independent slot coordinator (Airport Coordination Australia) in seeking to obtain additional operating slots at Sydney Airport. Individual airlines could provide such evidence to the Commission if they consider unfair treatment has occurred.

As a general principle, BARA supports the application of IATA's Worldwide Slot Guidelines as a basis for the orderly management of operations at Australia's capacity constrained airports. As many international flights from Australia need to be coordinated with international hub airports, the arrangements provide certainty in operations that support efficiency in international aircraft operations.

It is not clear of the extent of the policy problem the Commission is seeking to address in calling for the resources necessary to conduct a public inquiry, at least in terms of international aviation. Australia's international aviation is characterised by high levels of competition; multiple airlines provide a range of service offerings for passengers on the vast majority of routes to and from Australia.

Australia's international passenger numbers have increased over the past 12 years by about 83%, or 5.7% annually, to nearly 39 million in 2016–17. This includes strong passenger growth through Sydney Airport. Real international airfares have also fallen by about 40% to the benefit of passengers and the Australian economy. The planned operation of the Western Sydney Airport in about 2026 will also provide valuable new aviation capacity for the Sydney region.

There may be some merit in improving upon the existing arrangements in line with the updated World Slot Guidelines. International airlines, however, still see the highest priority in resources being allocated to achieving the attainable improvements in airport services, and addressing the highly unacceptable airfield services outcomes at Sydney Airport, as documented in this submission.

Competition in jet fuel

BARA appreciates the analysis in the Commission's Draft Report on competition in jet fuel supply. Unfortunately, a lack of transparency in arrangements is a notable feature of Australia's jet fuel supply. Through the International Air Transport Association (IATA), further information on jet fuel prices and competitive outcomes from international airlines is being compiled. Depending on the conclusions the Commission draws from the additional evidence, BARA's preference would be for industry-specific arrangements to be developed and implemented if the infrastructure providers are not prepared to voluntarily establish suitable access arrangements.

BARA supports the Commission's proposals on jet fuel infrastructure for Western Sydney Airport and the establishment of a jet fuel coordination forum as part of the master planning processes of the major international airports. Finally, BARA considers that Sydney Airport's fuel throughput levy (FTL) is nothing more than an unjustified extraction of economic rent, estimated to generate an excess annual rate of return of about 400% on the land it leases to Sydney JUHI. Sydney Airport did not pay for the right for this revenue stream at the time of privatisation. It represents a sustained exercise of market power by Sydney Airport in aircraft refuelling services.

Additional evidence from airlines and preferred reform path

The Commission is seeking additional publicly presented information on jet fuel supply arrangements, including pricing and competitive outcomes for airlines across airports.

BARA does not seek or receive commercially sensitive information from member airlines, which it makes clear to the ACCC when seeking to renew its voluntary, collective negotiation authorisation. As such, BARA does not have additional information on the state of competitive supply at the major international airports beyond the evidence presented in its initial submission to the Commission's *Issues Paper*.

Efforts to provide more information on jet fuel prices and tendering outcomes is occurring through IATA. IATA's membership is also broader than BARA's; it can allow input from non-BARA member airlines that are members of IATA.

In terms of arguing and presenting the case for reform, BARA has been raising the need for reform to the provision and pricing of jet fuel supply in Australia for many years. It has placed its position on the public record, including its:

1. policy document, [A competitive supply of jet fuel at Australia's major international airports](#)
2. submission to the Competition Policy Review
3. submission to the Commission's 2015 Research Paper, *Australia's international tourism industry*
4. submission to this inquiry.

As BARA would understand it, the Commission is going to evaluate the benefits and costs of reform options on the expectation of improved information in response to the Draft Report's information request. It is not possible for BARA to usefully expand on the case it presented in its initial submission based on the information available to it.

Preferred reform path

BARA's preference is for the owners of the various elements of the jet fuel infrastructure supply chains to develop workable access arrangements voluntarily, consistent with best practice examples already in operation in overseas countries. A specific outcome sought is appropriate transparency in setting prices for the services provided. As such, BARA does not accept that open access arrangements are in place at Melbourne JUHI. It might be the pricing of access is designed to actively inhibit the commercial opportunities of new entrants. Factual evidence is needed here.

If the current infrastructure owners fail to develop and implement in good faith access arrangements for their infrastructure, then greater involvement by government is warranted. BARA understands other industries are usually characterised by industry-specific arrangements, such as gas pipeline and electricity network codes and telecommunications access arrangements. This suggests industry-specific arrangements for jet fuel supply are likely to deliver the best improvement in competitive outcomes and efficiency in supply.

Western Sydney Airport and jet fuel coordination forum

BARA supports the Commission's Draft Recommendations 8.1 and 8.2 about open access for fuel suppliers at Western Sydney Airport and the inclusion of a jet fuel coordination forum into the airport master planning process for Sydney, Melbourne, Brisbane and Perth airports. BARA recommends the jet fuel coordination forum also apply to the Western Sydney Airport after it begins to operate.

Western Sydney Airport

BARA notes the following points on Western Sydney Airport:

1. Rather than refer to the infrastructure as 'JUHI', it should be referenced as the 'on-airport jet fuel storage and distribution facilities'. BARA would not expect or support existing oil company investment through JUHI-type arrangements in the jet fuel storage and distribution facilities at Western Sydney Airport.
2. The airport operator should own the infrastructure directly and charge for its use. There should also be a specialist operator of the facilities. When facilities are owned by an airport operator, they often outsource the day-to-day operations to a third-party provider.
3. The airport operator should directly provide, or at least ensure, a specialist provider of into-plane services, which should require non-discriminatory access to fuel suppliers.

BARA supports these pro-competitive arrangements being made a condition of any future privatisation of the airport.

Jet fuel supply planning and coordination forum

The establishment of the jet fuel coordination forum can permit a more structured approach to the orderly investment in jet fuel supply infrastructure than now occurs, which is generally in reaction to widespread jet fuel rationing events at a major international airport. It should also consider whether appropriate access arrangements, including pricing, are in place for the jet fuel infrastructure supply chain.

Where there is enough supply capacity, including adequate planned future investments, the forum's activities can be quickly concluded. It is at those airports where existing problems exist, or are likely to emerge in the medium term, that greater involvement from all stakeholders is necessary. The forum would provide a sound basis for understanding the need for greater involvement from

stakeholders, including the Australian Government and state governments. Required initiatives identified by the coordination forum should also be subject to ongoing monitoring.

Sydney Airport's fuel throughput levy

The Commission has sought to assure all stakeholders that it would not hesitate to recommend regulatory changes, including price regulation, for any airport that was found to have systematically exercised its market power. BARA considers Sydney Airport's FTL easily passes the systematic exercise of market power threshold.

Sydney Airport's FTL does not bear any resemblance to an efficient pricing structure. It is simply an extraction of economic rent and represents the unjustified taxation on the flow of jet fuel through to aircraft at the airport. There is no connection between the revenues obtained from the FTL and the setting of prices for airfield and terminal services.

Right to impose – not at Sydney Airport

BARA's understanding is that, at privatisation, the lease between Sydney Airport and Sydney JUHI did not give Sydney Airport the right to impose an FTL. Sydney Airport chose to exercise its market power and impose an FTL in subsequent lease renewals with Sydney JUHI. As explained by the Shell Company of Australia in its submission to the Commission's 2007 Inquiry *Price regulation of airport services*:

The Sydney airport owner has the right to introduce a throughput fee when it can reasonably assert that the payment of throughput fees is common around Australia, which to date has not been able to be made out. However, the Sydney airport JUHI lease is coming up for renewal. On current indications any imposed throughput fee is likely to result in a very significant cost increase that is many times greater than the current commercially based lease charge. No additional benefit is being offered.

Lease and licence fee amounts are at a market rate, adjusted by CPI and market reviews. The result is that where charged, fuel throughput fees are over and above the commercial 'rent' that would otherwise be payable. (p.3)

The Commission could seek the information directly from Sydney Airport and Sydney JUHI to confirm the rights Sydney Airport obtained to impose an FTL as part of the privatisation of the airport. BARA's clear understanding was that it did not, as it was not commonly applied around Australia.

Level of return – highly excessive and consistent with a fee for no service

As explained by the Shell Company of Australia's submission to the Commission, Sydney Airport already obtains appropriate compensation for its activities on jet fuel through the market-based rent on the land occupied by the Sydney JUHI and licence fees for the ground through which the subterranean pipelines run.³⁸ Sydney Airport did not offer any service improvement when it imposed the FTL in subsequent lease renewals with Sydney JUHI after the airport was privatised.

BARA estimates that Sydney Airport likely earns about \$16–17 million per year through the FTL, generating an excess annual rate of return of about 400% on the value of the land occupied by the Sydney JUHI (Table 2). BARA's estimate could be refined through data sourced directly from Sydney Airport and Sydney JUHI.

³⁸ The Shell Company of Australia, submission to the *Price Regulation of Airports* inquiry, p.3.

Table 2. Analysis of Sydney Airport's fuel throughput levy

	Units	Value
JUHI land area ^(a)	m ²	27,000
Land valuation ^(b)	\$/m ²	\$148
Total land value	\$ millions	\$4.0
Fuel throughput levy ^(c)	cents per litre	0.5
Annual fuel sales ^(d)	Billions	3.3
Annual FTL revenues	\$ millions	16.5m
Excess return on JUHI land value	% per year	<u>413%</u>

Notes: (a) Based on an analysis of graphical depiction of Sydney Airport. (b) Based on the ACCC's 2001 Sydney Airport pricing decision (Sydney Airport's land value estimates), indexed by CPI and land areas in the 1999-2000 airport monitoring report. (c) Based on advice from member airlines. (d) NSW jet fuel use in 2017-18 less about 400 million litres for other airports in NSW.

BARA notes the Commission's Draft Report expressed potential concern at the rates of return Sydney Airport earned on airport services (eg landing and terminal) reaching 11%.³⁹ BARA also notes that the prices Sydney Airport sets for landing and terminal charges do not consider the revenues it obtains from the FTL (ie as a revenue offset), as explained in BARA's initial submission to the Commission. As such, the FTL plays no role in risk-sharing arrangements between Sydney Airport and Sydney JUHI or Sydney Airport and airlines.

Unless there is some manifest mistake in the analysis contained in Table 2, which BARA has based on the best available data it can gather and which is consistent with the evidence put forward by the Shell Company of Australia, it is clear Sydney Airport is exercising its market power in the lease arrangements over the land occupied by the Sydney JUHI. On this basis, BARA expects some regulatory response from the Commission given Sydney Airport did not acquire the FTL as a purchased right at the time of privatisation, and the evidence of the highly excessive annual rate of return the airport is making.

³⁹ Draft Report, p.16.

BARA's publications

BARA's Policies, Position Statement and quarterly *Airline Views* articulate the outcomes and reforms that will support safe and efficient international aviation for Australia.



For these documents and more information, visit bara.org.au/publications