

13th October 2006

Review of Price Regulation of Airport Services Enquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2617

**DRAFT REPORT ON REVIEW OF PRICE REGULATION OF AIRPORT
SERVICES: REGIONAL AVIATION ASSOCIATION OF AUSTRALIA COMMENTS**

The Regional Aviation Association of Australia (RAAA) recognises the vast amount of work carried out by the Commissioners in the preparation of the draft report, and expresses its gratitude for the even handed consideration of the issues raised by the various respondents. In general, the thrust of the report is supported, although there are certain issues with which the RAAA does not fully agree.

If the RAAA has one main criticism of the draft report, it is that its considerations appear at least to have been generally undertaken from the perspective of passengers, rather than from the perspective of tenants and others who have no practicable alternative operating base. As an example, the RAAA finds difficulty accepting the Commissioners' assessment of the market power of the smaller major airports as only moderate. It accepts that in some cases, road is a viable alternative for some potential passengers, and thus may result in a slight reduction in market power from the point of view of passengers. However the viability of road as an alternative to some passengers provides no reduction at all in the extent of the market power that such an airport enjoys over aviation operators, whether airlines or other service providers, which choose or need to use that airport. For them there is usually only one alternative to acceding to the airport's demands: cease operations on the airport. In the case of the smaller operations, this is usually a choice between dying at one's own hand or enduring the death of a thousand cuts. The RAAA is concerned that the Commissioners may not have considered the full extent of market power enjoyed by the major airports over their tenants.

The RAAA stresses again that its members have reported gross misuse of market power by only a few airports, and its strongly expressed concern over this issue does not imply that all or even a majority of airports have behaved in such a manner. Nevertheless the potential for abuse is there and has occurred. The fundamental issue which should be recognised and addressed is that the Act gave airport owners overwhelming market power in relation to operators and other tenants, but it provided no practicable and accessible means for those operators and tenants to seek redress of injustices which result from improper use of that power. The RAAA believes that this review provides an opportunity to correct that grave omission.

The RAAA was gratified to see some recognition of the significance of non-price terms and conditions to operators of aviation services. The cost to smaller operators, in both financial and administrative effort terms, of trying to deal with those airports which choose to abuse their overwhelming market power in non-pricing areas such as lease terms and conditions, can be enormous, and in our opinion amply justifies both monitoring and a dispute resolution system.

Part 8.1 of the draft report raised the question of regional aircraft access to Sydney Airport. It introduced the suggestion that current arrangements to guarantee regional aircraft slots result in a significant efficiency loss for Sydney Airport. It is not disputed that from a pure economic point of view, this may appear to be the case. However, Sydney Airport is not yet at even its artificially regulated capacity, and the next limiting factor is not regional slots but the availability of parking for international aircraft. This is in fact already a limiting factor. A combination of removal of the current movement cap and curfew by government, and the building of more parking bays at the international terminal by SACL, would substantially enhance efficiency without any restriction on regional traffic. However this is unlikely to be attractive to government for social/political reasons. Similarly, because large numbers of regional passengers need to transit to or from domestic or international aircraft, and therefore need to travel via Sydney Airport at specific times to connect with those flights, the removal of the ring fence arrangements and/or the introduction of prohibitive surcharges for peak periods would have what RAAA believes to be unacceptable results for regional communities and the airlines that service them. It must be understood that Sydney Airport is an airport, and an integral part of the national transport infrastructure. As such, it needs to cater for a wide range of air services, some of which will of necessity result in greater potential return than others, but this is no more a reason to restrict access to smaller aircraft than it would be to remove smaller vehicles' rights to access the nation's roads. In any event, the ring fencing was an integral part of the sale arrangements, and a fundamental rule change now should only be considered for very good reasons, none of which are obvious at this stage.

In conclusion, the RAAA believes that airport operators occupy such a unique position by virtue of the monopolistic nature of their businesses, their critical importance to the national infrastructure, and what might be seen as deficiencies in the Act, that Government is justified in taking steps to:

- ensure the primacy of aviation use,
- guarantee fair access both airside and landside, including security of tenure of tenants and operators,
- ensure transparency of both access and pricing arrangements, and
- provide a means for tenants and operators to seek redress in cases of gross abuse of market power in price or non-price related matters.

The draft recommendations are addressed separately at Annex A.

The RAAA, on behalf of its members, thanks the Commissioners for the opportunity to provide comment on the draft report.

Yours faithfully,

Terry Wesley-Smith
Chief Executive Officer

Annex A: Specific Comments

**SPECIFIC COMMENT ON DRAFT REPORT ON
REVIEW OF PRICE REGULATION OF AIRPORT SERVICES**

The following specific comments are offered in relation to the draft recommendations:

Draft Recommendation 4.1

Agreed

Draft Recommendation 4.2

While the RAAA acknowledges that Darwin Airport's behaviour has been exemplary, it believes that this is more a reflection of the quality of present management, rather than of an inability to misuse market power. Consequently the RAAA takes the view that it should remain subject to price monitoring for the time being. The recommendation is agreed in all other aspects.

Draft Recommendation 5.1

While initially in favour of a single till arrangement, the RAAA generally supports this recommendation on the basis of the proposed alignment of the Airports Act and Trade Practices Act so as to include the cost of additional relevant services.

The RAAA would strongly prefer to see land side vehicle services, particularly parking and taxi holding and feeder rank services, included in the airport price monitoring regime. Such costs are arguably a fundamental part of the cost of air travel through those airports.

Draft Recommendation 5.2

The RAAA agrees with this recommendation in the event that its stated preference (see above) is not accepted.

Draft Recommendation 5.3

Agreed

Draft Recommendation 5.4

Agreed

Draft Recommendation 5.5

Agreed

Draft Recommendation 6.1

Agreed on the basis that it is probably the best that can be done given past history and the passage of time.

Draft Recommendation 6.2

Agreed

Draft Recommendation 7.1

Strongly disagree. While the Commissioners' views in relation to pricing issues are generally accepted, the potential for, and consequences of abuse of market power in relation to non-pricing issues are such that the introduction of an airport-specific arbitration regime is not only warranted but overdue. Airports, by virtue of their monopoly positions and their location on Federal Government land, are not like other businesses, and consequently airport specific protection against abuse of market power for tenants and other users is amply justified. Such a system should be capable of resolving disputes over both pricing and non-pricing issues.