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Productivity Commission

PRODUCTIVITY COMMISSION

INQUIRY INTO ECONOMIC REGULATION OF AIRPORT SERVICES

DR W. CRAIK, Presiding Commissioner
MR J. SUTTON, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

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DR CRAIK: Good morning and welcome to the public hearings of the Productivity Commission public inquiry into the economic regulation of airport services. These hearings follow the release of the draft report in early August this year. My name is Wendy Craik. I'm the presiding commissioner in this inquiry and I'm doing it with my associate Mr John Sutton.

The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and get comment and feedback on the draft report. Following these hearings in Canberra today hearings will also be held in Melbourne on 6 and 7 October. We will then be working towards completing a final report for the government in December this year, having considered all the evidence presented at the hearings and in submissions as well as other informal discussions. Participants in the inquiry will automatically receive a copy of the final report once released by government, which may be up to 25 parliamentary sitting days after completion.

We like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason comments from the floor cannot be taken, but at the end of the proceedings for the day I'll provide an opportunity for any persons wishing to do so to make a brief presentation. Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. Transcripts will be made available to participants and will be available from the commission's web site following the hearings. Submissions are also available on the web site.

We begin this morning's proceedings with the Brisbane Airport Corporation. Could I ask you to state your name and position, for the record, and then if you two would like to make a brief opening statement we'd be happy to hear from you.

MR ROTHWELL (BAC): Thank you very much for allowing us to present today. My name is Tim Rothwell. I'm the chief financial officer of Brisbane Airport Corporation. I guess I've got a fairly unique position in that I spent three years with FAC just prior to privatisation. I was involved with the department through the whole privatisation process. I've had five years with the airport under ACCC price control and nine years since under deregulation, so I guess I can comment on the environment under all those different areas.

I think it's fair to say privatisation is a success by any measure: government proceeds, the investment by the private sector and the fact that there has been no government funding now for 14 years in Australia's airports. BAC, which is 81 per cent owned by Australian super funds has seen its workforce double in that time and on-airport workforce grow from 4700 to 17,000. In the nine years to 2011 more than one billion dollars has been invested, including a \$220 million road

providing a second major access to Brisbane Airport and various other infrastructure expansions.

BAC is currently negotiating its third five-year price agreement with airlines, which includes a \$1.3 billion runway believed to be the first major runway built in the private sector in the world. BAC fully consults with airlines and openly provides traffic forecast details, justification of projects and a full breakdown of capital and operating costs forecasts. BAC is advised by KPMG on pricing and adopts the pricing principles developed by the ACCC and the PC over the last 14 years. We provide the full pricing model to airlines.

The relationship between airports and airlines has improved over the years and is far better than in many other parts of the world. Following privatisation airlines, or rather passengers, pay for the facilities the airport provides on a fair, commercial basis. This contrasts with often government subsidised services around the world. A common response of airlines to pricing proposals is, "Yes, the prices are fair, but we think someone else, ie government, should contribute rather than the passenger."

I think it's true to say there's less conflict between airports and airlines in Australia than in many parts of the world because there are clear guidelines about what is fair pricing. The guidelines developed by the ACCC and PC mean that airlines and airports know what the ACCC is likely to determine if airport services are declared plus or minus 10 per cent. There is no evidence to suggest that greater regulation is warranted. Even the airlines do not want to return to the days of ACCC setting prices and the resultant delay in or lack of investment. The proposed show cause notice would increase the powers of the ACCC and is unnecessary. Private companies will only invest and can only raise debt needed to fund major infrastructure such as BAC's \$1.3 million runway with a clear pricing framework that is not subject to change every few years. Continued uncertainty over pricing would put this investment at risk .

I would now like to briefly cover a couple of other points raised in the PC's draft report. Airports and others have been critical of the ACCC's annual reports for a number of years. The ACCC do not need more information from airports. The only true measure of profitability of any business is return on capital employed, and this is especially true of a capital intensive business like an airport. ACCC and PC have already established definitions of aeronautical and non-aeronautical businesses and assets, and determined fair asset values for monitoring purposes. All that is necessary is for the ACCC to report on return of assets over time and compared to other monitored airports. For information, BAC's latest 2011 ACCC return shows a return on assets employed of 8.9 per cent before funding costs and tax, hardly evidence of excessive prices or profits.

Lastly, I'd like to touch on the idea of airports contributing to off-airport infrastructure. BAC pays rates and land tax, the latter paid to the federal government rather than the state. Since privatisation BAC has contributed to significant land corridors for Airtrain and the new Gateway Motorway. In addition, BAC has made cash contributions for intersections on the airport boundary and subsidised public bus services. It is difficult enough to fund major roads and runways in the private sector without adding to this burden. These matters are best left to be negotiated on a case by case basis between the airport and local government.

In conclusion, the pricing framework that has been in place for nine years has delivered significant investment, in many cases by superannuation funds. There is simply no evidence or justification to make significant changes and risk investment drying up. I'd be happy to take questions.

DR CRAIK: Thank you. Would your colleague like to say anything? Could you introduce yourself and just say your position for the record?

MR CARSON (BAC): Yes, I'm sorry. Stephen Carson, finance manager at Brisbane Airport Corporation.

DR CRAIK: Okay, thank you. Would you like to say anything?

MR CARSON (BAC): No.

DR CRAIK: Okay, thanks. Thanks very much, Tim, for your statement. I guess the first thing I'd just like to ask you about, could you just briefly outline your problem - Brisbane Airport's problem with our proposal and the show cause proposal, because the potential end result is no different from where things could end up at the moment. I mean the ACCC has the power to recommend a VIIA inquiry, and if a VIIA inquiry were undertaken could recommend declaration or price caps. I mean ultimately it would have to be implemented by government, but we're instituting an extra step in the process before you would get to a VIIA inquiry.

MR ROTHWELL (BAC): My understanding, and you're putting that better, is that currently the ACCC, if they saw evidence of abuse of market power, would go to the minister.

DR CRAIK: Could recommend to the minister VIIA.

MR ROTHWELL (BAC): And recommend to the minister a show cause notice.

DR CRAIK: A VIIA inquiry they could recommend.

MR ROTHWELL (BAC): Or the minister could issue a show cause notice.

DR CRAIK: Could recommend an inquiry.

MR ROTHWELL (BAC): Yes. That would appear to be adequate, in our view. We can't see the need for an extra step in that process.

DR CRAIK: I guess our view was it gave the airports an extra opportunity to put their case before it got to the point of a VIIA inquiry.

MR ROTHWELL (BAC): I guess BAC has nothing to hide in terms of its commercial conduct. It prides itself on the way it does business with the airlines. So I guess at that level it doesn't really matter that much. However, we can see little point in what is adding to a regulation around airports. There's no evidence to suggest that anything is failing, so why add further regulation? It just appears unnecessary.

DR CRAIK: I guess given that the potential outcome is essentially the same, but we're proposing an extra step in the process, do you think it adds to regulatory risk? I guess our view is it doesn't add to regulatory risk. If it's seen to add to regulatory risk it suggests that the current threat is not a credible threat.

MR ROTHWELL (BAC): I think the current threat is credible. I think it is very clear from the work that the ACCC and PC have done over the years on definition of aeronautical assets and so forth, on what is seen as fair pricing. As I said, I think in a dispute between the airports and airlines over a pricing agreement I would be surprised, if other airports adopt a similar approach that we do, that there would be much of a difference; plus or minus 10 per cent in pricing. I think we're very close to those prices. That places a natural constraint on airports to behave in a reasonable manner in terms of pricing. It also means that airlines know that if they act unreasonably and aren't prepared to reach an agreement they have a very good idea of where the ACCC are likely to come down in terms of pricing as well. So the current framework brings the airports and airlines together in negotiations. I don't know that a show cause notice particularly adds to that.

MR SUTTON: Sorry, the natural constraint was what? Can you take me through that again?

MR ROTHWELL (BAC): In terms of pricing. Well, the way it operates is that the ACCC - and the PC, for that matter, in two previous inquiries - clearly define aeronautical and non-aeronautical services. There are methodologies for how you report that. They are clearly defined, what asset values should be used for monitoring purposes. So I think in the past the airlines generally supported historic

cost and the airports have supported replacement value. I think the compromise in the last PC report was to adopt this line in the sand value.

So all those parameters, if you like, have been set. Really, it probably comes down to arguing about rates of return at any particular price discussion. So providing airports operate in that environment and provide pricing that is based around that, then it's hard to see why the ACCC, if they came in and declared service at airports would come to a very different view on pricing, plus or minus, as I say, 10 per cent, perhaps, to allow for different views on WACC and things like that.

DR CRAIK: Could I ask, how would Brisbane Airport react to the proposal of the ACCC having to publish a draft report on the monitoring, a draft monitoring report before the final monitoring report raising the issues, if it had any issues, as we have kind of identified in the draft report - in the show cause, sorry. In our show cause we suggested these might be areas of concern for the ACCC to show cause. How would Brisbane Airport react if those things come in a kind of draft report instead of a kind of separate legal show cause?

MR ROTHWELL (BAC): We already respond in detail to the draft annual report about Brisbane Airport, albeit we don't see the whole version, we see a version and we respond to that. I might say very few changes have been made based on our responses to the draft reports in the past. So I guess we'd like to hope that if we do respond to a draft report that notice would be taken of our concerns.

DR CRAIK: If it were a public draft report and a public response?

MR ROTHWELL (BAC): We would respond, obviously, as best we could.

DR CRAIK: You don't have to definitely answer this now, but would you welcome such a report?

MR ROTHWELL (BAC): I think it may be just no harm, but I can't see what benefit it adds to where we are today. I'm trying to understand what the commission is trying to achieve by this, really, compared to the status quo.

DR CRAIK: I guess our view is that while certainly there's no doubt that agreements are reached there are, I guess, two issues. One is there's a concern that the current threat is not credible. A monitoring report comes out, it presents statements, maybe comments in the media through the ACCC - escalate the nature of the detail and qualify comments in the actual chapters. But there has been no reaction to some of those comments that have been made and some of those indications and suggestions that have been made by the ACCC.

So I guess what we're trying to do is ensure that there's a determined result at the end of monitoring report rather than kind of statements floating around in the ether. We're trying to say well either there's an issue or there's not an issue, and have a consequence either way. So I guess that's one issue. The other issue is there seem to be dispute resolution mechanisms once agreements are in place, but in terms of actually reaching agreements that seems to be the area where the airlines have most concern about, about airports. It's not universal, I agree.

MR ROTHWELL (BAC): I guess if what you're trying to achieve was achieved we'd support it. I guess the question is would what you're doing actually achieve what you want to achieve, and I don't know the answer to that question.

DR CRAIK: Okay, thanks. John, do you have anything?

MR SUTTON: Well, there's that line of questioning. At some stage we need to get on to service level agreements. Shall we go on to that now?

DR CRAIK: Yes, sure.

MR SUTTON: You're one of the few airports that hasn't participated in the ACI approach up to now, although I see in your most recent submission to us that you are open to a standardised kind of approach to service level agreements. There are still a variety of views around the airports about service level agreements. We are floating the idea that there could well be a positive move to have standardisation and make much more of service level agreements as a tool to - you know, part of the monitoring process et cetera. So can you just generally tell us your view about service level agreements, where your thinking has been up to now and what flexibility or what movement you've got on that issue?

MR ROTHWELL (BAC): Well, in terms of service level agreements we have discussed those with the airlines on two previous occasions during discussions on five year agreements. In both cases they never were concluded. Some of the terms that were wanted by some of the airlines were thought were uncompetitive and we weren't prepared to agree to. However, as a matter of principle, we say we've got no problem about service level agreement. Indeed, we stated both in 2002 and in 2007, that if at any time during the five-year period the airlines had any concerns about the quality of service at Brisbane Airport we would revisit that issue. At no time in the nine-year period have the airlines raised concern about quality of service in Brisbane.

Having said that, we're in the middle of negotiations now and have asked Qantas on a number of occasions to provide us with a draft of the sort of service level agreement that they would like to see in agreement. We have yet to receive a draft. However, we have recently got copies of service level agreements from a couple of

other airports and we intend to put into the draft of this next five-year agreement service level agreements along the lines of those at other airports. I guess it's down to a philosophy of whether you spend your time providing good service or worrying about people being fined for providing bad service. We pride ourselves on good service and the airlines to date have had no reason to complain.

I think one of the issues that comes about is if in discussions with the airlines the airport puts forward a five-year proposal which, as an example say, includes improvements to the baggage handling system and the airlines say, "Well, we don't think that's necessary," then it's quite hard for an airport to then guarantee 98 per cent up time for a baggage handling system. So to have a standardised one is really a function of a couple of programs as well, in that if the airlines want 100 per cent reliability, then we have to build in redundant systems, we have to invest more to achieve that 100 per cent. So what Qantas might want, compared to what Tiger might want, might be quite different in terms of a standard. So I think it's very hard to standardise that across all airports and across all airlines, but as a principle we have no problem in putting in place a service level agreement. I'm sure in this current round of discussions it will evolve and there will be a service level agreement within the agreement.

In terms of how that service is monitored, in terms of quality of service reporting - the issue about quality of service monitoring is really not so much about the survey itself, it is more about how it is reported. The quality of service at all of Australia's airports is exceptionally good under those reports but the ACCC rank that service and then tend to issue a media release and talk about different airports in different ways and highlight elements of it. That would happen whoever did the survey, possibly, and therefore you wonder why you would spend more money on that ACI survey to still have the same form of reporting take place. So it's not the survey itself, it's how it is interpreted and how it's released. We will cooperate if the view is that an ACI quality of service annually is a better approach, but I doubt it will make a great deal of difference to the way in which quality of service of airports is reported.

DR CRAIK: Have you seen the new ACCC chairman's comments on regulation of airports, recent comments on the regulation of airports?

MR ROTHWELL (BAC): Yes, I have.

DR CRAIK: That airports are monopolies, and therefore should be regulated?

MR ROTHWELL (BAC): Yes, I saw the comments.

DR CRAIK: Do you have a reaction to that?

MR ROTHWELL (BAC): Look, I guess it's disappointing. I think there has been significant progress in Australia. I think the privatisation of Australia's airports is looked upon around the world as a success. You've got a situation here where Australian superannuation funds, in Brisbane's case about 81 per cent of our shareholders, are investing heavily in infrastructure. The other summit taking place today, which is probably less interesting than this one might be, the tax summit, is talking about how do you get infrastructure funds to invest, you know, how do you raise taxes or whatever to fund infrastructure.

The airports have been successfully funding infrastructure for 14 years. The prices that are charged to airlines, although in reality are passed on to passengers, is hardly excessive. Even the proposed runway that we're looking at adds a few dollars to hip prices. Given the significant benefit to Australia, South East Queensland and Brisbane, it's hard to see why that's not justified. The alternative is that sort of investment is funded by government and has to compete with roads, hospitals and schools and so forth. So it is hard to see what's broken and what needs to be fixed. Airline-airport relationships are difficult all over the world, whether airlines are public or private, whether airports are public or private. A lot of that stems from the fact that airlines are very used to receiving subsidised services, government subsidised services, all around the world and in Australia they're being asked to pay a fair price for the facilities they use. I think the conflict exists everywhere and I don't really see what the problem is that anybody is trying to fix.

DR CRAIK: How are you progressing with your second runway?

MR ROTHWELL (BAC): It's a challenge. It is a significant challenge to get the airlines to agree to pay for the runway as investment occurs. We are hopeful that we will reach an agreement during that process.

MR SUTTON: If you can't?

MR ROTHWELL (BAC): If we can't then I guess our board is faced with two options. One is to not build the runway, and that would be - - -

MR SUTTON: Not in the public interest, would it?

MR ROTHWELL (BAC): It wouldn't be in the public interest. It wouldn't be in the long-term interest of BAC and it certainly wouldn't be in the interests of the airlines.

DR CRAIK: Wouldn't be consistent with your lease either, the terms of your lease.

MR ROTHWELL (BAC): Under the lease if we fail to provide infrastructure the federal government can step in and they can provide that infrastructure and can charge us for doing so, but I think we're a long way from reaching that point. We are hopeful that we'll get some form of agreement with the airlines. If that's not the case then as I say there's a straight choice: do we not build the runway or do we build the runway and increase prices, and either ourselves choose to get the runway service declared or take the risk that the airlines will do the same. So I think the framework exists for dealing with that sort of enchanting situation, but we're still hopeful we'll try to reach an agreement with the airlines.

DR CRAIK: As we understand it most of the agreements with airlines include dispute resolution mechanisms and a lot of the airlines' concern is the time between when an agreement is reached and - you know, the start of the negotiation and when an agreement is reached. Have you ever contemplated having some kind of process in place where you'd have a dispute resolution mechanism in place, a standard - well, a kind of generic dispute resolution mechanism in place for that period where you're actually in the process of trying to reach the agreement, first up.

MR ROTHWELL (BAC): In the previous two agreements we've had five-year agreements. We're currently proposing to the airlines that the agreement itself now would be basically a perpetual agreement with five-year agreement on prices. So in that situation the dispute resolution process would be in train indefinitely.

DR CRAIK: So would that cover the issue of the new runway? Would that dispute resolution cover reaching an agreement on the issue of the new runway, for example?

MR ROTHWELL (BAC): Probably not, because we're seeking to try to reach agreement on that prior to mid-2012.

DR CRAIK: So if there's new things then the existing agreement wouldn't - the dispute resolution mechanism wouldn't - - -

MR ROTHWELL (BAC): No. Having said that, though, we are currently trying to arrange meetings with the CEOs of Qantas and Virgin to try to reach a resolution on this matter. In any event, a dispute resolution process is likely to end up with that as the final outcome. So in practice we are following what would be a dispute resolution process anyway.

DR CRAIK: Would you see that having some kind of standard fall-back dispute resolution mechanism for those sorts of things would be a more attractive proposition than a show cause proposition, like if each airport had some kind of standard?

MR ROTHWELL (BAC): I'm not sure about the answer to that question, to be

honest.

DR CRAIK: You might want to think about that.

MR ROTHWELL (BAC): Yes.

DR CRAIK: Get back to us on that one, okay. Just a side question. I noticed that in your carparking - you're now proposing that if people doing drop-off and pick-up stay longer than a certain amount of time, like 20 minutes or something, they're going to be charged. What if the fault for their having to stay longer in the free pick-up is because some fault of the airport in providing services to the airline, so that they end up paying a penalty because of some problem caused by delays in airport activities?

MR ROTHWELL (BAC): At the international terminal where there's adequate capacity for pick-up and drop-off, there is no situation. At the domestic terminal in Brisbane now we're about to hit 16 million passengers. That makes Brisbane's domestic terminal about the same size as a Heathrow terminal. So I think it's impossible to manage that volume of traffic around. Drop-off is a very quick process, and therefore drop-off is very easy to manage on the terminal face roads. Pick-up is much more time consuming, people ignore rules, lock up roads and so forth. So in the interests of all passengers we've got a free flowing road system that's been designed. There is a free public pick-up area that's been set aside. That will have - I think we're looking at 20 minutes as a free period, after which you will pay. People are at liberty to drive out and drive back in again if they're that concerned about paying a few dollars for parking, so I think those facilities will exist. But generally we think there is adequate capacity around there for both pick-up and drop-off.

DR CRAIK: Okay.

MR ROTHWELL (BAC): I think the tone of a lot of the comments around this suggests that this is some great money collecting venture. The fact is that you cannot have sufficient roads and sufficient kerb space to have pick-up for everybody who would like to pick-up at the terminal face. It simply is not possible. I think as airports grow, and looking around the world, increasingly pick-up becomes the thing that is very hard to do at the terminal face; or you change service levels, such as at Heathrow, where you can only get a hire car if you actually get into a mini bus and drive about five miles to where the hire cars are located. In our case you can get those facilities close to the terminal. So you have to make sacrifices for different users because there literally is just not enough physical space to accommodate everybody's desires.

DR CRAIK: Okay, thanks. John?

MR SUTTON: Just one thing out of your original presentation. You told us about your - I think it might have been last year's result, 8.9 per cent on capital employed or something to that effect.

MR ROTHWELL (BAC): Correct.

MR SUTTON: Can you give us a bit of a trend? Over recent years it has been up and down or what's the sort of parameters been there?

MR ROTHWELL (BAC): It has gradually improved from probably - I'm trying to guess numbers now - look, from probably from 6, 7, 8 per cent over the last few years, so gradual improvement.

MR SUTTON: That's the highest in a fair while, is it, the 8.9?

MR ROTHWELL (BAC): That's the highest in a fair while.

MR SUTTON: Okay.

MR ROTHWELL (BAC): Having moved from a position where prices used to be network prices up until 97, network prices which were then allocated to each airport with a requirement to reduce prices for each of the five years. So in 2002 the price levels were very unrealistic compared to the infrastructure being used. So gradually through agreements with the airlines we've reached price agreement, so yes, it has improved. But 8.9 per cent, in context, in the last 12 months you could probably have got 6.5 per cent simply by putting the money in the Commonwealth Bank. So 8.9 per cent is hardly a level of return suggestive of excessive prices or excessive profits.

DR CRAIK: Can I just ask you about this issue of contribution by airports to local infrastructure. You indicate in your submission the contributions that Brisbane Airport has made. I guess a question: do you think that case-by-case negotiations of contributions to infrastructure is more time consuming than having some kind of generic arrangement?

MR ROTHWELL (BAC): I think inevitably we - I mean we meet with the state government and the council; have regular meetings to talk about infrastructure around the airport and on-airport. Inevitably those discussions are ongoing all the time because it's important to us whether it be in terms of trying to get better bus services to the airport or whatever it might be. So those are ongoing.

I guess you can mount a quite interesting philosophical discussion here in that airports are providing infrastructure for the region. So, for example, we just spent \$220 million on a new road on the airport. That's clearly of benefit to the region. The runway is a massive investment of benefit to the region. We are not asking the state government and council to contribute to those projects, and it's very difficult to fund them. Yet now we're being asked should we, as well as doing all this - - -

MR SUTTON: But Tim, they're more aeronautical issues. What about the non-aeronautical developments? That's the real sort of nub of the point here, major non-aeronautical developments on airport and what impact that has.

MR ROTHWELL (BAC): It depends. I guess to some extent it is - are you talking about airport-related development or - - -

MR SUTTON: Like the Woolworth shopping centre at Brisbane Airport.

MR ROTHWELL (BAC): Well, in the case of ours the DFO is clearly not an airport-related centre. I would argue that the Woolworths is because it's very much catering to an on-airport workforce now of 17,000 that's growing. But certainly something like the DFO - in the DFO we actually have an agreement with council and we have made contributions to council in respect of retailing in that precinct. So that's already been negotiated on a one-on-one basis.

MR SUTTON: But do you think that should be according to a formula or just done on a case-by-case basis?

MR ROTHWELL (BAC): I think it needs to be case by case because - let's look at what an airport has to do. We provide on-airport roads, including maintenance of it. We provide on-airport electrical infrastructure. We provide on-airport services that council would normally do. So a lot of the things that a private developer would normally expect of council or other state bodies ends up being done by the airport. So I think it's not as simple to say it should be the same as every other private developer. It's not the same as building a freestanding shopping centre or an office development.

DR CRAIK: But don't they have to provide the sewer and water - pay for the sewer and water that's actually on their bit of property, the developer?

MR ROTHWELL (BAC): On their bit of property, but we do it to the whole boundary. So within our whole boundary is a DFO centre. The council is not providing services to the boundary of the DFO site, they're only providing services to the boundary of the airport. So we have to do our limits within the airport that would normally be done by a local state government or council to connect into that

particular site. It just happens we've got a massive site, so its infrastructure to the boundary that we deal with. So we think it's slightly different.

DR CRAIK: Just getting back to the show cause direction that was our major recommendation. Just a couple of questions. I mean your submission points out that you're certainly not in favour, and you've certainly made the point today that you don't see the point of it, but if it did happen - I guess there's been suggestion, and I can't remember if it's in your submission but certainly the AAA submission, that the show cause ought to be a confidential process as opposed to a public process. I guess we'd be interested in your comments on the record on that, and you suggest there would need to be some kind of standardised framework for the determination of show cause. Would you like to comment on those two things?

MR ROTHWELL (BAC): I think there are advantages for it being a confidential process. I mean I think the potential to damage airport-airline relationships is quite significant. I guess we don't conduct our airline negotiations in the media, and we don't think that's an appropriate way to do business. I guess it probably is wiser to have that process in private, initially at least, to develop a clearer framework. I don't think I have massive views either way on that issue, but I think probably on balance I think private is good.

DR CRAIK: Even though it would seem to be a public interest issue? Because it would be the result of the price monitoring and the quality of service monitoring and things like that.

MR ROTHWELL (BAC): I guess is it a public interest issue or is it really a squabble between two shareholders - - -

DR CRAIK: Well, it's a squabble between two shareholders but it has, obviously, consequences for the public.

MR ROTHWELL (BAC): To a limited extent, I think, yes. I think the main thing, though, it is a matter of the shareholders of the airlines versus the shareholders of airports. As I say, because I think the - we're really talking only about disputes at the margin. The broad thrust of pricing is probably pretty well established. As I say, it's probably plus or minus 10 per cent that is the argument. That, ultimately, is mainly probably a shareholder issue more than a general public issue. Sorry, the second part of your question was about the?

DR CRAIK: Was about the framework for the ACCC, having legislation that specify framework for determining show cause - - -

MR ROTHWELL (BAC): I guess anything that makes it fair and clearer is

probably desirable, without being too prescriptive. I think, importantly - I guess there's two things, aren't there, really: whether prices and profits are excessive is one issue. I guess there are fairly clear financial measures that can be put in place to determine what is considered to be excessive. I think, as your report says, you need to consider that over time in the context of the peaks and troughs of big infrastructure. So in terms of a framework generally I think it already exists. I guess the other issue would be perhaps if there are allegations of abuse of market power which don't go to pricing or profit as such, simply going to behaviour. I think it's probably hard to be prescriptive in that sort of situation.

DR CRAIK: It's hard to legislate against bad behaviour.

MR ROTHWELL (BAC): It is hard to legislate against bad behaviour, yes.

DR CRAIK: That's right. John, nothing for you?

MR SUTTON: No, I'm right.

DR CRAIK: Okay. Thanks very much, Tim. Thanks ver much, Stephen.

MR ROTHWELL (BAC): Thank you, appreciate the time.

DR CRAIK: Thank you.

DR CRAIK: Our next person presenting is Colonial First State Management. I wonder if you could both state your names and positions and then if you'd like to make a brief opening statement that would be very helpful. Thank you.

MR McARTHUR (CFSGAM): Good morning.

DR CRAIK: Good morning.

MR McARTHUR (CFSGAM): My name is Chris McArthur. I'm the head of asset management in Australia for infrastructure investment at Colonial First State Global Asset Management, currently a director of Brisbane Airport, Adelaide Airport and a former director of Perth Airport. My colleague, Alan Wu, is associate director at Colonial and a director of Bankstown and Camden Airports and alternate director at Adelaide Airport.

Thanks very much for the opportunity to participate today. We see the current inquiry as a very important determinant for the continued success of the airport privatisation model which has seen record levels of investment and growth since the introduction of the current light-handed regulatory regime back in 2002. As we noted in our submission, Colonial is a major investor in a number of Australian airports on behalf of superannuation and other wholesale clients. We're a foundation investor in the privatisation of Adelaide and Brisbane Airports, the latter representing today the largest investor group with a little over a quarter of the shareholding. We hold interests in Perth, Bankstown and Camden Airports and with this relevant investment experience hope we can offer some insights from the perspective of an investor.

We broadly welcome many of the key recommendations in the commission's draft report. In particular, we note the need for regulatory certainty to encourage continued investment in this critical sector. It's also worth noting that almost all participants in this inquiry have strongly favoured the continuation of commercial negotiations over increased regulatory intervention.

In our submission, and that of a number of our co-investors, it's been highlighted by the very strong levels of investment by the private sector in airport facilities to meet demand growth: about \$5 billion to date with approximately nine billion over the next decade. Under the dual till approach every capex project each airport looks at is effectively value added as a new investment. The current regime is conducive to private investment in airport facilities as it has provided a reasonable degree of certainty that an acceptable commercial return will be achieved, notwithstanding the airports still take significant risks on construction, traffic volumes and funding.

The current regulatory arrangements have also promoted flexibility and, we argue, mutually beneficial pricing outcomes for both airports and airlines. Not only do airlines enjoy mobile capital, it's obvious to say that their assets can be redeployed at will, they also typically have a shorter term focus compared to the long-term investment focus of airports. This has played out in the current pricing negotiations related to the proposed \$1.3 billion new parallel runway at Brisbane Airport, a key example of nationally significant infrastructure. Airport capex projects like this are, and must be viewed, as long-term investments given their scale and long construction lead time. Investment risk needs to be shared by both airports and airlines. Reaching prior agreement with airlines, including the important established principle of funding as investment occurs, is absolutely critical to gaining investor confidence as part of a balanced funding mix of debt, equity and airline contributions, which are, of course, passed on by airlines to passengers.

As the commission has already noted, pre-funding avoids the risk entailed in a deferred but large step-up in prices which would inevitably occur just as the next airline crisis occurred. In recommending continuation of the current regulatory regime we encourage the Productivity Commission to more strongly endorse this established pre-funding principle that comes with it. Leaving this open would add significant uncertainty in airline pricing discussions, potentially leading to deferral or cancellation of key projects. Funding this new runway will be an important test of the airport privatisation model and current regulatory arrangements.

It's important to emphasise also how the current arrangements provide confidence to capital providers at a time of capital scarcity. We've seen developments in recent months and earlier this year - the current sovereign debt crisis in Europe, suspension of Tiger Airways, and earlier in the year a range of natural disasters impacting airline and airport traffic: floods and cyclones in Queensland, Japanese tsunamis and earthquakes in Christchurch. These developments have served as a good reminder that airports and airlines alike operate in a volatile and challenging environment.

Capital providers are naturally risk averse. The Australian corporate bond market, for instance, has stalled again after a temporary recovery post the GFC as confidence has dropped again in the past few months. A number of our co-investors have also emphasised in their submissions that we operate in a global capital market with a global pool of investment opportunities. Funds will, and do, readily deploy capital offshore if regulatory and other risk settings in this market are inappropriate or less attractive. In order to secure longer-dated debt - a number of Australian airports are still in the process of refinancing short-term bank debt originated during the GFC, and airports are increasingly heading offshore to expand their funding options. Brisbane Airport recently completed a successful \$600 million bond issue, 400 million of which was raised in the US private placement market. Capital

continues to be scarce, a situation that's likely to continue for the medium term. A stable and predictable regulatory regime is essential in promoting confidence to capital providers.

I wanted to touch briefly on limitations we see in the current ACCC monitoring regime. The costs are not insignificant. The current arrangements include a number of anomalies. We see the exclusion of the domestic terminal leases which makes the representative area of airports assessed small and unrepresentative. We have costs based on historic costs rather than preferred and superior measures such as optimised replacement cost, depreciated optimised replacement cost. We have a small sample size with results typically skewed to the views of airlines, and we know that they report airports in a more adverse light than do the real market of passengers. Lastly, the results of this process are disappointingly and frequently presented in a somewhat unfair and imbalanced manner with an excessive focus on headline growth in revenue and EBITDA measures, which frankly are meaningless without a reflection of the underlying assets employed and return on assets measure.

I also wanted to make a couple of brief comments around the proposed show cause approach. We note there are already numerous mechanisms and remedies available by airlines and other participants to address perceived misuse of market power, at least half a dozen measures are noted in the draft report including the obligations under airport lease provisions, the Airports Act, Part VIIA related to price investigations, section 46 of the CCA regarding misuse of market power, section 155 relating to information gathering processes and options for airport users to seek declaration under Part IIIA. The addition of show cause on top of these mechanisms does seem unwarranted.

Lastly, to touch on the successful track record of superannuation investment in infrastructure promoted by the current regulatory arrangements. Based on Colonial's experience, airports have generated reasonable and fair returns commensurate with the risks, compared to other sectors. We continue to expect airports to deliver similar returns in the long term despite short-term volatility. However, this expectation is based very significantly on an assumed continuation of light-handed regulation. A change to a more restrictive regime will increase investment risk and reduce the attractiveness of airports as an investment sector compared to other opportunities.

Airport privatisation and subsequent changes to the current price monitoring regime has been a demonstrable success. It has successfully linked the growing pool of superannuation funds with infrastructure investment, a key government policy objective. In closing, I'd like to commend the commission for its general endorsement of the current regulatory settings which have achieved these balanced investment outcomes to date. Also I'd like to urge the commission to strengthen its

support for the established principle of pre-funding as investment occurs, and lastly, to caution against the imposition of another mechanism, show cause, on top of the numerous and in some cases essentially unused triggers that are already available today.

DR CRAIK: Okay.

MR McARTHUR (CFSGAM): Look forward to discussion, if that's of assistance.

DR CRAIK: Okay, thanks very much. Yes, would you like to say anything, Alan?

MR WU (CFSGAM): I might just add to Chris's comments. What we saw recently is the domestic bond market has slowed down again after a short-lived recovery since the GFC. It just reinforced the fact that one week is a long time in credit markets. Domestic airports at the moment are competing with a lot of large corporations in the world chasing scarce capital and their investment ratings are at or better than Australian airports. It is critical for Australian airports to retain an investment grade rating and having a stable and predictable regulatory regime is an important contributor to retaining that investment grade rating.

On pre-funding, just as people won't buy a house without certainty funding, as a prudent fund manager and custodian of superannuation savings for ordinary Australians we find it difficult to commit to large projects, for example, a 1.3 billion runway, without certainty of funding up-front. In our case the funding comes from three sources: it's equity, it's debt and airline charges. Unless those are all in place it's pretty difficult as an investment manager to make that decision.

DR CRAIK: Okay, thank you. I'll ask you, as I asked Tim before you, have you seen the new chairman of the ACCC's comments about airports and regulation?

MR McARTHUR (CFSGAM): Disappointing. Again, on the basis that we believe that the current model has delivered balanced outcomes and is not broken. Therefore any attempt to reintroduce regulation we think risks damaging the very success that this sort of sector has experienced.

DR CRAIK: You make the comment that our show cause proposal is unwarranted, and yet you're concerned about the nature of some of the statements that the ACCC has made about the information in the monitoring reports where they have come out and said there's indications - there's suggestions there's some market power abuse. Part of the justification for our show cause was that the ACCC would have to back its judgment on these things. So if it was going to make suggestions like that then it would have to actually back them up and say, "Well, we believe there is an abuse, prima facie case, of market power. We want more information to show that it's not."

So as well as providing a credible threat of re-regulation actually getting the ACCC to back its judgment on these issues. So does that change your - I mean does that influence your view of anything? Probably not, I imagine, but - - -

MR McARTHUR (CFSGAM): Well look, I think the primary argument I'd advance is that the status quo is working, in our view, for all stakeholders, of which the investors are one part. So the sort of starting argument would be articulating the basis for any change, given that stability in regulation of itself is an important attribute for gaining confidence for investors. If the commission was to proceed down this path in recommending in its final views the show cause approach, I'd certainly favour a very rigorous and formal framework around which such a show cause mechanism might sort of unfold. So I'd acknowledge that would be one of the preferred sort of ways it would happen, but that's notwithstanding those initial views around saying what's really the imperative for change.

DR CRAIK: Okay. I think there seems to be a view from infrastructure investors that Australian airports are a class of assets with greater exposure to demand shocks than energy network infrastructure. We made that comment in the draft report. So compared with the airports, energy infrastructure businesses face a lower market risk and more stable but lower regulated returns. But is that likely to change given the Australian energy regulator's proposal to more actively interpose itself in determining how much an electricity business needs to invest? Is that likely to change that view of the relative risk of those asset classes?

MR McARTHUR (CFSGAM): Look, I think obviously in assessing risk across a range of sectors to make capital allocation decisions we take into account a range of issues, both the fundamental drivers of earnings growth in the sectors but obviously also the potential for changing regulation. I think with respect to the underlying drivers of the business clearly they're unlikely to change and airports do continue to be exposed to the volatile nature of the aviation industry. I doubt the level of regulatory change contemplated here today or in fact in other sectors like energy is sufficient to really change our view around the overall ranking of risk.

DR CRAIK: Okay, thanks. John?

MR SUTTON: That's very interesting, your last comment, but going back to the stakeholder comment that everyone's happy, well, the simple proposition is other key stakeholders are not happy and they're complaining about - you know, not the whole thing's disastrous but they've got a fair measure of complaints about the current balance. They say the balance is not correct. So I just sort of have to stop you on that and say that that might be your view that all stakeholders are happy but we've got plenty of submissions here to say that they're not, which is why, I guess, we've got this inquiry to work out what the appropriate balance should be. Let me go to

something else you said.

MR McARTHUR (CFSGAM): Could I comment on that point?

MR SUTTON: Yes, sure.

MR McARTHUR (CFSGAM): I certainly didn't intend to suggest that every stakeholder is absolutely delighted with the process, but there was a wonderful phrase in your draft report around a distributional tussle that goes on between airlines and airports. Clearly a substantial part of the "noise" that occurs around the topics we're discussing today is very much just the natural outcome of that distribution tussle in a healthy commercial negotiation. So I wouldn't for a minute suggest that's not without its challenges and difficulties but I hope that puts a slightly more realistic flavour on the essential commercial process that occurs today.

MR SUTTON: Let me tease that out a bit. You say that playing with the current parameters or the balance as it sits at the moment could hamper investment issues, you know, from your perspective et cetera. Some of those others that are engaged in this distributional tussle say that they haven't necessarily - they claim they haven't necessarily got the fairest sort of share of that tussle. They claim to be on the adverse, the losing end of that tussle. Their view of what's happening here is that they've got investors - there's people putting capital into those businesses. They say things have got to be tweaked and moved in a particular direction to assist their investment horizons. I don't know if you want to say anything about that but - - -

MR McARTHUR (CFSGAM): Well, again, I'd suggest those sorts of stances are again a natural outcome of sort of commercial negotiating process. The reality is that agreements are struck and are being made between parties. Clearly airlines also bring with them some countervailing power into those negotiations. So I'd characterise all of that as part of the competitive tension in the process. You'd be surprised if it didn't occur.

DR CRAIK: I guess the ultimate test of this is going to be whether airlines will agree to investment pre-funding the Brisbane runway. What if they don't?

MR McARTHUR (CFSGAM): I think that's a very important test. It will be a very important element of investor confidence in committing to a project of that scale. I think if I could draw out another point related to that that came up in the commission's draft report, and that relates to a sort of tacit support for some principles around congestion charging. In our view, while those comments are rational and welcome, they don't really go far enough to address this fundamental issue around what is an established practice of airlines funding as investment occurs.

The challenge with the runway is of course the scale both in dollar terms and the construction lead time. The difficulty as I see it with - or the limitation round the congestion charging approach is obviously in constructing the runway, given its long lead time that would in fact predate a lot of the major congestion that we're seeking to avoid. It doesn't really address the pre-funding question adequately because of that fact. There's also a secondary issue that current peak period pricing - a number of airports are tentatively proceeding down a peak period pricing path. But the reality is that's quite a modest set of incremental charges and, as I understand it, wouldn't remotely cover the scale of the investment contemplated for a new runway.

DR CRAIK: Okay.

MR McARTHUR (CFSGAM): So there's, I think, two areas where focusing on congestion charging rather than the real issue around a firm confirmation of pre-funding won't really tackle the issue.

DR CRAIK: If funding can't be agreed then isn't that a failure of the model and government has to step in. Airports don't generally want governments to step in but if the negotiations fail and governments have to step in doesn't that suggest basically the model has failed?

MR McARTHUR (CFSGAM): Well, I think collectively we will have failed if we end up in that scenario. There's a range of possible ways this could play out and obviously that's one, in our view a particularly bad one. So again, the incentive ultimately for parties to reach agreement for what we consider to be a nationally significant piece of infrastructure that is of benefit - long-term benefit to the industry we think it's critical that agreement is reached.

DR CRAIK: Okay. John?

MR SUTTON: The point that you both made about credit markets and spreads moving out and difficulty of accessing credit market - debt markets et cetera, well yes, that is happening as we sit here. We wish it wasn't but that's the latest sort of development in the world of finance out there. But I put to you that we're charged with trying to oversee a medium to long-term regulatory regime. I hear what you say that there's difficulties this week or next week or last week about raising finance, but I guess I put to you that we can't be too swayed by the ups and downs and, you know, where credit markets were last week and where they'll be next week, or even the equities market for that matter. We really have to try to look at a medium to long-term regulatory horizon. I just don't see that the two things necessarily go together.

MR McARTHUR (CFSGAM): Well, in fact, we'd also strongly endorse an

approach both from a regulatory perspective but also the other dimensions of investment considerations around a long-term focus. Our whole strategy for funding major projects, capex development across airports is about securing long-term funding consistent with the long-term nature of the asset. So we're not for a minute suggesting our funding strategy is lurching week by week based on movements in the markets. The bond issue at Brisbane Airport I referred to earlier was all about putting in place long-term funding for a long-term asset.

DR CRAIK: One of the comments you made was concerns about the ACCC's monitoring report. Do you think there would be any advantage to having a draft made public of the monitoring report for airports to comment on prior to its finalisation?

MR McARTHUR (CFSGAM): I think to the extent that was a meaningful part of a consultation process prior to finalisation of or issuing of final report that would be an improvement on the current situation.

DR CRAIK: And the airports responding in a public sense as well, like public submissions on the web site much like the ACCC does now?

MR McARTHUR (CFSGAM): I think the airports are unanimous in their view that they really have nothing to hide. While I can't speak for any airport specifically I can't see any objection to that being conducted, if necessary, in a public manner, because I think they're striving to be seen to be transparent and behaving appropriately.

DR CRAIK: Some of the airports in response to our show cause have suggested and the RRR think that any show cause ought to be confidential and the response ought to be confidential before there's some public announcement. Do you have a view about that?

MR McARTHUR (CFSGAM): The only comment I'd make around the merits or otherwise of a public process is the extent to which it becomes potentially politicised or conducted through the media. Obviously to the extent that corrupts the rigour of the process I wouldn't favour it. If it's conducted properly then, speaking personally, I wouldn't object to the principle of it being conducted in public.

DR CRAIK: Hard to control the media, yes. John, anything?

MR SUTTON: Just something else I was curious about. Your exposure to other Australian infrastructure classes, if you like. Clearly you've got that to airports but I guess you have other sort of exposure.

MR McARTHUR (CFSGAM): Yes.

MR SUTTON: Could you just sort of tell me and put the airports, I guess, in perspective to other classes of infrastructure?

MR McARTHUR (CFSGAM): Sure. Look, we have a global investment portfolio with investments both in Australia but also particularly in the UK and expanding rapidly in Europe. They cover a range of sectors. We've got a large utility investment portfolio, again, with extensive UK assets in water, electricity distribution and other multi-utility providers across gas, electricity, water, fibre and district heating. In this market we've been investors, historically, in toll roads and - I suppose just a comparative comment around our view of airports vis-a-vis those other sectors: we typically regard them as higher risk than regulated utilities, going back to earlier comments, Wendy, and higher risk than mature toll roads, but typically lower risk than say uncontracted power generation and obviously greenfield assets. While we undertake significant greenfield activity on airports it's obviously a small part of the total asset and that, to that extent, mitigates the risk.

DR CRAIK: John, have you got anything else to ask? Well, thank you. Thanks very much, Chris, thanks very much, Alan. Thank you.

MR McARTHUR (CFSGAM): Thank you.

DR CRAIK: We're running a little bit early so I was wondering if the Australian Business Aircraft Association people are here? If you could come up to the front that would be great, thank you. Hi, welcome.

MR BELL (ABAA): Hello.

DR CRAIK: If you could state your names and positions for the record, then if you'd like to make a brief opening statement, we'd be happy to hear from you.

MR BELL (ABAA): Sure, thank you very much for having us. David Bell, I'm the executive director of the Australian Business Aircraft Association and my colleague here is Wal Gascoigne. He is the deputy chairman of the ABAA and he is also the head of a substantial business aviation flight department who operate in Australia and around the world. So Wal has got a good background in the industry.

My background is 36 years with Hawker de Havilland and Hawker Pacific, aircraft sales, aircraft service, spare parts, supporting the industry in Australia, Asia and the Middle East. We have a lot of franchises for various sorts of aircraft, from Airbus, through to Bell Helicopter, Beechcraft, Falcon Jet et cetera. So I've got a wide background in aviation in general and I guess general aviation in particular and that's really what we're talking about with our various submissions.

Business aviation throughout the world is really an element of general aviation. We're probably I guess considered in the upper echelon because of the sort of equipment that we operate, the business jets and the turboprops et cetera. In fact as we advised, there are in the world operating today 34,000 turbine-powered business aircraft, so it's quite a substantial fleet. In Australia we have about 350 turbine-powered business aircraft. Some of them are used for charter and some for private operations.

I guess our opening remark would be going back to our letter of 21 September where we ended with two recommendations which are quite critical to our association. If I could just read those out briefly:

To recommend to the minister that the next SACL master plan -

that's Sydney Airport -

and other master plans in Australia's major airports explicitly state the significance of the business aviation sector as a key user of each piece of infrastructure and that business aviation use to be factored into current and future access pricing development planning on a fair and equitable basis.

The last recommendation there was:

To recommend to the minister that SACL be required to provide a commitment to maintaining at least the same level of access and standard of business aviation facilities and services as is currently in place at Sydney Airport at fair and reasonable prices and that any relocation of the business aviation precinct not give rise to unreasonable disruption to business aviation services or unfair pricing for business aviation participants.

So they are very important for our members. We don't only want to talk about Sydney Airport, we'd like to talk really about most of the privatised 22 airports in Australia. Our members use those airport to a greater or lesser extent. With the secondary airports in our major cities, that's airports like Bankstown, Parafield, Moorabbin, Jandakot, Archerfield, the turbine sector of our operations really don't use those airports very much because they're not suitable for the operations. The runways are not long enough or there's no customs facilities there, that sort of thing. So our members do favour using the main capital city airports. Remember, they're jet and turboprop aircraft. We have a requirement for the majority of our members' aircraft and all business jets arriving from overseas to have continuing access to Australia's capital city airports at fair and reasonable prices. This is really the core issue for business aviation.

If I could just talk a little bit about business aviation, what it is. It's interesting to note that most of the discussion in the draft report concerns the airports and negotiations with the stakeholders who are mainly airlines, but general aviation, and business aviation in particular, is to our way of thinking a significant stakeholder here and our interests we ask to be taken into account. Business aviation is a productivity-enhancing tool used by thousands of companies and organisations throughout the world. These forward-looking entities utilise business aircraft to reduce travel time, to enhance the productivity, safety and security of their personnel right around the world. That starts with business aviation use in governments. Barack Obama has a business aircraft that happens to be a 747. Our Prime Minister has a business aircraft which happens to be a 737, and when heads of state visit Australia, they visit Australia in a business aircraft. Some of them are smaller and some of them are large.

Also, the role of business aviation is very important to Australia's economy. Business aviation has made a significant contribution to the development of a strong Australian economy, particularly in recent decades. It employs pilots, cabin staff, airport personnel, security staff and technical staff. This sector of the aviation industry performs an essential role in the overall transportation needs in Australia

and we all know how travelling to the remote areas is very important in Australia's development. Most of our aircraft can operate from bush dirt strips and they are used in support of the resource industry and other very important economic activity in Australia.

Also, many companies are using their aircraft these days to travel overseas to develop extended Australian businesses and create foreign capital inflow, export trade flows and profit streams. Many of Australia's leading entrepreneurs and management personnel have used business aircraft as a means of seeking global economic opportunities. Just talking about the international side of our industry, it's not often that a day doesn't go by when we get some sort of celebrity arriving by business aircraft at a major Australian capital city airport, which mostly is Sydney but they also arrive at other capital city airports.

One thing we want to address was that business aviation aircraft have actually changed and developed over the last 20 years or so. In 1995 the largest business aircraft in general use around the world was a Gulfstream G4, maximum take-off weight of 33,000 kilograms. Since then, business aircraft have continued to be developed to satisfy increasing demand for long-range flights. This has resulted in larger and heavier aircraft entering service over the past 10 years or so. For instance, the Boeing BBJ, which is based on the 737, there's around about 200 of those in the world, just a BBJ, the Boeing Business Jet. Our RAAF VIP squadron has two of them, of course. They're operated by heads of business around the world. Rupert Murdoch has one. He would have flown to the hearing in London in his Boeing Business Jet.

There's other aircraft like the Embraer Lineage 1000, 54,000 kilograms. I should have mentioned the Boeing is 77,000 kilograms. Then you've got the Bombardier Global Express at 44,000 and the Gulfstream G550 at 41,000 kilograms. These aircraft are in quite extensive use around the world, the Boeings, the Global Express, the Gulfstream G5s et cetera, and they need to operate at capital city airports. They go into airports around London. They can land at Heathrow quite freely but there's five other airports they can operate to in the London area. That's the case around the world. Chicago has three airports, New York has four. Even Melbourne has two; Essendon and Tullamarine can both be used for business jets.

But at other Australian capital city airports, we don't have that luxury of more than one airport. Sydney is a case in question there; we cannot go to any other airport - well, we could, but they're too far away. Canberra is the closest. We can't go to Newcastle because it's a military airport; there's no parking and you have to get advance notice, so it's out of the question. Brisbane, yes, you can go down to Coolangatta but it has very big restrictions on parking and access. Perth there is no choice, you must go to Perth Airport, Jandakot is no good. Adelaide is the same,

there's no choice. So the point we're trying to make here is that our business aircraft cannot be operated in Australia's capital city secondary airports, Bankstown et cetera.

The other point we wanted to make there was that - we talk a lot about Sydney because it is Australia's gateway city. Both domestic and international business aircraft operators do require uninterrupted access to Sydney Airport and the use of a GA business aviation precinct at fair and reasonable prices. We've done some research through aircraft handlers and it's true to say that approximately 80 per cent of business aircraft flights from overseas arrive at Sydney at some stage in their trip. The movements of international business jets at Sydney Airport is in excess of 1000 per year. That's just international, that's not domestic. A movement is either arrival or a departure, of course. Around about 5 per cent of Sydney Airport's movements are GA which includes business aircraft. It also includes aircraft like the Royal Flying Doctor Service; New South Wales Air Ambulance; other aero-medical; other general aviation smaller aircraft, not many of those, of course, and a small amount of GA freight which is usually overnight parcel type activity. They need access to Sydney Airport as well.

One of our major concerns is the master plans of airports, of course, and I should say that the ABAA was quite a force in the 80s. It was a very active association in the 80s as business jets started to arrive in Australia but it fell away in the 90s as business jets were leaving Australia and you might recall people like Alan Bond and Christopher Skase, they gave the industry a fairly bad name and some business jets left. Today's business jets I think you could say are genuine business tools. We've done a lot of research on this and they're not silver tails, they're people who need to - if you've got the money and you need the privacy and the security and the travel to be ahead of your competitors, you go by business jets and heads of state do exactly the same. It's grown enormously in the last 10 years. Just in Australia the number of business jets has doubled in the last decade. We now have around about 130 jets that are used exclusively for business, carrying people, either charter or private.

That leads me into the airport master plans. The last one that was done for Sydney was released in 2009 and I have to say that the ABAA didn't really have any input into that because we were just being reformed in the early and mid-90s and that's when I came on board. The association had been dormant. We didn't manage to have any input into that master plan. We certainly would like to in the next one and we do have some problems with the current one.

DR CRAIK: David, could you wind up so we can get to questions.

MR BELL (ABAA): Yes, sure. Sorry, I'm going too long. I just want to talk about Virgin. That's in the Sydney Airport Master Plan. It seems they are going to apply

to have quite a large hangar right in the business aviation precinct of Sydney Airport and if you look at the congestion on the taxiways and the amount of space they want to take up, it would reduce our area down to about quarter of what it is at the moment and we just couldn't survive on that. So that's quite a major issue for us. We're concerned that the area at Sydney Airport that's been designated for the new business aviation precinct is a total new greenfield site with absolutely no amenities. There's no sewerage, roads, electricity, anything there and the cost of development would be quite huge, I think. So the longer we can stay in our current area the better and these other airline-type hangars, perhaps another site could be found for them on the airport. It would save everyone a lot of money.

I do have one other point on pricing, if you don't mind. Sorry I've taken too long. It's very interesting to look at parking charges for aircraft around Australia. For Global Express, that's a typical business jet, Wal flies to Global Express in a G5, Canberra \$690 a day; Sydney \$240 a day, that was after considerable negotiations with Sydney Airport and we were pleased with the outcome. Athens 570, Macau 365, Essendon 70; Auckland 120; Hong Kong 125; Singapore Changi 50. So Canberra is the most expensive airport in that realm and this is one reason we would like not to have the light-handed approach. We feel that our members should be able to complain about those parking charges.

I've just got another example, training flights at six circuits in a business jet at Avalon - just recently, this year - that's flying around, landing, taking off, \$2316. The same at Brisbane, \$491. So there's an anomaly there. Brisbane is reasonable, Avalon is not. We can go on and on about that but I appreciate you giving us as much time as you have. Thank you very much.

DR CRAIK: Wal, did you have anything you wanted to add?

MR GASCOIGNE (ABAA): No, I think he covered a lot of it. There are a few things in there I'd like to just clarify, that you can't take big aeroplanes into bush strips, that just doesn't work and so we really need a gateway into Sydney in particular and into Australia. So there are smaller turboprops and smaller jets that can operate into bush strips. There is going to be an increase in business aircraft, not only in size but numbers. The major countries are the States, Brazil, Canada and Mexico have got the major business aircraft at the moment and of course South-East Asia is going along. They had five there about five years ago, they've got about 35 business jets now and it's going to be quite an easy focus for us. They are very resource-focused. So that is our concern, that Sydney has seen - and the minister has stated in his white paper and other areas that it is a gateway to Australia and we should be encouraging these people, and they will go up in not only size but also in numbers.

DR CRAIK: Okay. Could you give us an indication of the difficulties in negotiation with Sydney Airport. Do you have long-term contracts with Sydney Airport, long-term agreements with dispute-resolution mechanisms or how does it work a deal with an airport?

MR BELL (ABAA): No, we don't have a long-term arrangement. We meet with Sydney Airport as and when required. The last negotiations we had was on aircraft parking and those negotiations commenced at the end of February 2010 and they ended at the end of May. It took around about eight or 10 meetings. There was a claim there for a very large parking fee which was the same in our area for, say, a very heavy aircraft in Domestic 6 which is adjacent to our area, of about \$3500 a day and that flowed into our Domestic 5 which we have much smaller aircraft max weight 44,000 kilograms. So we didn't want to pay obviously \$3500 a day.

I think it was just an oversight on the part of Sydney Airport. They hadn't considered the size of our aircraft and what business aviation was paying around the world and we gave them a lot of examples and the price came down to what we considered to be reasonable, \$240 a day for a 44,000-kilogram aircraft. If you looked at the previous increase - there hadn't been an increase for the preceding nine years but even with that increase it was above inflation but we accepted that as being reasonable even though it was above inflation.

To answer the rest of your question, no, we don't have a written agreement as such. We are very concerned about the ongoing viability of our business aviation precinct which has been there really since the Second World War and before. General aviation has always operated from that area.

MR GASCOIGNE (ABAA): I think it's fair to say that the ABA represents operators as well as some of the stakeholders at Sydney Airport. The fixed base of operations and maintenance facilities like ExecuJet and Hawker Pacific and other areas like that have individual leases with SACL and they negotiate those separately outside of the ABAA, I think it's fair to say that. Generally you would say these are temporary. There's really no long-term faith that you would have in a lot of those leases because of the planning and a few other things.

DR CRAIK: Do you people have a role or do your members have a role in the master plan developments?

MR GASCOIGNE (ABAA): We had an annual general meeting last week and invited SACL to come along and they gave a presentation at that meeting and so we encouraged some dialogue there and they have indicated to us that they would be very keen for us to participate in the future, along those lines. It's early days and sometimes you get these surprises when there is an announcement made in the paper

with Virgin and Etihad that they're going to plonk a hangar right where we operate from and we haven't been consulted.

DR CRAIK: Presumably you've taken this up with Sydney Airport?

MR GASCOIGNE (ABAA): Yes, we have.

MR BELL (ABAA): We have, yes.

DR CRAIK: Are you optimistic about the - - -

MR GASCOIGNE (ABAA): Cautious.

MR BELL (ABAA): It's early days, I think. I don't think it's going to work. If Virgin were permitted to start construction, say, in two years from now, which we are hearing might happen, there's no way that that greenfield site to the south of the control tower could be ready without - that would take maybe five years, I don't know how long. But we'd be left out in the cold.

DR CRAIK: So what would be the consequence for business aviation?

MR GASCOIGNE (ABAA): We couldn't operate there. Apart from the hangar being drawn on a piece of paper, the construction site over a period of two years would be outside those boundaries of the hangar and with the operation of jet engines in and around contaminated areas you would end up with a lot of engine damage. I'm not exaggerating this but it would be an improper place to operate. There's only one taxiway really leading up to that area and that's taxiway golf. Taxiway golf 4 in Domestic 3 is already overcrowded and I think the airlines would back me up on that. That's really at choke point now and when you get strongly westerly winds and/or strong easterly winds and they're using the east-west runway, that taxiway golf to the Domestic 5, Domestic 6 really becomes a carpark in itself. Once you start construction there, I mean to say it just locks everybody up.

DR CRAIK: In your recommendations are you looking for some kind of statement or legally binding or - - -

MR GASCOIGNE (ABAA): We're just looking for some critical path planning, I think, is the essence of it and it is to be considered that we are a valued operator for Sydney for the economy and they're significant decision-makers in Australia's future that operate in and out and we would continue that infrastructure at Sydney Airport. If there's a temporary position where we may have to operate from while they do that construction or there's another site found, I'm really not quite sure what the rationalisation and the decision-making process has been in selecting that site,

whether there is the area south-west of the intersection of the runway 3-4 left and 0725 where they park the internationals at the moment, whether that's being considered. I'm not quite sure what paperwork or rationalisation done has been in site selection from SACL and we're not privy to that. That would be handy for us to know.

MR SUTTON: That concern there, I take it that's common to general aviation. This is a general aviation issue or is this a - - -

MR BELL (ABAA): It is, it's GA including business aviation.

MR SUTTON: To what extent can your interests really be encapsulated under the roof of general aviation or do you see yourself as somewhat distinct or are you - - -

MR BELL (ABAA): We are part of GA, general aviation, but when most people think of general aviation these days - if you ask a man in the street, they think of a Cessna 172 flying around a couple of people or a small piston aircraft on charter, that sort of thing, or an agricultural spraying aircraft, something like that. But we are definitely part of GA and around the world the 15 business aviation associations that all belong to IBAC, headquartered in Montreal, Canada, the International Business Aviation Council. They all see themselves as part of a GA, yes, very, very much so.

MR SUTTON: Can I just ask: what are the major charges that your members face at airports. You've clearly taken us through aircraft parking but what are the other typical routine charges you face when you take aircraft into an airport?

MR BELL (ABAA): Landing charges and that's usually by the weight of the aircraft, just like the airlines pay by the weight. The airlines pay also passenger movement fees. We don't have those. We pay a fee each time we land at the airport. I gave some examples of doing some training at the airport. Also the parking charges, overnight parking or, you know, say, a 24-hour windows, that's what I read out there, with Canberra being the most expensive, \$690 a day. Also the landing fees at Canberra are very expensive. They're probably the most expensive in Australia.

MR SUTTON: What about refuelling?

MR GASCOIGNE (ABAA): That's a cost you would pay anywhere when you're refuelling aeroplanes. So regardless of where you operate, you've still got to buy your fuel. There's an FBO charge which you pay which is a fixed base of operation which is the terminal that we pull up and we pay that. You also pay a navigation charge with Airservices coming into a major airport and along those lines.

MR SUTTON: Are those charges laid out in a schedule that the airports have

rather than you in each and every airport negotiate those issues?

MR BELL (ABAA): They are, yes.

DR CRAIK: Is there any negotiation in establishing the schedule.

MR BELL (ABAA): We haven't had any negotiations on that except for the parking at Sydney Airport.

MR GASCOIGNE (ABAA): It's very good if structured on the maximum all-up weight of the aeroplane and invariably we're operating 50 per cent of that all-up weight when we're going out full fuel to Honolulu or to the Maldives or into Asia you're up around your maximum all-up weight. But generally we're landing in here at, let's say, a third of your maximum all-up weight but we're still paying the full charge for the maximum all-up weight of the aeroplane. So that's fine, that's not an argument and it's fair and reasonable.

DR CRAIK: Given what we're trying to do here is review the whole system, and your recommendations focus particularly on Sydney Airport, do you have a view about what you would like the PC to recommend in terms of business aviation generally?

MR GASCOIGNE (ABAA): It really comes down to the maintenance of an infrastructure and fair and reasonable pricing. We expect to pay full tote odds to operate into a major airport as compared to a secondary, that's fine, so what is fair and reasonable.

DR CRAIK: I guess fair and reasonable depends - it's like beauty, isn't it, in the eye of the beholder.

MR GASCOIGNE (ABAA): Yes, it is but I think we have statistics in general operating throughout the world that we know when there is a spike or it's outside the bell curve, we know that's probably had an improper charge. So if there is some parameter that can be struck, whether it be all-up weight, that's fine. So it becomes unemotional and it becomes a quantitative rather than a qualitative assessment.

DR CRAIK: Because you people aren't part of the monitoring regime at airports at the moment, are you - business aviation?

MR GASCOIGNE (ABAA): The movements are, passengers are not.

DR CRAIK: Through the airport curfew - - -

MR BELL (ABAA): Yes, Airservices Australia monitors the movements, yes, take-offs and landings.

DR CRAIK: But I meant through the ACCC monitoring that - - -

MR BELL (ABAA): No.

DR CRAIK: Just a couple of questions about noise and things. John won't be involved in this part because of where he resides. This is what I was going to talk about. I understand during the curfew hours there are limitations to specified aircraft that can take off and land. Does that create a problem in terms of aircraft development and innovation? I mean, specified aircraft - - -

MR BELL (ABAA): Yes, it does.

DR CRAIK: Presumably aircraft change like cars and things, you get new ones and modern ones which aren't the old specified ones.

MR BELL (ABAA): Yes, very much so.

DR CRAIK: Does that limit what can land - - -

MR BELL (ABAA): It does.

DR CRAIK: Increasingly elderly aircraft.

MR BELL (ABAA): That's right. Well, the current legislation in accordance with the Sydney Airport act of 1995 allows an approved list of aircraft - this is of what's termed low noise jet aircraft to operate out of Sydney Airport during the curfew hours. That list is signed off by the minister. The most recent list was signed off by the minister in 2005. It's a list of specific aircraft.

So as new, quieter aircraft come on the market we have applied for that approved list of aircraft to be modified, to be amended, and we're even prepared to take some aircraft off the list. But despite four submissions to the Department of Transport and Infrastructure our submissions have been knocked back on the basis that the minister has said that he believes that the situation is fair and equitable from the point of view of the residents and from the point of view of the operators of these aircraft.

We would say that that's not quite correct because we're in fact wishing to add quieter aircraft to that list as newer, quieter aircrafts come onstream, and there has been quite a few since 2005, and this also affects Adelaide Airport. It's exactly the

same. It's an approved list there which can only be amended by ministerial approval, and we have put up three submissions for Adelaide. That list hasn't been amended since 2000 and in fact it's a much smaller list than can operate in Sydney, and perhaps Wal can explain how we operate at Sydney Airport during the curfew.

MR GASCOIGNE (ABAA): This is coming back on the primary question, there's a disincentive also for the replacement of aircraft if you're looking to replace an aircraft and it doesn't have - not listed on the curfew, you then restrict your hours of operation by you take a third of the time that you could operate. At Sydney it's between 11.00 and 6 am in the morning we're restricted to landing on 3-4 lift, which is the north-south runway, with a maximum of 10 knots of tail wind, and statistically that's not a significant limitation.

So were we overseas and we're looking to come into Sydney - and there are other operating parameters that we have to look at in other airports round the world - we would look at the forecast wind and we really know within three or four days of whether it's going to be in excess of 10 knots of tail wind, we would shift our time of arrival to conform with the wind pattern, or if it is below the 10 knots we would plan to land within curfew, and normally at that point you're landing over the water and you're landing at extremely light weights as a rule. So it's a management exercise. But there is a factor from the aircraft manufacturers as well. They see that their market to sell aircraft into Australia is limited by the fact that the newer aircraft are not permitted to operate during the curfew period.

MR BELL (ABAA): We do have - I could quote you five companies who - five of our members who wish to order new aircraft, but they're holding off because their current aircraft can operate during the curfew at Sydney Airport. Now, these people probably only operate once a month or something, but they don't operate a lot. In fact we said in our submissions that we don't expect the movements to go up. We're just replacing - you know, changing aeroplanes around. One other important factor I should have mentioned, there's a maximum take-off weight for these aircraft of 34,000 kilograms.

So you can't operate a Boeing Business Jet in the curfew. You can't operate an Embraer Lineage 1000, which is like the Embraers that fly around with Virgin, you can't operate that as a business jet because they're over the 34,000 kilograms. Now that was set in 1995, and we've also tried to point out that these heavier aircraft are in fact quieter than many of the aircraft that are specified already, even though they're quite heavier. But that limitation does remain.

MR GASCOIGNE (ABAA): Furthermore to that, even the larger aircraft that we operate in excess of that weight up to 44,000 kilograms, we ensure that we're off taxi no later than quarter to 11 at night, and so we're off before that if we have a full tank

of fuel and we're going international. So even though our aircraft we can operate below the 34,000 kilograms, we're aware of the fact that we cannot take off after 11 o'clock at night with a full tank of fuel.

DR CRAIK: Just one final question. You've quoted some of the different parking charges and training flight charges. Do airports explain why they have such differing charges, such significantly different charges?

MR BELL (ABAA): Not really. We have very limited resources in the ABAA. I'm part-time, and to get around and talk to these airports is not particularly easy. But it is on our agenda. We do want to talk, we want to sit down and talk to Canberra Airport, but we haven't done it and that's probably our fault. But this is very important for us.

MR GASCOIGNE (ABAA): I think it's only fair to say too that the stakeholders at these individual airports would be more closely hauled on the charges and therefore they'd be probably better people to ask that question to.

DR CRAIK: Sure. All right. Thanks very much for that.

MR GASCOIGNE (AA): Thank you very much.

MR BELL (AA): Thank you.

DR CRAIK: We'll now take a break for morning tea till quarter to 11, and at a quarter to 11 we have Canberra Airport. Thank you.

DR CRAIK: Could we have everyone sitting down so we can get going again, please. Welcome. Could I ask you to state your names and positions for the record, please, and then if you'd like to make a brief opening and then we'd be happy to hear from you.

MR LEECE (CA): Yes. Andrew Leece, general counsel, Canberra Airport.

MR BYRON (CA): Stephen Byron, managing director of Canberra Airport.

MR BROWN (CA): Matthew Brown, head of aviation, Canberra Airport.

MR BYRON (CA): Thank you for the opportunity to appear today, commissioners. We really have come here today to be available to answer questions. As you know, we took over the airport from government ownership in 1998 and we've had an extensive investment program, both aeronautical and non-aeronautical. We are more than halfway through our major terminal project, which is the last piece of the jigsaw.

The first part opened in November last year and the operation of that has really settled down as people have got to use it and enjoy and the airlines have been very happy with the facility that's there now and are looking forward to the rest of it. So we've made some submissions to you. We've given you a bit of an outline in terms of comments we might make on a couple of the key issues, like show cause, like access and roads around airports and the like. But we're happy to leave those with you and really answer questions that might be on your mind.

DR CRAIK: Okay. Thanks very much. Do either of you two want to make a statement here?

MR BROWN (CA): No.

MR LEECE (CA): No. Thank you.

DR CRAIK: Perhaps I could start by asking if you've seen the comments of the new ACCC chairman in relationship to airports being monopolies and the need for them to be regulated as a result of being a monopoly. I'm wondering if you had any comments in response to that.

MR BYRON (CA): The main bit that surprised me was particularly the carparking side. I mean, I just was a little bit shocked and thought he's obviously only just possibly been briefed by the previous ACCC reports, which I think are fairly flawed in their findings. I had a look at the submissions, for example, by Melbourne Airport, the supplementary submissions, and the material there outlining the vast

array of competitors they've got and the carparking space, both in number of businesses, amount of carparks, pricing and the like. I think it can only be part of the Daily Telegraph populist cause.

This issue of pursuing regulation of carparking charges, they're a very competitive business. From our own point of view I don't really feel that those issues apply to us. We've got the lowest carparking charges of capital city airports in Australia, both short term and long term, and that was the position at the last Productivity Commission inquiry, it's the same position today and we intend to keep it that way, you know. We live in this town, we've got friends and people who all park there and they keep you honest.

DR CRAIK: I wish you'd get a bit more undercover carparking.

MR BYRON (CA): Which is under construction - and not only that, the other thing that's coming, which won't matter so much once we've got the other 1200 spaces in the matching carpark, is that we're putting in this Park Assist system, which is, if you like, like the Canberra scheme with the red and green lights but it's based on CCTV camera and so its accuracy is much better, and so that would mean that - currently when the carpark does fill up it's a bit hard to find a space, it would actually be very easy, and that will be open in January.

DR CRAIK: Thanks. We have just received a submission - and I don't think you will have seen it because I think it's only come in this morning, but it will be on the web site, from one of the taxi companies here in Canberra and it relates to the issue of taxi access to the airports and the fact that at the point that you - Canberra Airport and Darwin Airport were no longer to be part of the monitored - you know, under the ACCC monitoring regime.

That also included carparking, and their suggestion is that the carparking - and I guess access to the airport generally carparking, and I suppose it would include, you know, other ground services to the airport - should be resumed as part of the ACCC's monitoring regime. Do you have a reaction to that? We have also had some comments, you know, from the taxi people about what Canberra Airport provides relative to what other airports provide taxi companies in relation to the fees that the taxi company pays to the airports; you know, they've got a commissionaire at other airports and things, whereas you don't.

MR BYRON (CA): Back in about 2000 we invested a substantial amount of money of \$8.8 million in roads at Canberra Airport and in 2000 we introduced a \$2 taxi charge so that they shared and contributed to the road infrastructure. That was under the ACCC regime then. You know, the \$2 sum was worked out relative to the amount of capital and a proportional contribution by the taxi industry, and those

roads in fact have now been demolished, shorter than the 20-year period of payback. So we still haven't got paid back from the taxi industry, if you like, their share of their contribution to that charge. It's stayed at \$2 for the last 11 years, it hasn't gone up, and we have just spent a huge amount of money in the last three years on roads at the airport and adjoining the airport.

Back then there were taxi commissionaires paid for by the taxi industry. The main reason you have taxi commissionaires at Canberra is so that you can multi-load taxis and that assists in minimising the damage to the consumer from there not being enough taxis in Canberra. When the second taxi company came along, Cabxpress, the competition in the taxi industry, Cabxpress refused to contribute to the commissionaires, so the company, Aerial, refused to provide them any more and so they took them away. So we've never paid for the commissionaires, so we're interested in it being a service where they're taxi industry people, because taxis take more notice of taxi industry people.

When we were sort of doing it in an ad hoc fashion, where you get rogue taxi drivers, the taxi industry don't do much. I think the reality is the complaints of the taxi industry have more to do with me calling for another 150 taxi plates to be issued in Canberra and particularly for there to be a process of six-monthly options of say 15 or 20 plates and on the basis that at a particular six-months option there are more subscribers putting their hand up than there are plates that you issue the full 20, and the next time you issue another 20, or you might even increase it if there's an oversubscription. So that has not been popular with the taxi industry. More recently as part of a trial there are taxi commissionaires back at the airport provided by the industry. As I understood it, they've told us they're happy about that, they're delighted with participating and they are certainly making a difference to the underprovision of taxi plates in Canberra.

MR LEECE (CA): And it's getting charged for.

MR BYRON (CA): Yes.

DR CRAIK: And what, sorry?

MR BYRON (CA): And the taxi industry is charging a fee approved by the government of \$1.20 for a commissionaire service.

DR CRAIK: On top of the fee.

MR BYRON (CA): That would be a charge that for example when commissionaires are provided after football games at Canberra Stadium or after the races on Melbourne Cup the same charge and the same service presumably would be

made by the industry. So it's an industry solution to deal with the issue of there not being enough taxis.

DR CRAIK: Do you feel that the ground services to Canberra - well, I assume you don't, but I'd be interested in your response - should go back into the monitoring regime, the ACCC monitoring regime? I mean, you have your own monitoring regime though, don't you, under the Airports Act. Does that include ground transport to the airport.

MR BYRON (CA): Certainly in terms of quality of service it does and in terms of reporting on our web site the charges it does, so it encompasses that.

DR CRAIK: Do you have to report complaints and things like that?

MR LEECE (CA): Yes.

DR CRAIK: Do you get many in relationship to the taxi - - -

MR BROWN (CA): Not in terms of taxis or in terms of roads. I think we did experience a level of complaint in relation to carparking when we were going through the construction phase and the stage in works that were going on. But as far as taxis go, we generally don't get a high level of complaints. As an indication, I'd say that we get less than half a dozen a year.

DR CRAIK: Thanks. John?

MR SUTTON: I just wanted to go back to a fundamental part of our process here, the show cause recommendation, and tease out your views on where we've landed thus far on the show cause issue. Could you tell us what your views are?

MR LEECE (CA): I think from our point of view, on one level, it's not something that is going to directly apply to Canberra Airport, so there's always that slight reticence about how it is going to play out anyway. I think as an aviation participant though, the main concern that we have with it is (1), from our point of view, the majority of the agreements with the airlines have been done and a lot of the hard work and the hard negotiation in regards to the rights and wrongs or how that played out have actually already been done, so we're not 100 per cent sure what it would add. We're also not 100 per cent sure about the particular market failure that it's actually trying to rectify, given that the actual agreements have been entered into.

I think the other part that does concern us is, on a practical level, we do have a genuine concern that if this was put into place, you would end up with sort of an interim pricing inquiry or a false pricing inquiry before you go down the steps of

doing another whole pricing inquiry on top of it. So there is a simple question of are you actually going through the same process twice to get to the same place, which is then going to be actually looked at by the same body that started the whole process in the first place?

So to link from that the other main point, what we would be saying is that if a decision was made that, yes, this notice was necessary, which, as I said, our view is it isn't, but if the decision was made that it was, you would have to have somebody other than the ACCC involved in that final pricing inquiry. Again, this is not casting aspersions about the ACCC at all. But if you have a body that looks at you and says, "Yes, I think there's a show cause notice," then assesses that show cause notice and says, "Yes, I think it's a reason for a price inquiry," human nature says that person has 90 per cent of the way to actually making the decision. Whether it's the Productivity Commission that takes a pricing inquiry or whether it's the Department of Transport, whether it's another economic body within the government, I don't know, but that would be another major concern that we have with it.

MR BROWN (CA): I just think in terms of the show cause, airports have two major customers, both of whom are pretty good at playing the cop, as it were, in terms of policing what is good and what is not so good. They're very well positioned to take issue with anything that they perceive as being not appropriate on the part of an airport. For us it's not usual to have an airline that hasn't paid charges for an extended period of time. 12 or 14 months is not usual. Accruing debts of a million dollars is not unusual when they don't agree on a particular thing and you have to flesh out a resolution to a particular issue.

In terms of a show cause mechanism, I think that would just serve to distract the participants involved in that dispute away from sitting down together and resolving it and extend the time frame for resolving it, because you're bringing in another third party, who then has to be briefed and make a decision. There will be a bit of jockeying between the players and I think it will just extend the process and the time taken to achieve a result.

MR BYRON (CA): I think the other problem too is, as the commercial agreements have evolved, the complexity of all of this has got more detailed. What I mean is there's not just an aeronautical till. There's primarily at least two major parts to the aeronautical till that are separately negotiated: one is the airfield bucket and one is the terminal bucket. Even within those major buckets - and they're separate and negotiated separately against the separate baskets of assets - there are different agreements in terms of the necessary new investment and sometimes it's lumped in all as part of the overall thing and done as an overall deal, but sometimes there's separate individual charges, sometimes with security or maybe an apron. So whilst we've got two major sub-tills, we've actually got about two other sub-sub-tills within

the tills.

In terms of a show cause, would it be on the aggregate or would it be on a particular element? You know, it would seem a bit unfair if you've negotiated these elements and then it all gets aggregated up and done from afar without understanding the detail of the commercial negotiation and what it was that you gave away at the time to maybe get something in return.

MR LEECE (CA): I think there is one other minor concern, because it's always in play regardless, which we accept because the price inquiry stuff is always there anyway. One of the things that we've found is that with the light-handed regime, taking both Matt's and Stephen's points, you could actually negotiate and you did actually negotiate and you did actually come to resolutions on particular matters, but you also did that without any sort of regulatory gains actually occurring.

It's a minor matter, but there is a slight concern that if you went down the show cause notice, you would be opening up that sort of Pandora's box again of is there actually going to be regulatory gains from either side about how this sort of plays out. I can understand your view might be that's not really going to happen because the time period for the show cause notice is an extended one, it's not something that happens on a one-off basis. But I think that's something else that we would be slightly concerned about in terms of ensuring that investment keeps going.

DR CRAIK: I guess part of our justification was right now you have the ACCC produce its monitoring report and then draws conclusions or makes statements which have suggestions or indications or whatever and so far there's been no reaction to those suggestions or indications or whatever of this market power. So our concern is - and certainly this is something the airlines have suggested - that the monitoring is not really a credible threat in terms of re-regulation. So I think that part of our rationale for the show cause was to try to make a determined result out of the monitoring so that either it looks like there might be an issue or there's not, but also that the ACCC actually backs its judgment. Rather than making suggestions about what might be or what might not be, there's actually a process that it has to land on to follow through.

MR LEECE (CA): I think from our side, being the sort of devil's advocate to that sort of view, is one that says if the ACCC puts out its monitoring reports and it raises these concerns, it either then says, "Yes, the concern is of such a magnitude that I'm going to go to a pricing inquiry," or it's not. They either back themselves and do it or they don't. This flaw is one of the flaws with the ACCC monitoring regime in general which doesn't apply to us. You do have them just making various statements, not without some background. I'm not saying they just do it off the bat, but you're right, often it doesn't lead anywhere, and what we're saying is you've

already got the remedies in place, you've already got the process in place. If they actually believe there is a problem of such magnitude they need to do something, they can do it now.

DR CRAIK: We're aware of that. We're just saying put this extra step in. A Part VIIA inquiry is a very serious matter and I guess we're trying to put - - -

MR BYRON (CA): Certainly trying to put some discipline into what they're doing has got to help. When they publish reports year on year that say that Adelaide Airport's quality of service has gone down with a brand new terminal - and we're not talking about teething problems about the opening - but they're reporting that and they're trying to be fair dinkum, that is just evidence that the whole thing is flawed. Their whole surveys are flawed. There are great problems with the way they rank the airports together and there are only five, so the bottom one always gets picked on.

We were there. We were picked on at number 7 one year because customs gave us appalling low ratings, when it didn't apply to us because it was nothing to do with the sort of service we provided, yet the way the maths worked, it penalised us and knocked out all the good comments from Virgin and Qantas. It's just ridiculous sort of stuff. So if what you're trying to do is help fix that and get some discipline, we strongly support the approach.

DR CRAIK: Would you support the ACCC having to publish a draft monitoring report and then the airports publicly responding to the draft monitoring report?

MR BYRON (CA): They give a draft to the airport and they take no regard for the comments, even when you show they're factually incorrect on issues of mathematics and explicit charges. So that becoming a public process and charade I think would be worse. I think the environment where the reports are published and supported by a press release that's trying to propagate a line, you wouldn't be encouraging that. I'd be saying if you're serious about the monitoring reports, they probably don't largely matter to the public. They should be made to the minister and made available to the Productivity Commission and the airports should put the passenger surveys up on their web sites. That's the public disclosure of the public information. The rest of if an airline is having a whinge, I think this process has got all the integrity about it and it should be done periodically, as it has been.

MR BROWN (CA): I think that's right. If you're talking about a show cause mechanism, put the ACCC regulatory reports to one side. They're a media opportunity once a year, probably not much more than that. If you then say, "What regulatory recourse is available in the interim regulatory period, if you like" - so in between the five-year regulatory reviews that the Productivity Commission take on. My point would be that you probably don't need one only because airports and

airlines negotiate these long-term price agreements that last, in our case, between five, seven and 15 years, depending on the service and if an airport is overcharging, the airlines have all the information available to put a case to the Productivity Commission to say, "An airport here is over-recovering its maximum allowable revenue," and put that to the Productivity Commission and that's a very credible threat because we would expect that the Productivity Commission would be able to look at that, verify the information quite readily and say, "Okay, Airport X, why are you over-recovering? Do we need to introduce more stricter controls?"

I don't think you need that recourse available with that five-year period because the airlines are going to see it coming well and truly in advance of it happening and keeping the periodic reviews by the Productivity Commission every five years is an appropriate interval to keep a check on airports, if they do start to approach that maximum allowable revenue, to make sure that they then don't go past.

DR CRAIK: Thanks.

MR SUTTON: I am a little bit interested in one of the early throwaway lines about regardless of the rights or wrongs of the agreements and the fact that - it was just a throwaway line, I wouldn't hang too much on it. But I'm interested in that expression that if we've locked down some of these sins, so be it, it's their problem. I'm also a little bit interested in if the airlines have a whinge - it all just seems a bit dismissive of another pretty key stakeholder in the process. Clearly from our point of view it's all about getting the balance right and we think that the credible threat has not been there. I know somebody earlier today outlined all the so-called mechanisms and I'm familiar with them all but they haven't been used and they haven't been used, I guess, for - we can conjecture about it, either substantially there's no problems or they're not particularly user-friendly or some mix thereof. Do you want to comment on any of that?

MR LEECE (CA): Yes. The first part was a reference to rights and wrongs was more about - one of the things we've got through all of our submissions is that the negotiations to get the agreement signed are obviously detailed, they're intense, there is no question about that. But that's the same in any other industry where what we say, if you've got two market participants who have got almost a symbiotic relationship between the two of them because they both need each other, they're both part of an industry, they're both critical, the negotiations are finely balanced, they're detailed, they're intense. That's all I'm getting at about that which is a process to get there. The agreements themselves I actually think are very good agreements and I think one of the things that we've factored is that the agreements are long-term, they're five, seven, 15, that sort of length. If they weren't good agreements - and this is being frank - we wouldn't be getting the boards of the airlines to actually sign off on them and sign them. They wouldn't be going, "Yes, that's a good idea," they'd

simply just be doing - as Matt said in the past, they'd simply just keep using the airport.

We can't actually under the airport lease we can't say, "No, you can't land anyway." They would just keep using it and it would short pay or pay late or whatever as part of the leverage for where they want to get to. All I'm getting is that with the negotiations there is no doubt they are intense and no-one is ever going to dodge that, of course, they are. But again, there is no way we could get an airline of the size that they are to sign up to the agreement if they didn't want to do it.

DR CRAIK: Okay. You talked before a bit about monitoring reports and your views of the ACCC's monitoring of reports. One of the things that we suggested in the draft or sought feedback on was the possibility of using the existence of service level agreements and airports publishing or providing the percentage of service level agreements that had actually been met over a period time, not the actual content of the service level agreement but the actual performance of the service level agreements as an alternative of the quality of service monitoring and responses by airlines. Do you have a view about that?

MR BROWN (CA): I think in terms of quality of service and service level agreements in airline agreement they're quite often two different things. The airlines, as far as service level agreements are concerned, are seeking things that typically directly relate to on-time performance. So you have the availability of baggage belts and aerobridges operating and things like that. I think, as far as the general public is concerned, there are other factors as far as quality of service is concerned that don't feature in airline service agreements and that is the cleanliness of toilets and not having packets of chips on your departure seats and things like that.

So I think there are two different areas and the way that we approached it is that we have our service level agreements with the airlines which makes sure that the standard and availability of facilities is right for the airlines and then we have a secondary process that deals with our direct customers, if you like, the general public and saying, "What is the standard of our toilet facilities?" and there's no bounds about that, it could be carparking, toilet facilities, retail outlets, there's not a prescriptive format in which they provide their feedback but we monitor that and we report on that.

DR CRAIK: Is your quality of service monitoring stuff that you have to put up on your web site? Is that working successfully? Have you got it up on your web site?

MR BYRON (CA): It's probably for others to judge. We would say it is. But I think one of the things we've done is we don't just go about a question of surveys and the like. We're particularly focused on the issue of complaint and we have a

principal that every complaint that comes through - and I can tell you in this day and age with the web site and all of that you get more than you ever did. We basically had none before and six or seven years ago we had an old facility and we more or less didn't get any, you'd get maybe one a month or less. We now get two comments a day maybe through the web site through an info button.

MR BROWN (CA): And you get the real time because these days of iPhones people send it, it hits you and if you provide a response quick enough they'll say, "I'm sitting in the terminal here now and this is the problem."

MR SUTTON: Is this compliments or complaints you're getting?

MR BROWN (CA): You get both.

MR BYRON (CA): We enjoy the compliments and the complaints are often quite acerbic and we all get them. So Matt, head of aviation, and I get every single complaint. I don't reply to a lot of them. Matt replies to quite a number and some of our staff who are pretty senior too reply to the balance.

MR BROWN (CA): 100 per cent response.

MR BYRON (CA): They get a response promptly and quickly and we had one the other day where the person was seriously cranky and seriously upset about a pick-up type issue and I rang them up - because on the email you can be pretty aggressive. I rang them up and I went through it all and I said, "That wasn't what our customer service team intended to do. That's not the culture. You're basically right in 90 per cent of what you're saying and we appreciate that," and that's the way our philosophy is. Our philosophy is we keep the complaints down so we can address them all personally. There is a pretty good motivation to deliver a good quality of service because the senior managers, including me, gets sick of complaints, we're better off fixing them.

The second issue is then we collate all of those and report them on a quarterly basis on our web site and that is then transparent, available and if they meet the threshold of .1 per cent of the total passengers on a particular topic, we mandatorily have undertaken to report that to the department with a list of corrective action. We haven't had that problem yet and we don't intend to have it. But .1 per cent of passengers complaining about a particular issue is a pretty low threshold, but if it happens we can report it to anyone you like, that's the department, the ACCC, yourselves in six years' time, we'll report it and report our corrective action on it. We think that works better than just an ACCC survey that is reported on 12 months down the track when the issue has changed.

MR BROWN (CA): I think in terms of how successful it is, Stephen is right, that is for others to judge ultimately. But I think one measure of success is how that is integrated into our management process and Stephen has alluded to the fact that senior levels of management get involved in understanding the issue and rectifying it and responding to it and the way that we've integrated that into our management process I think is a measure within our organisation internally of how successful that regime is in keeping us focused on customer complaints and the quality of service up in the terminal.

MR LEECE (CA): I think the final thing to add is just in terms of the airlines themselves - this is where you started the question about, "Do you publish those surveys or just deal with them?" Obviously there are consequences under the agreements that we have with them if we don't meet them and it's straight-out financial consequences. So we've got a straight financial incentive to actually ensure those service levels are met, above and beyond any publishing requirement.

DR CRAIK: One of the issues that you raised in your commentary, and it's something we raised in the report, is with the show cause: having the ACCC issue the show cause and then possibly the ACCC do the actual VIIA inquiry. We recognise the problem with doing both. The difficulty we faced, and I haven't seen in any submissions yet a clever answer to this, was if they didn't do both, who would? The PC is not really set up to do those sorts of detailed price inquiries. It's very difficult to think of an existing organisation who is. I just wondered, given you're around Canberra, if you'd had any - - -

MR LEECE (CA): Can we take that on notice?

DR CRAIK: You can take that one on notice.

MR LEECE (CA): It's an interesting question.

MR BYRON (CA): I don't know how it would integrate into the rest of it, but to be honest I think the Department of Infrastructure would be appropriately placed.

DR CRAIK: To do the actual VIIA inquiry?

MR BYRON (CA): Well, although this puts it around the other way - - -

DR CRAIK: To do the show cause.

MR BYRON (CA): - - - to do the show cause. But, you know, it ends up in loops and loops.

MR LEECE (CA): That's actually a very good point, because it might be another way of doing it. You're saying, well, if you're going to go down the show cause path - the issue for us is more not having the same body all the way through.

DR CRAIK: No, I understand.

MR LEECE (CA): So it might be that you move, as Stephen said, the initial show cause process to the Department of Transport first, then have it referred to the ACCC if they're not happy with it. That might be a simpler solution. But I will take it on notice as well.

DR CRAIK: Any thoughts you might have on that. The other issue that airlines raised is with us is that while most of the agreements seem to have dispute resolution mechanisms once the agreement is signed, it's the period before you actually have an agreement signed between an airport and an airline which some airlines see as particularly problematic with some airports. Do you have some kind of standard dispute resolution mechanism to fall back on before there is actually an agreement in place that can somehow help with the - you know.

MR BYRON (CA): I think the simple reality is that if you're going from an end of an agreement to a new agreement, if you're putting down charges, airlines are interested in doing the deal.

DR CRAIK: No doubt.

MR BYRON (CA): I think if you're putting up the charges no matter how justified, no matter how much investment you're making, airlines resist it, resist it, resist it. They resist it even when they want the infrastructure and even when they acknowledge that you should be paid and you do - you know, fairness and all of that - is that they do resist it. The de facto position if you don't have an agreement is that the old agreement stands.

This relationship is like a marriage you cannot get out of. You must sleep in the same bed every single night all day long. So while you're having this negotiation it's quite peculiar because you know you have to have a deal. The trouble is the airport has a time frame. The airport needs to deliver the infrastructure. The airport's getting the complaints about the quality of the facilities and the inability of it to cope. The airport's the one wanting to invest, but the airport can't invest unless it gets an agreement.

So certainly the airlines have complained, in some ways appropriately, about the length of time, because it does take too long. But in some ways I'd say they're not the ones that want it to go faster, necessarily. I'm sure they wish the negotiation

wasn't so protracted. It's the airports that want to. The de facto dispute resolution is that if there's a dispute they don't pay. They don't pay the increased charge, they don't sign the deal, nothing happens, no investment happens.

MR BROWN (CA): What you typically see is that there's a disagreement on price and there's an informal escalation process that happens within both the airport and the airline company. While that's occurring there are debts accruing, because the airline will either short pay or not pay an invoice. From an airline's point of view I mean that's probably a very valid and suitable outcome for a period of time. I think where it ends up is that the debt normally accrues to a sufficiently large number that the senior representatives of both companies end up sitting down and that debt number ends up becoming, I guess, a point of negotiation and a deal is struck. But unfortunately that's not a great outcome for an airport but that just seems to be the modus operandi in terms of getting a deal done.

DR CRAIK: Okay.

MR LEECE (CA): I think in terms of - and I shouldn't have said - part of where - your question to me about whether you need an informal process outside of - - -

DR CRAIK: Well, whether it would be a good idea for the airports to have some kind of established generic dispute resolution mechanism sitting in the background.

MR LEECE (CA): I mean I think again from our point of view what we're probably saying is look, on the whole it actually worked. The agreements were entered into, there were negotiations and deals were actually done, and they were done without any dispute notice actually being issued by anyone, without resorting to any other sort of legal means, without resorting to a regulator. It was all actually agreed, because as Matt says, ultimately both parties actually want the deal to be done.

MR BYRON (CA): I think the other thing - and I was going to make this comment to John's earlier question about the rights and wrongs, or whatever the throwaway line is. I think he said, you know, does it not apply to us any more or has it gone past that point? I think that's actually right at Canberra Airport. We have done these agreements and signed them now and the infrastructure is being built and is committed. When we talk to the airlines after their first submissions to you about things and issues, the clear message from Qantas and Virgin was, "Things are good with you. These issues don't apply to our relationship." That's not to say that we haven't had some difficulty in getting those agreements struck, but the agreements were struck and we have a 15-year price agreement on the terminal and it's being built.

So they don't think that these comments are issues for an airport, and maybe that's why we're not as engaged in solving the problem a little. But they are totally comfortable with the service level agreements. They are totally comfortable with the dispute resolution process. They are totally confident that at the expiry of the airfield agreement they have sufficient process, leverage, power to negotiate the price going forward. It might take a bit of time but - - -

MR SUTTON: I guess one follow-up on that which to me is important in getting the right balance and all this, is it the regulatory system in place that delivers that result or is it the fact that this particular airport management team is reasonable in its conduct and - so is it a function of the human beings involved and the reasonableness of these people or not or is it actually the system which delivers that - the current regulatory system which delivers what you say is, well, you know, a very good result?

MR BROWN (CA): I think there's a bit of that, but I think it's more so a maturing of the relationship. I've been negotiating these deals now for 12 years and the first round, the second round of these renewals there are difficult and there are complicating factors because you do get this noise when there's different regulatory environments in place, you know, under the price cap regime and pricing monitoring. There's sometimes a bit of jockeying going on. I think that's happening on the sidelines. I think there are arguments about whether an airport's more or less reasonable or an airline's more or less reasonable, but I think at the end of the day where we stand today is that there's a recognition that we both need each other and we both need certain outcomes at the end of the day. We might be in disagreement for a period of time and lock horns on certain issues but we need to cut through that and reach an agreement at some point.

Now, I'd ideally like that to be a very short process. The reality is it's a bit longer than what we'd like but it's a process that's improving as the relationship between airports and airlines is maturing.

MR BYRON (CA): I think that is more about the system and its longevity than about the people. I mean, you know, love to take all the credit and say, "We're just a good airport, give us all the credit." I think it is about the system and the evolution of the system. It has taken that amount of time but it is underpinned by this building block methodology, and neither party could even contemplate changing that framework. So even when you're negotiating it is really about the edges, and that means you're going to end up close enough to do a deal.

So I think the system of where it has come from, its evolution, the time - we've all learnt in negotiating with each other over 12 years in different ways. I think the

only times when it starts to come unravelled and you can't get traction or can't do anything is when there is the hint of regulatory change. I think when there's - that's when both parties seek to gain, seek to improve the situation, hold out and wait for the umpire to determine the new regulatory regime that might apply. We've certainly seen that over the 12 years. When there's change people hang out for it and then a decision is made, like your draft report, and then all of a sudden there's clarity and deals are done at different airports.

MR BROWN (CA): I think over that 12 years there has been some important process in that 12-year period. The price cap regime, for all its faults, was very effective at setting the ground rules for new investment. So airports and airlines, they know what the ground rules are. You work towards that. You then have the prices monitoring regime, which then took away some level of the regulatory gaming and allowed a period of forming these contractual relationships, which were largely absent during the price cap regime and during that period you built a bit of trust and I think where we are now is just that next step in that regulatory evolution, as Stephen says, to airports and airlines contracting with each other under, I guess, as close as you can get to a normal commercial relationship.

DR CRAIK: So would your preference be, just trying to read between the lines of what you've said here today, that you don't need the monitoring reports any more and just a five-yearly review of how things are going. Is that where you're heading?

MR BROWN (CA): In terms of effectiveness for both airports and airlines, both get more value out of the Productivity Commission process, more so than the annual ACCC process because that's a media opportunity that comes up annually. When you get into the depth of are there fundamental issues that airports and airlines cannot agree on where you might need independent arbitration, I don't see that coming from the ACCC annual process. I see that coming from a five-yearly periodic review of is an airport behaving appropriately in the context of the ground rules that have been set or is there some fundamental failure in the process that needs to be addressed. The appropriate timing for that is - - -

MR SUTTON: If you agree that it's desirable and there's a credible threat, could that exist in the absence of monitoring?

MR BROWN (CA): I think the credible threat is not knowing necessarily what the Productivity Commission might recommend in terms of addressing inappropriate conduct on the part of an airport. We might go back to price monitoring, there might be some sort of price cap regime or variant thereof. We don't know what it is, but we certainly don't want the airport to find out what the penalty is for over-recovering.

MR BYRON (CA): But there's another layer to the threat - and this layer operates,

if you like, like a permanent show cause without structure or process - and that is the fact that we live in a democracy with the supervision of the parliament and ministers and Daily Telegraph. So there are these other show cause mechanisms there. We are pleased that, five-yearly, there's a structural, economically considered process, but in between you're subject to the risk of an ad hoc outcome, so you've always got to be conducting yourself properly and appropriately and transparently and that any conduct you have could be totally exposed.

The other comment I was going to make to your question of would it be better to have no annual thing: I think that's right and I think you could do that now, but, again, maybe the process is right to just continue the evolution. My strong view is that Adelaide ought to come out because of generally their size, but particularly the fact that they've got the agreements and the infrastructure in place. I'd say probably Perth ought to come out and would be right for now, but for the fact that we all know Perth is going to go through a major investment phase and it might not be a bad thing to leave them in for the next three to five years, but then they would be the next logical candidate to come out at the next one.

I think this evolutionary approach is right. It's staggered. If all of where we are now had happened at the beginning, I think it might not have worked and you might not have got investment. You might have had an airport being badly monopolistic, you might have had no investment and airlines going feral. It would have been very unstructured. I think the evolution is important and I think the continued direction with Adelaide and Perth over the next periods is the right way forward.

DR CRAIK: Just a final question from me. One of the things that Canberra doesn't have is competition from off-airport parking. Do you have any commentary on that? It's kind of surprising a bit.

MR BYRON (CA): Yes. We're very close to town. We don't have high prices. One of the things we've talked about is if you have high prices, you're going to create the business opportunity more so.

DR CRAIK: Our understanding from something that was said before the draft was that the zoning around Canberra Airport would not permit it.

MR LEECE (CA): There are definitely issues because of where cargo is, you've got a fenced area to the north - - -

MR BYRON (CA): That could change. Someone could have a go half doing it illegally and I think if it was to provide a cheap carparking product versus a rip-off carparking product, I think the planning irregularity would be overlooked. So we are

very conscious of that. I think the reality is that a lot of people get dropped off because the airport's close. A lot of people use taxis and we are always wanting to increase the share of our carparking business and one of the ways we do that is through volume, not price.

MR LEECE (CA): Certainly one of the points that we put in the previous submission was we did a comparison as well and the pricing for the carparks that we've got is roughly the same as what's in Civic and in some cases less. It was in the same sort of range.

MR SUTTON: I've got two areas I just wanted to get your opinion. You have strong non-aeronautical revenues at Canberra. We have an information request that I can't quite put my finger on, but it asks you about the relationship between non-aeronautical revenues and aeronautical charges, et cetera. I can't quite think of the wording at the moment, but - - -

DR CRAIK: Is non-aeronautical revenue a constraint for aeronautical revenue?

MR SUTTON: We've got some very interesting responses from different airports. So you've got strong non-aeronautical revenues. I just was interested in your take on that.

MR BYRON (CA): I think part of it's the way you've worded the question, which is is it a constraint. I think the first point to make is that business parks or retail revenues that are totally unrelated to the terminal precinct are a bit different from other non-aeronautical revenues like terminal retail and terminal carparking. I think there is clearly a view that the volume business of the airport and capturing some uplifting in terminal carparking and terminal retail business is an attraction, but I think that shouldn't be overstated, but it's certainly why we would want low-cost carriers and why we would want to offer competitive prices and particularly introductory discounts. The reason I don't think you should overstate the fact that it is a total constraint is the fact that broadly, you have to charge the same price for the same service to different airlines, so you are a bit limited.

The other comment I would make though is in terms of these business park type non-aeronautical revenues. They clearly don't operate as a constraint on the price you might charge to an airline, but they seriously underpin the business and I can't understate that point. They underpin the economic viability of the business and allow you to borrow money and invest and stave of this problem of the cyclical nature. So what they're effectively doing is not only lowering your cost of debt, they're enabling it to happen and they are enabling investment to happen. So the model that the government had was right, to not only allow it, but to insist under the lease that the airport had to be one business and you couldn't hive off the other bits of

the business, you couldn't sell that off separately.

It's a very important part of the airport's privatisation and it's a critical part of the success. It was probably not so well understood when we all bought the airports, but very well understood when Ansett went broke, more understood again when you have the SARS-type issues and the cyclical nature of these things and then you have a GFC and you have discussions with banks. Our investment in the terminal is underpinned by our borrowing capability through our non-aeronautical revenue.

MR SUTTON: The other area I wanted to ask you about was you know we've again asked for feedback on the question of off-airport infrastructure, particularly in relation to non-aeronautical developments and volume of traffic, et cetera, and impact on local community and whether there should be any kind of structured arrangement or structured requirements in place. You've been through that recent experience of building the road out the front there and you came forward and made a substantial contribution, et cetera. I'm keen to hear your take on all of that. Should it just be left to the reasonableness of the parties or should there be some principles or some kind of requirements in place.

MR BYRON (CA): I wouldn't favour getting too prescriptive about it. At the end of the day, if you're saying airports should pay for off-airport roads, you're really saying the airlines have to pay for them and the airports have got to cut a deal with an airline to pay for them, otherwise it won't happen.

I think in our circumstance the duplication of the roads to the airport were forecast as part of the planning back in 99-2000. That was in planning in the master plan, planning with the ACT Planning Authority and the National Capital Authority. They all recognised it, so it wasn't a failure of planning. What happened was a failure of Treasury and a failure to invest. So it was put in the budget and then it never got built in 01 or 02. It kept on getting pushed out. It even dropped out for a year and then it came back in. So what you were seeing was the Treasury failure to invest in regional roads.

The second thing is when Stanhope set up a task force to look at this and there were all the stakeholders at the table, it categorically investigated and said that, "Listen, the airport traffic contributes a bit, including the non-aeronautical, but the reality is this is driven by the regional traffic from Queanbeyan and the regional traffic from Gungahlin fed in through the opening up of Horse Park Drive into the top of Majura. That's the cause. I think that's symptomatic of what is happening around all of the airports - is that the change at Canberra Airport looked like there were some office buildings built, that's what you saw.

The reality was the whole region grew, road improvements were made feeding

in, feeding in and the regional road traffic grew and the road wasn't duplicated when it should have been. From my point of view I think these roads are regional roads around airports that need to be funded by state governments in the ordinary course or maybe Commonwealth might contribute - maybe, up to the Commonwealth. Airports will make contributions where there's an intersection to provide access to their non-aeronautical land - and that's appropriate and they do that and fund 100 per cent of the cost, generally. They will do it in relation to the terminal intersection by negotiation.

We did it because we couldn't wait any longer. We were sick of it getting put off and we - clearly it needed to happen, it was overdue and commercial pressure on our side said we should just offer it up and make it happen and take control. Part of the big thing was we took control and we built it, tendered it and got it done quickly.

MR LEECE (CA): I think what makes an issue hard, and it's something that Stephen said at the start, it really is a case-by-case question. We actually had a bit of a think about it. It was hard to actually think of any particular rules or requirements you could put in place. I mean we couldn't even define what non-aeronautical was, depending on where it was in the airport, how do you sort of define it - that was part of your information request - as well as how far back does the contribution go. You know, is it all the way, is it just to the intersection, how does it actually all sort of work.

I think Stephen's right. No airport would say if there was an intersection to a non-aeronautical precinct that they shouldn't fund it. I think most people - certainly we do - take the view that yes, that's our responsibility. We've gone further in that we've sort of funded things like gas and water to the airport as well to upgrade the services there. I think the overriding part of the analysis, though, is to say - almost take the approach that the Commonwealth took with the master planners saying airports are part of a wider region. They're part of a wider transport network. It's not so much a question of how do you fix the roads outside a particular airport, around a particular area, it's actually a much bigger question than that, which is, "I've got a piece of transport network. How do I make sure the planning works around all of it?" You know, from here to Belconnen, from Gungahlin to Queanbeyan, how do you get the roads all working? We're only actually a very small part of that process.

DR CRAIK: Okay, thank you.

MR BYRON (CA): Can we address one other point?

DR CRAIK: Sure.

MR BYRON (CA): The previous, been touched on, issue of pricing. I just wanted

to cover some things and put that in context. They were talking about a 737 for a private jet. The Association quite rightly said, we haven't engaged with them either. I've never heard of the group and we've never had complaints from them in writing nor from the operators like the Foxes, the Murdochs, the Packers and the 737 private business flight. We've never had any complaints on our charge. But the observation was made that our charge was double Sydney, if you like. I wanted to address that, because really it's a function of volume. We have three-odd million passengers, three and a quarter, Sydney's got 33, 34 million. Our passenger charge to airlines who land, say, a 737 on the airfield is \$7.24. Sydney's charge is \$3.55. So again, we're roughly double. That's the reality. We have a view that if we're charging Virgin or Qantas for a 737 then we should charge the Packers for a 737, sort of thing.

It's interesting the volume effect is not just in the airport, we're not just being usurious and having a high charge. Air Services Australia have the same issue. So their charges for terminal navigation services are \$5.58 per tonne at Sydney, or \$12.28 per tonne, more than double, at Canberra. In terms of their fire services for a 737 landing, whether it's Virgin's or Mr Murdoch's, at Sydney the charge is \$2.05 per tonne, at Canberra it's \$8.31 per tonne. It's four times the charge. That's the volume effect. So I sort of resist that issue that our charge is out there. It sounds a lot more. It is a lot more. There's also issues of what is the parking charge, relatively. Sydney charge \$35 for 15 minutes, we don't.

The last point I'd make is that's for a 737, and I do see that as different, corporate aviation to general aviation. Our general aviation charges are the lowest of any capital city airport, and by general aviation I mean the small planes, be they be for recreation or tiny or very small freight or be they for pilot training and the like. They are the lowest of any capital city airport. So I just wanted to put that in context, if that was all right. But certainly we're going to talk to them now and hear any issues and work through. But when Air Services's charge for fire is four times you sort of get an understanding of the volume effect and why we might be double.

MR BROWN (CA): I think the only thing I'd add to that is that I don't think it's necessarily an apples for apples comparison there because the charge quoted includes not only parking but security charges and the FBO charges as well. Again, the rate quoted was for a full 24 hours, whereas I think some of the comparison rates might have been for an hour or two hours. So I think we're happy to do some work on that and tidy up the comparison, but we didn't want to leave that - - -

DR CRAIK: No, we'd be interested.

MR BROWN (CA): We didn't want to leave that untouched.

DR CRAIK: Yes, no, it's fine, thank you. Thanks very much.

DR CRAIK: Can we have the Australian Airports Association, thank you. Okay, welcome. Could you please introduce yourselves and state your name and position for the record, and then if you'd like to make a brief opening statement we'd be happy to hear from you. Thank you.

MS WILKIE (AAA): Caroline Wilkie, executive director, Australian Airports Association.

MR SKEHILL (AAA): Stephen Skehill, legal adviser for the association.

MR McARDLE (AAA): And John McArdle, chairman of the association.

DR CRAIK: Thank you.

MR McARDLE (AAA): Just by way of opening, commissioners, I'd like to just repeat what I said to you during the break, that we were very, very pleased with the report, the draft report, as it came out. I think all of us throughout the membership who actually took the time to read it found it an easily read document that covers all of the issues in an easily understood manner. We thank you for that.

DR CRAIK: We will pass that on to the staff, thank you, who do the writing.

MR McARDLE (AAA): Yes, please do. It's not often you get a report come out of an agency that is so - such a difficult topic but written in a way that at least it's understood, and we thank you for that. But having said that we do have a few concerns. But prior to that - should we go a little bit long I have a pressing engagement with my grand-daughters back in Adelaide, so I need to leave at 12.30, if we go that long. So if I could be excused at that time?

DR CRAIK: Certainly, thank you.

MR McARDLE (AAA): So I'll now pass to our legal counsel to address the issues.

MR SKEHILL (AAA): Thanks, John. As John said, we generally welcomed the report, but - there's always a but - there are some things where we think there's desirable movement, change, further consideration.

We've detailed those in our submission in relation to the draft report, and I won't in any way read that but if I could just mention it at the high level. Firstly, we remain of the view that there's no need for a show cause mechanism. That wouldn't surprise you to hear us say it. It's obviously able to be put down to a self-interested view. We do note, however, that the National Competition Council shares the view that the case for a show cause measure has not been made out, and we have given

some reason for that in the submission.

Having said that, if there is to be a show cause mechanism we say some I think important points. Firstly, it should only apply to those airports that are price-monitored and have no wider application. Secondly, the trigger that you have suggested in the report we think is a properly balanced and appropriate trigger. We think it allows for a measured response rather than an off-the-cuff reaction to what might have occurred in one particular year, and you'd be well aware that price movement in this industry is often significant steps because of the nature of the investment.

We would say that trigger, if it's to exist, should be in the legislation and not just left on a bookshelf in a PC report, and we would certainly not want to see any lowering of that trigger. Thirdly, we'd say that the whole process of the ACCC forming a view, testing it and then receiving a submission from an airport and then going to the minister should be done in confidence and not in public, because the potential impact of that threatened regulatory intervention could be very severe on availability for finance and when and if a minister decides that there is to be a Part VIIA inquiry then that should of course be on the public record.

Finally, we would say, for reasons that I think you've heard before, if there is to be a Part VIIA price inquiry following on that ACCC process that inquiry should not be undertaken by the ACCC. With the best will in the world, the process would involve them getting so far towards a substantive decision that I don't think anyone could have confidence, and that's not to suggest any impropriety. So that's the show cause mechanism.

Secondly, you sought information about whether there should be guidelines to improve commercial negotiation. We support the pricing principles, we think they have brought a measure of stability and maturity to the airport-airline relationship and we're happy for those to remain. We don't think there's any need to add to them in relation to pricing. We don't know of any issue that would benefit from further expansion on pricing. You've questioned whether there might be additional guidelines and you've given two examples; one on the provision of information about deployment of capital; and secondly, about processes for reaching agreement. We don't think those are necessary.

We don't see that there has been any market failure and, as Canberra has just indicated to you, if an airport does not give an airline sufficient information about its proposed capital expenditure it won't get agreement to a price increase, so that dynamic - just make sure the information is available. Secondly, as to process, the process is working, airlines and airports come together and reach agreements. What would guidelines do? I can't imagine. They might have some high-level

exhortations to good faith, something, that's not going to make any great regulatory difference and it largely happens anyhow, and they certainly should not go to the substance of agreements, because they're matters for the parties not for government.

If, contrary to those views, there were to be guidelines developed, we would say that they should be developed by the Productivity Commission and in very active consultations with all the affected parties. The proposition that they might be formulated by a committee of the AAA, BARA, the RAAA, Qantas and Virgin we think would just be unworkable. You can just imagine the seating around the table.

DR CRAIK: One table?

MR SKEHILL (AAA): It's just not going to happen. Coverage of airport price monitoring, we certainly support what Stephen Byron just said about the exclusion of Adelaide. We think it's now in a position where its major capital investment has taken place, there are long-term agreements in place. What is there to monitor? In time, when Perth has gone through its process, it will be in a similar position. Adelaide I'm sure will make its own case to you when it appears later in the week, and no doubt Perth will do the same, but the association would certainly support that.

Quality of service monitoring, we think you could well move to a situation where the ACCC was not involved and where there was an administrative process agreed between airports through the AAA and the department that would involve adoption of metrics along the lines of those of the Airports Council International and results be published on the airport web sites. But if you don't go down that path, if you think the ACCC should remain, we would support basically the propositions that you have in the draft report; that is, again, that there be a methodology based on the ACI information, use of airlines shouldn't be surveyed by the ACCC.

Airports could well publish the proportion of their airline agreements that contain service level standards and the proportion of times those standards are met, but they shouldn't be required to publish the particular standards and the consequences of any breach, they are significantly commercial-in-confidence matters, and we again agree that the use of border authorities should no longer be surveyed. You also raised a question in the draft about the extension of the pricing principles to regional airports. We certainly don't support that. We don't think there can be any credible suggestion of a regional airport having significant market power anywhere of the nature that might exist in a larger airport.

Certainly we don't believe there's any evidence to suggest any breach of whatever market power might exist. Yes, there will be occasions where regional airports have had significant increases in prices. Before you could go down a regulatory path like this you'd need to look up what's the reasoning behind those

price increases, and we think if you go down that path you'll find there's been some very sensible, logical, perfectly explicable reasons. Airports owned by local government being placed on a more commercial basis would be one; airports seeking to recover the cost of capital expenditure imposed upon them by government, whether it's airline security or firefighting services, things of that nature, would be another; and general moves within local government to get loss-making public utilities on a more commercial basis.

We suspect that if you actually applied and implemented the pricing principles at regional airports you would see a very significant increase in prices. You know, that I think is a fair assumption, given that applying essentially those principles to the FAC government-imposed prices at Sydney Airport to get them more commercial basis, pre-privatisation, saw a mere 100 per cent increase. The last leads us very briefly off-airport infrastructure funding. We think it would be important for the commission to recognise that this is fundamentally an issue for state and local government and on occasions the Commonwealth, that there's no justification for any particular rules about airports.

Airports exist (a) to make a profit as airport owners, but the facility exists for the benefit of the wider community not just for the individual owner. As Stephen Byron said, there are occasions on which an airport will be motivated to contribute perhaps beyond the airport boundary, and it's certainly usual for there to be contribution in relation to the connection between the on-airport and the off-airport road networks, but this is very much a matter where circumstances can differ airport by airport, location by location, time by time, and I think Stephen Byron's recounting of the history of what they did at Canberra is a pretty good example of that. So that very briefly is our attitude to the draft report, and we'd be more than happy to take questions.

DR CRAIK: Thanks very much. John or Caroline, do either of you want to add anything?

MS WILKIE (AAA): No, Stephen has covered it.

MR McARDLE (AAA): I wouldn't question Stephen's words.

MR SKEHILL (AAA): That's a first.

DR CRAIK: You'll be aware that the new chairman of the ACCC made some comments about regulation of monopolies, but specifically about airports, pointing out that monitoring reports have identified trends indicating the exercise of market power, that monitoring can identify areas of concern but it doesn't do anything to actually constrain the use of market power, and suggesting that what the ACCC has

proposed is that airports basically need to be regulated and bringing arbitration as a fallback through Part IIIA of the CCA. So I'd be interested in your response to that.

MR McARDLE (AAA): I think Mr Sims is a very, very well-educated, well-positioned person and I think he wouldn't have the job if he wasn't, but it would seem from my position as chairman of the association that perhaps we need to take the opportunity to have a one-on-one with him and, you know, give him our view of life. I just get the feeling that at the present time he's probably basing his judgments on previous comments from previous commissioners and so forth. But we would take the opportunity to have a one-on-one with him.

MR SKEHILL (AAA): I think it's important to add that the comments are attributed to him, and I haven't seen them other than in the press and I haven't seen them in a recent submission to your commission, but those comments are just starkly at odds with the ACCC's own price-monitoring reports which show absolutely no evidence of any abuse of market power. The best that they say, or the worst, is "potentially an airport could"; that is no basis for deemed declaration or anything else. I think they are very disappointing comments.

DR CRAIK: Thank you. You raised the issue of show cause, and of course you're not alone there. You suggested that if we go ahead and recommend the show cause as it stands now that there should be a trigger, the trigger should be put in the legislation, and you suggest that the trigger as we've proposed seems about right. So I guess I'd be interested - do you have any suggested modifications to that trigger, if we can make it better or - - -

MR SKEHILL (AAA): No, I thought it was pretty good legislative drafting. I'm sure the Parliamentary Council would - but I felt it was, you know, a sensibly balanced formulation of words. It is important, particularly because of, you know, the stepped nature of investment, not to overreact to price movement in any particular year, things need to be looked at over a period, and that's the essential element of what you've proposed.

DR CRAIK: You and of course your members have raised this whole issue of the show cause and it's been raised in connection with potentially adding regulatory risk to the whole process and causing potential problems for investment. One of the other options that has been suggested to us is the possibility of the ACCC publishing a draft monitoring report which raises - if they have concerns which would relate to essentially the trigger as we have proposed in the show cause, so if they essentially raise those concerns in the draft report and the airports get a chance to respond, so the show cause would no longer be a kind of legal instrument in the way that we have proposed in the report.

MS WILKIE (AAA): The association would be quite concerned going down that path; reiterating the comments of Canberra Airport that at the moment the process is that the draft report is given to airports and a number of issues have been raised with them over many years and the final document does not reflect those changes. Obviously also very concerned with media picks up its own interpretation, and there has been a history of the media release that is from the ACCC not necessarily reflecting the detail of the report. So having a second bite of that, which, you know, we then have to respond to, not only would add to the nature of the process but I don't think would necessarily effect any change.

MR SKEHILL (AAA): That sort of process, I have to say, just has absolutely no sense of procedural fairness to it. That is putting matters of potentially a significant adverse impact to an airport on the public record before there has been a proper interchange about it. That should be done by the ACCC with the airport.

MR McARDLE (AAA): I feel also that the report needs to reflect the individuality of each airport rather than try and come up with a league table and who's best and who's not best at this, that and the other thing. My understanding of the privatisation of airports was that the government wanted to reduce the burden on the taxpayers; and secondly, to ensure that the communities that those airports served were served properly by the airport. So influences at, say, Sydney, are different to influences at Melbourne, Brisbane, Adelaide or whatever. I just feel that, rather than try and do a one-size-fits-all report and have a league chart of airports, that the ACCC or whoever does this, deals with each airport individually, knowing the geography and the environment of that airport.

DR CRAIK: Brisbane Airport made the claim to us this morning that pricing outcomes in negotiations are essentially the same as the ACCC would come up with, you know, if they ended up being arbitrated, plus or minus 10 per cent they suggested, and they thought it was hard to see that the ACCC would come up with a different view to, you know, plus or minus 10 per cent from what's agreed. If that's the case, why do you think that a show cause or the involvement of the ACCC is so concerning? I mean, do you have a view about that?

MR SKEHILL (AAA): I think the first proposition is you only have regulation where you need it; and if we have airports and airlines reaching agreed prices, end of story, no need for regulation, no need for show cause, no need for arbitration.

DR CRAIK: What about that period between when there is no agreement - and this is the point the airlines point out, that, you know, where there are agreements there dispute resolution clauses, and I think you've pointed that out as well. But often they complain - and it's not universal with airlines or airports, but they complain about that period when there is no agreement in place, there's no dispute resolution.

MR SKEHILL (AAA): I think you'll probably find - and I stand to be corrected on this, but most airports, and John confirmed to me that it's the case with Adelaide, their standard rack terms, the terms that they publish, applicable for someone who just comes in and lands, include a dispute resolution regime. So you've got a regime that exists if you have no agreement. If you're a start-up airline you can use the airport and you've got a dispute resolution. If you care to negotiate an agreement before you start using you'll get a dispute resolution mechanism. As Stephen Byron explained, when you're transiting from one agreement to the other it's quite possible that your existing agreement would provide that it continues to operate as though the term was extended, so you've got a dispute resolution mechanism, or it will be treated that way because both parties are concerned to get to the next agreement.

DR CRAIK: But if you're paying the rack rate and you don't - you're a new airline paying the rack rate, so you have a dispute resolution mechanism about that rate, but you're trying to negotiate a deal you don't actually have a dispute resolution mechanism.

MR SKEHILL (AAA): No.

DR CRAIK: That's the bit, I think, that you seem to raise.

MR SKEHILL (AAA): In any commercial relationship until you've got the relationship you don't have a dispute resolution mechanism. If I go to any company now and say, "I'd like to start buying your product because I'm setting up a retail establishment," I won't have a dispute resolution mechanism. Airports are actually - and airlines are better off because of the rack rate arrangement, than I would be or any of us would be going to any company as a greenfield purchaser.

MR McARDLE (AAA): I also wonder, commissioner, whether or not the issue of this would have come about had we still had the same airlines that existed in 1998, because the airports have been constant, the operators of airports have been constant, the change has been in the airline industry. We've had airlines come and unfortunately a lot of them go, and then we have fresh ones come in with whole new models, you know, the low-cost carrier model and particularly a more recent one where - that they actually want us to pay them to fly to our airports. That side of the argument has been quite a different model moving, whereas the airports have been a quite constant source since 1998 and whenever the others were privatised. I just wonder whether the argument would still be the same.

DR CRAIK: Just one other question if I could ask on the show cause. You raised the issue of the ACCC doing the monitoring, the show cause and the inquiry. It's an issue that if it went through that path that we considered, the challenge we faced was

trying to find how you would - who else might do what in what step of the process. You've had lots of experience in this area, I'm sure.

MR SKEHILL (AAA): Too much, I'm too old. Yes, look, there is a serious point of who does it. I mean I preface it again to say, well, does it need to be done? I think it does.

DR CRAIK: Sure.

MR SKEHILL (AAA): Take that as read. You can have, as you could have at the moment, the ACCC providing monitoring report and the department giving advice to the minister about whether there could be or should be a Part VIIA inquiry. That could happen now, you don't need to change the law. You could have what you have proposed, with the ACCC doing monitoring, show cause, recommendation. That, I think, has got obvious problems if the ACCC was going to go away and do the inquiry. So who else might do the inquiry? I think I heard you saying the Productivity Commission wouldn't like to do it.

DR CRAIK: I don't think we're equipped.

MR SKEHILL (AAA): I'm sure that's right. There could be other bodies. It could just be let as a private consultancy to an appropriately qualified person. There's any number of ways that could be done. The important thing is if it is going to be done it has to be - have with it an air of confidence that it will get a proper, unbiased and perceived to be unbiased outcome.

DR CRAIK: Okay, thanks. John.

MR SUTTON: I was going to explore the area of the pricing principles and some of your comments today. Indeed, in your most recent submission where you say that the association opposes any extension to the principles that deal with further price-related issues. I think today you might have used the expression - you oppose anything that deals with the substantive issues or, you know, the substance of the dispute between the parties. I think you said words to that effect?

MR SKEHILL (AAA): Yes.

MR SUTTON: What we had in mind, I think, was not dissimilar to what you're saying. We don't want to get in and lay down new sort of guidelines about core elements in the prices, about all et cetera. But we rather think that there may well be further procedural issues. There might be issues that currently get in there and delay the negotiation process. There may well be issues where people are reinventing the wheel, they've argued these things umpteen times, and if we can strip out some of

these issues which people at the end of the day fundamentally agree about - some of the pricing principles that are there now have evolved because - they weren't there in the first instance but painful negotiations have meant, "If we follow this script here we can make the process more efficient." So we rather think there may well be some procedural issues that can speed up, facilitate the bargaining process. Maybe you agree on that. We're not prescribing what they are but we rather think that mature parties out to apply their mind to that very issue.

MR SKEHILL (AAA): Can I just say I think the pricing principles as initially introduced were a circuit-breaker, a very sensible thing and created a mature starting point where both sides understood what was expected of them going forward. We can't see any other price issue that ought to be built into those. Delighted to hear you say you're not thinking of guidelines about substantive issues, you know, the terms that people trade on. When you look for process issues, while I hear what you say that - we don't see that there's anything that's broken. People reach agreements. They take time - - -

MR SUTTON: Sometimes it takes a long, long time.

MR SKEHILL (AAA): Yes, but what are they debating about? They're debating about, "Should we build this? Is this a good thing? Will you use it?" Substantial question, and as Stephen Byron explained and other airports will tell you, if they do not put the information on the table to justify the expenditure they won't get agreement at any price. So they are substantive issues that are always going to take a lot of toing and froing about when to build, how big, you know, all the technical detail. Yes, those things take time, but at the end of the day these are parties debating long-term commercial interests vital to both their futures, agreements that run 15 years. They're never going to be done quickly. They shouldn't be done quickly. Someone is doing something wrong if they're done light-heartedly. You're going to expect, in the ordinary course of commerce, that there will be time taken, disagreement and eventually agreement. That's where we've got to.

MR McARDLE (AAA): Also, commissioners, the need for the capital infrastructure developments at the airports has been a staggered requirement. So the negotiations at different airports have been different stages through the process. Prior to the privatisation government upgraded certain airports in the budgetary process earlier than others. Some didn't get upgraded at all. They were the first - Adelaide, for example, was the first to do some significant capital infrastructure and negotiated that with the airlines. Then came other airports. We've had evidence throughout Queensland, Northern Territory, Western Australia and now again in South Australia - airports are now finding themselves under undue pressure to increase capital infrastructure to meet the fly-in fly-out demands of our mining industries. So these negotiations are maturing and developing virtually every year,

and at different stages at different airports and states.

DR CRAIK: I guess the big test remains something like the second runway at Brisbane for a very large, long lead time - - -

MR McARDLE (AAA): Yes.

DR CRAIK: And if that falls over - - -

MR SKEHILL (AAA): But I don't see - that is a significant, substantial issue between the parties. I don't see how you can write a process that's going to expedite that. It's a commercial issue. In the draft you suggested that there might need to be guidelines for processes to facilitate effective service level agreement. That was one of the examples you gave. If you had others we'd happily consider them but we don't see that one as a need, for the reasons that we've put in the submissions too.

MR SUTTON: Just going back a couple of sentences. It might be a commercial issue but it's a pretty big public interest issue.

MR SKEHILL (AAA): Of course it is.

MR SUTTON: If these delays just go on and on and on - I mean we know the lead time for the construction of this is very substantial anyway. You're just saying, "Hands off; governments, regulators, it's none of their business how long this ever takes"?

MR SKEHILL (AAA): Well, it is a public interest issue, there is no doubt. The driver will be the need of each side to meet the public demand for the service. Airlines will press for and agree to the construction when they see that they need to do it to keep providing the service that the public demands, and airports will build to meet the airline demand and preparedness to pay. It's not something that I perceive in this struggling economy, as we understand it, that government will come in and say to one side or another, "You will spend this money and you will pay for it."

DR CRAIK: I think under the airport leases airports are required to develop their airports, aren't they?

MR SKEHILL (AAA): Correct.

DR CRAIK: So doesn't that require them - - -

MR SKEHILL (AAA): Look at the figures on how much airports have spent in honouring that.

DR CRAIK: Not arguing that, but in terms of even there is no agreement with the airlines.

MR McARDLE (AAA): But in the case of - particularly the monitored airports, the government has given virtual tacit approval to these major infrastructure developments, you know, out to 20 years, through their master plan process. Brisbane, Adelaide, all of them have identified what capital investments they're going to need to do to keep up and provide the infrastructure that our airline brothers and sisters need out to 20 years. So the government, in approving those master plans, has given a tacit approval to the need for that infrastructure. It's now up to the players to come to an agreement on how to fund it and build.

DR CRAIK: I guess the concern is if the agreement can't be reached between the airlines and the airport at the end of the day the public is the one who actually wears a lot of the consequences.

MR SKEHILL (AAA): I just don't perceive that there's any real risk that agreement can't be reached. It's as simple as that. Look at the experience to date. We saw the department's submission to you on how much has been expanded. It's a very large amount.

DR CRAIK: Sure. Certainly a lot of that has got nothing - no single amount of that - - -

MR SKEHILL (AAA): It was all expanded, with eventual agreements written by commercial imperatives.

DR CRAIK: I think it's the quantum and the lead time, on this one.

MR SKEHILL (AAA): I think it's far premature to say it won't be achieved.

DR CRAIK: We're not saying it won't. We're saying what if it isn't? Just briefly going back to the show cause one, and I don't think I asked you this, essentially the implication of that show cause is that it may well - that you say it may risk investment and damage investment. But on the other hand you also point out that the current arrangements provide for the same end result, a VIIA inquiry. I mean right now there is the possibilities of a VIIA inquiry. So I guess our question really is trying to pin down how would a show cause increase that risk if the end result is likely to be the same, or could be the same, I should say.

MR SKEHILL (AAA): I think certainly it's the case that at the moment a Part VIIA inquiry could be held. In the ordinary course there would just simply be

an announcement it was going to happen. The difference is you've got - your proposal - a process leading up to a potential decision that there might be. If it were conducted in a public forum, that preliminary process, would be very damaging. That's the concern. So that's why we say if that process is to exist it should be conducted on a confidential basis, because the minister may reject it. If the minister agrees with it, then it's public, as now.

DR CRAIK: I suppose what we're trying to do is to - the ACCC produces a report and then the statements are made - the indications, the possibility, the potential abuse of market power. These statements come out in the arena and then nothing happens. I suppose what we're trying to do here is get the ACCC to back its judgment so that it puts a report out and actually says something concrete at the time.

MR SKEHILL (AAA): Look, I have to say that that aspect of your proposal is appealing. But at the moment the ACCC could back its view, it could go to the minister and say, "You should conduct a Part VIIA inquiry." As far as we know it never has. It could take action under section 46. It could take action for unconscionable conduct. It could do all sorts of things. It has done nothing. Why? Because it can't find any evidence of abuse of market power.

MR SUTTON: Or it can't meet the sufficient - whatever the bar is, it can't get there or there's no evidence whatever.

MR SKEHILL (AAA): There's no evidence of - - -

MR SUTTON: It's all perfect in the garden.

MR SKEHILL (AAA): It has got the information-gathering powers, it has got extreme coercive powers. As far as I know it has never used it in this area. So it might just be that airports are being good commercial citizens.

MR SUTTON: We're going to have people sitting where you are saying something different a little while later.

MR SKEHILL (AAA): That's fine, and you ask them where's the proof.

DR CRAIK: I guess what we're trying to get is a kind of - well, the previous PC described it as determined action or inaction out of these monitoring reports rather than kind of vague statements out in the ether.

MR SKEHILL (AAA): That's the problem. The ACCC's statements are vague. They are statements of theoretical possibility, which if it had any reasonable cause to believe the theory was being put into practice, it has already got the capacity to act.

DR CRAIK: Okay. You've got any other questions, John?

MR SUTTON: I might just - one further one. See if I've got you right on regional airports. You say that if the pricing principles were applied to your members at regional airports, that prices would be bound to go up?

MR SKEHILL (AAA): I'd say there's a - - -

MR SUTTON: But you tell me - but you say to us you're strongly opposed to it. Something doesn't quite jell there.

MR SKEHILL (AAA): Most of those regional airports, they will be either local government owned, and the local government takes a decision about how it's going to price for the utilities it operates, or they are commercial and they take their own decisions. It is not at all uncommon for local government to price utilities below a commercial level, for all sorts of reasons. To suddenly say they should price commercially is likely, we would expect - and the work has not been done one way or the other - to push prices up. Where are those prices going to go? To airlines onto tickets, which may well work against regional communities.

MR SUTTON: Do they tend to be your members, regional airports?

MS WILKIE (AAA): We have 185 airport members. Taking out the major airports, the bulk of our membership is actually regional membership.

MR McARDLE (AAA): Having said that, there's something like 400-odd certified airports around the country that process regular public transport, so we don't have every airport as a member yet. Caroline is working on that. But I think also, commissioners, as Stephen has just said, in the local government areas that I'm familiar with, a lot of the utilities that local government look after are under-recovered because the ratepayers contribute to it. So, you know, there's a fee for using the boat ramp or for the cemetery or the library or whatever.

DR CRAIK: So there's a high degree of cost subsidisation. Is that what you're saying?

MR McARDLE (AAA): Yes. Whereas at some stage, the true commercial reality of an airport is the user pays. So if people are going to use the airport, they'll pay for it. That is where if true commercialism comes into a lot of our regional and rural airports, the prices will have to go up, like they did when the government privatised the 24 airports that the FAC was running. It's just a matter of when, I think, not if.

DR CRAIK: The majority of regional airports, as far as we understand, have one major airline, so - - -

MS WILKIE (AAA): I found some of the comments by the airlines about alleged monopoly power by the regional airports quite laughable. These communities are desperate to have local regional airlines there and they will cut quite non-commercial arrangements to get those airlines and services in. When you have such a small population and small numbers, you're looking at one, two flights a day. The current regulatory environment, particularly when you're looking at things like security, which a number of airports have had to increase the level of their security, you just don't have the passenger numbers to cover that off.

So we have seen member airports who have had an airline who might say, "Right. We're going to start a service," and pull that service out a month or two months later and in the meantime that regional airport has had to significantly invest in capital. So they are desperate and falling over themselves to get these services, so I think if any airline seems to think that the regional airport is not being accommodating enough, I would find that really hard to believe.

MR SUTTON: But it must, to some extent, get back to if there's another airport 80 kilometres away or something or in the vicinity or wherever, but is it 80 kilometres or at 800 kilometres?

MR McARDLE (AAA): It depends on the price of fuel, I think, commissioner.

MR SUTTON: That's got to be a factor.

MR McARDLE (AAA): Yes.

MR SUTTON: I think Karratha Airport, for instance, they would have some bargaining power, I would have thought, without knowing the detail of it.

MS WILKIE (AAA): I think part of that is also what the state of the infrastructure was to start with when they took over that asset and where they're at now. Karratha is a prime example of where the level of growth, the sheer quantum of investment that needs to take place now is significant. But I used to work for Impulse Airlines, which was short-lived, in the regional area and even just then seeing there are realities that the airlines will make decisions on. There used to be milk runs up and down the coast of New South Wales up into the Northern Tablelands. Those didn't stack up any more. It was very sad for those local communities, but at the end of the day, certain regional areas will win out because of population numbers.

There was a report done by the Department of Infrastructure that there has been

a decrease in the number of regional airports doing RPT. But that also subsequently means that the network and the infrastructure needs to have increasing investment. These security arrangements, I've got member airports that are happy to invest \$8 million to get a new terminal. That is a significant impost when you're looking at the amount of passengers that are going through that facility.

MR McARDLE (AAA): There's regulatory demands on the whole of the industry, don't get me wrong, but with an airport, you've got regulatory demands for meeting certain infrastructure developments at various triggers like fire services at so many thousand passengers and air traffic control at a certain trigger, security at a certain trigger and an airport needs to introduce those, (1) to keep its licence to operate or certificate to operate and so forth. However, with an airline, if the yield isn't there, the company can shift its asset and put it somewhere else where there's a yield. The airport can't do that. It's pretty hard to pick an airport up and take it offshore and resell it. So there's those issues that come into the pricing formula.

MS WILKIE (AAA): Just to finish off on that too, I guess the challenge as well is to the local airport. We have a member airport who - and I won't name them - but they are having to invest significantly in security charges. An airline that is servicing that airport upped its fees by, per cheapest flight, something in the order of \$40 per ticket.

DR CRAIK: Per fare, yes.

MS WILKIE (AAA): Fare. That saw a significant decline in passenger numbers. That meant there was a significant decline in the revenue going to that airport and that airport is about to have to make major decisions. So it is a very fine balance. I'm pleased to say that that airline is now subsequently reducing their fares to try and increase their passengers, but, as I said, it's a very fine balance.

DR CRAIK: We just got it finished. I think we're on time. Thanks very much for your comments and your submission.

(Luncheon adjournment)

DR CRAIK: Thank you very much for coming in today. If you could introduce yourselves, state your name and position for the record, and then if you'd like to make a brief opening statement we'd be happy to hear from you.

MR MRDAK (DIT): Thanks very much, perhaps I'll start. I'm Mike Mrdak. I'm secretary of the Department of Infrastructure and Transport.

MR WILSON (DIT): Andrew Wilson, deputy secretary, Department of Infrastructure and Transport.

MR JAMES (DIT): Marcus James, general manager, Airport Economic Regulation Task Force, Department of Infrastructure.

MR MRDAK (DIT): Perhaps if I may just make some brief introductory comments, then we're happy to take questions on our submission or any other issues that you wish to discuss. As you will see from our submission to the report, the department is supportive of the commission's draft report and believes the continuation of monitoring of the five major airports is the sensible way forward in relation to these matters.

We continue to believe the current economic regulatory regime is working. Most importantly, we believe the evidence as presented to the commission and through repeated monitoring over the last few years has shown that commercial negotiations have been taking place and that we are starting to see a maturity in that relationship with increasing long-term agreements between most airports and airlines. Pricing, we consider, does remain reasonable, by international standards, in our airports. Airports continue, we believe, to be operated efficiently and prices do seem to be relatively efficient pricing. Most importantly, from our portfolio's perspective, there continues to be significant investment in aero infrastructure, which we believe is critical to the future of the industry.

In considering the draft report we've made comments on a number of areas. Firstly, we support extending monitoring to 2020 with review in 2018. We see monitoring as a key element in retaining public accountability and public trust in the system of regulation of our airports and is fundamental to the quality and the transparency of ensuring that we do get proper commercial arrangements in place and investment continuing. It's the department's view that monitoring does lead to improved airport performance, but we agree with the commission that there are improvements that should be made in the quality of service monitoring and also in the way in which the ACCC monitoring takes place and the basis on which it takes place.

We share the commission's view in relation to the requirement to ensure there's

active enforcement where there has been a misuse of market power. We do note the commission's view in relation to the show cause process. We think there is potential to greater utilise the powers of the ACCC under Part VIIA through application of processes such as show cause.

Overall, the department considers the regime underpinning the leasing of the airport continues to deliver investment. We believe that the importance is recognised by the commission in the effectiveness of the pricing principles. We would support a continuation of the current pricing principles as underpinning the regime and the way in which negotiations take place. Just to conclude, we believe that the regime to this date has been very effective and we don't see that there is evidence of failure in the system. Clearly there is hard commercial negotiation taking place between the airlines and the airport users and the airports, and that's quite right and so it should be. One of the objectives of the airport privatisation process was to ensure that we developed effective commercial relationships between the users and the owners of the airport infrastructure. We believe effective monitoring is going to be critical going forward and we look forward to discussing the outcomes of the report with the commission. Thank you.

DR CRAIK: Great, thanks very much. Andrew and Marcus, do either of you want to say anything?

MR JAMES (DIT): No.

DR CRAIK: Okay, thanks. Thanks very much. Look, starting off with the show cause proposal that we put forward, I guess obviously a lot of the airports have questioned the need for it, given our conclusion we know there have been a significant amount of investment, a lot of investment and again future agreements are being reached, and question the desirability of having it public, having it as a public process and the suggestion that that would cause a risk, add to the risk to investment. In proposing that it be a public process - the ACCC issue a show cause and have that public - was really in the nature - it's a report about monitoring, and it's all - because it's a monopoly and it's monitoring and showing the results of that monopoly operating. Do you have a view about whether it should be confidential, that show cause element, or whether it should be public?

MR MRDAK (DIT): We certainly recognise that the public show cause process may create some uncertainty for investment. We recognise that. But on balance we would argue that it should be a public process, that if we are going to go through the process of a show cause then it should be such; because I think that is important for the confidence in the system. To be an effective process it also needs to ensure that it is based on the monitoring that's taking place.

We would agree with the commission that it should be over a period, the monitoring, and it should - you're identifying what would be seen to be a pattern of behaviour. There will always be occasions where there are one-off commercial negotiations or particular issues which would lend parties to say that there should be a show cause. We think it needs to be a much more balanced process, but certainly would believe that it should be a public process. In keeping with the basis on which the act the ACCC operates under, it should be a public process which ensures that everyone has transparency, both of the monitoring that's taking place, the basis on which the monitoring is taking place, and then the show cause also being issued on that basis.

DR CRAIK: Do you think that when the monitoring report is published that the airports' responses to the draft bits of the monitoring report that they give then should be published along with the monitoring report?

MR MRDAK (DIT): I think there is benefit in transparency in the whole process. Yes, I do. I think our experience has been that it is important that that information will be on the public record. I think one of the criticisms that has been made by the airports of the ACCC monitoring regime is that in their view it is somewhat subjective at times and they've at times had difficulty understanding the basis on which the ACCC has arrived at those conclusions. Obviously that creates issues at the time the ACCC monitoring report is published. That leads, obviously, to media comment, often adversely, about the nature of certain operations. I think it would only be fair at the time that takes place that the airports' responses to the draft are also publicly available on the ACCC web site to enable a balanced view to be taken by those who are reporting on the outcome of the monitoring report.

MR WILSON (DIT): I think that's a really important point that Mike makes, which is the ACCC report comes out and that's the news. There's very little information base and conversation in the lead-up to it. I think a far more transparent process that enables at least the interested community to have a detailed understanding of the process and the information that's led to the ACCC's decisions or their report and the way it is and then the response to that report is a very important component to actually enabling an educated conversation. The report will come out and there will still be headlines, but there will be a better information base to actually have a conversation about it.

DR CRAIK: One of the issues that we raised in the report - and obviously a number of people have responded to it and I think you did too - is this issue of the ACCC doing the monitoring, doing the show cause and the possibility of them doing a VITA inquiry, should they recommend it and should the treasurer put it into play. I think it's a very legitimate question, is it fair that one organisation does both the show cause and the inquiry, because if they got to a point of recommending an inquiry,

then they don't come to it totally with a fresh mind when they actually do the inquiry. But bearing that in mind, is there some other way of dividing up the responsibility so you don't get that single organisation pursuing a theme right through the whole - - -

MR MRDAK (DIT): No. We've looked at this extensively in the light of the 2007 work by the commission around these issues and more recently with this current draft report. I think there are a variety of organisations who have a strong interest and capability in this area, but our view is that the ACCC are the right party to do it. I think the show cause, in many ways, is an integral part of their Part VIIA process anyway, as it would be. The very fact that they are undertaking the time series monitoring - and I think the importance, as Mr Wilson has indicated, is that we don't look at this on a year-by-year basis.

The ACCC has the data sets now, having been involved in this space for a long time, both previously when there was a price adjudication role and more recently with the price monitoring. They have a long history in this area. They also have a history across other sectors of the economy, which is important. I think we shouldn't view this in isolation. We're talking about an infrastructure, access and pricing issue. We should be seen relative to other sectors as well. For those reasons, I think it is sensible that the ACCC are undertaking the monitoring, also Part VIIA includes their show cause process normally anyway and it's not unreasonable that this process would be built into that. So if I look at the other agencies that may be able to do this, I think it would be very difficult for any other agency to do that, other than the ACCC.

DR CRAIK: You wouldn't think that the ACCC could do the monitoring and the department could have the role of doing the show cause and the ACCC do the inquiry? Would that be a possibility?

MR MRDAK (DIT): It would be more difficult, I think, for the department. We don't have the data sets that the ACCC has access to to reach a judgment. In many ways, our access to information is through either the monitoring reports which are available or going to the individual airports or airlines who may draw issues to our attention. So it's much more difficult to get that whole economy perspective. We certainly have coverage of some sectors, but not all, which may be relevant in the infrastructure space.

Also, I think the difficulty is the department will be providing advice to the government in relation to response to the outcomes of the review. So I think in that sense it's very difficult for the department, for us or a treasury, for instance, to be issuing a show cause, when, at the end of the day, once the ACCC has completed its work and made recommendations in relation to a matter, we are the parties who would then provide advice to the government in relation to how they may wish to

take those matters forward. So I think that's a good reason to have separation between the department's role and that of the ACCC, both on the basis of skill, access to information and also the follow-up role in terms of providing policy advice.

MR WILSON (DIT): I think I recognise the issue that you raise in terms of the ACCC not necessarily coming to the inquiry with a clean slate. It actually goes to, I think, the original point that you made in terms of the transparency of the process. So long as the process that leads to the show cause and then the show cause itself is very transparent to all parties involved and strongly evidence based, then what you have is as clean a slate as you possibly can when you actually come to the inquiry.

So the information base is open and challengeable throughout the process until you get to the show cause and then through the show cause process, the information is available and out there. Then you have, at the time of you actually going to the inquiry, a solid, transparent, well-understood information base. I would reiterate Mike's points, which are at the end of the day, we will be advising government in terms of the outcome of it. So to also have assisted in the decision to undertake a show cause, we similarly would find ourselves between a rock and a hard place.

DR CRAIK: Given your views about how the current regulatory system has operated and its effectiveness, do you have any views about the recent statements of the new chairman of the ACCC about airports and monopolies and is there a monopoly that should be - - -

MR MRDAK (DIT): I'm actually meeting with the chairman this afternoon. I know the chairman well and I suppose I was a little bit surprised by the strength of some of those comments, to be honest. I understand some of the commentary. I don't think that necessarily reflects the experience to date that we've seen in the relationship and the growing maturity of the relationship between particularly our major airports and the airlines involved. Also, as the department has made clear in successive submissions to the commission and to the ACCC, we believe that there are degrees of market power - I think that's been acknowledged by the commission successfully - depending on the nature of the operations of the airlines and the airport. It's not a universal that a particular airport always has monopoly power and has the greater market leverage.

I think in some cases, as we've seen in a number of regional airports in Australia, the airlines would strongly argue that the airport has a strong market power, whereas in fact the airports, I think, have a legitimate case that the market power rests with the airline or particularly a single airline which is dominant at that airport and for whom the withdrawal of services from that airport would be extremely damaging for that airport and that community. So I think the degree of market power does not necessarily rest with the airport owner in all cases. We've

seen that across a number of airports in Australia on a number of issues and some very difficult negotiations in the last few years where the airlines, I think, have exercised much more market power than the airport. So I'd put that countervailing position and I will put that countervailing position when I meet the chairman later today.

I think some of the points he makes about the need for transparency and information to enable the nature of the relationship to be monitored, I fully agree with and I think that's been consistently our view. Certainly I wouldn't agree with the assertion that's been reported that he believes there is a need for the ACCC to have a role as a price setter in terms of the failure of the parties to reach a commercial outcome. I don't think that's in the best interests of ensuring a proper commercial outcome.

MR SUTTON: Back on the show cause process and the mechanism, et cetera, let's assume it's all done in the public spotlight, it's a transparent process. We've couched the initial show cause process as prima facie evidence, not the highest level, but there is some evidence which would allow these processes to go forward or suggesting that they should move forward. You have just spoken of an evidence-based approach. One thing that's in play a bit is the level of this evidence. Ultimately a price inquiry, which is akin more to a forensic process, lies at the end of it, but I think there's a live debate about what does "prima facie" mean in practice, what are the warning bells or what is a sufficiently problematic set of indicators.

You say in your submission of 30 September that you've got concerns about the criteria or the way we've couched it thus far. On page 2 of your submission of the 30th, you say, "The department has some concerns that the proposed show cause process could introduce regulatory uncertainty in the airport sector and affect investment decisions." We had airports here this morning saying that. Can you come into that sort of debate?

MR MRDAK (DIT): Well, only to really reiterate again that whenever you introduce any such process you always get the potential for the commercial negotiating parties potentially, the users of the airport and the airport owner, to potentially seek to influence the process. But having said that, adding additional layers of process I think will always be something for investment decisions to be thought about. But our concern, on balance, would be that provided that the decision to do a show cause is not based on a single event, that it really is based on a demonstration over a period that there is a more fundamental - I think your point is quite right, you wouldn't want to go - particularly, say, an illustration often, for instance carparking prices is often an area where the public raise concerns and often there is media commentary about a level of carparking price in a particular airport.

Would that be the grounds for a show cause overall on the airport pricing? No. But some parties would argue it is, even though it's not an aeronautical charge per se. We would certainly say that the sorts of things which would indicate our need, a show cause, would be clearly where there is evidence been brought to parties, ourselves or to the commission or other parties, that there has been an attempt to effectively price-gouge or to effectively price a party unfairly at an airport, an allocation like that, or where clearly there is demonstrable evidence been brought forward of not negotiating in good faith or an issue where there has been underinvestment in a facility despite the willingness of parties to each view, then I think those are the sorts of things which, yes, judgment can be made on which information should be sought.

I think that's the important part, that show cause is very much a seeking information of the parties to enable a judgment to be made as to whether a more detailed inquiries under Part VIIA should be initiated, which goes to that forensic detail. So they're the sorts of examples I'd be drawing on I think. Clearly it is not something you'd want to be doing regularly. I mean, we wouldn't want to see the show cause become an avenue for every grievance that's aired about a facility, but judiciously used - and it always will involve a subjective judgment - I think it is a very effective tool in ensuring that where there are issues, long-term issues, then they can be dealt with, and by both parties, and I think it's important that the show cause and the whole approach of the ACCC should also be an avenue by which airports may wish to bring issues before the ACCC in relation to behaviour of the airlines or other commercial as well.

MR SUTTON: The criteria, I'll call it criteria, that we have got outlined there, the factors - you know, how and why this should come about - is that sufficiently detailed in your view or does it need to go to another level of detail?

MR MRDAK (DIT): I think at this stage it is a sufficient level of detail. I think the next stage would be if the ACCC was to take on that role - as I say, a lot of this is already available, they already do the show cause process under their normal processes anyway, I think they'll evolve their own understanding and the commissioners themselves would form judgments about what the level of information or questions they'd need to have answered to satisfy themselves. I think you've got about the right level of detail at the moment, and then with the commission to then pick it up from there.

DR CRAIK: Do you think those criteria should be legislated or those triggers should be legislated?

MR MRDAK (DIT): No, I don't. I think they're probably more matters which leaves that matter to the commissioners.

DR CRAIK: Judging it.

MR MRDAK (DIT): To judgment.

DR CRAIK: Thank you.

MR WILSON (DIT): I'm comfortable with that. The difficulty with legislating them is that over time they may evolve. You may need to evolve them and lock yourself into a position.

DR CRAIK: Locked in. Good point. In terms of investment, I suppose the big one that's coming is the Brisbane Airport, the second runway at Brisbane Airport. Are there any regulatory time lengths on that one? I mean, is that facing us?

MR MRDAK (DIT): There are. The approval that's been granted for that project has a requirement that the project - I'm just checking - - -

MR WILSON (DIT): I think, and I'd have to check, that commencement of drainage is in the middle of next year.

MR JAMES (DIT): In July next year.

MR MRDAK (DIT): So there are some critical thresholds which have been met in terms of the major development plan approval which is available for that particular project. Hence our concern to ensure that the industry reaches a relatively speedy conclusion in negotiations in relation to that project. It's fair to say that in our view it will become increasingly difficult in the future to develop such proposals, which are as complex as involving dredging, has to involve coordination between the development of the port and the airport dredging, as well as developing the on-airport facility. I think those issues will become more complex and difficult as time progresses and - - -

DR CRAIK: Is that because of the regulatory environment?

MR MRDAK (DIT): Because of the regulatory environment and I think the sensitivity over issues such as the environment management of the bay and the like, I think there will become more significant issues. This may well be the last opportunity I think to undertake such a large-scale dredging in that manner without much more significant environment conditions being placed on the work. That's not to say that the environment issues are unmanageable, but they will become more difficult I expect in the future, given the sensitivity of marine habitat in the future. So my sense is that unless the parties are able to reach a commercial negotiation

outcome very shortly we would hate to see the statutory time lines being missed and hence the project having to go back through another regulatory approval process, which is time-consuming for all parties involved and costly for the industry.

DR CRAIK: If agreement isn't reached between the commercial partners?

MR MRDAK (DIT): Well, look, at the end of the day this will be a judgment that the Brisbane Airport will need to reach in relation to proceeding with this project. It may be a case that they decide to defer, and I think that would be a very regrettable decision, in the sense that Brisbane Airport clearly, at the rates of growth that it now has and which are foreseen, will require additional runway capacity within the next decade and a half.

MR SUTTON: Would that trigger anything under the lease arrangement? If they say no, it's all too hard deferring the whole thing, is that in breach of their lease requirements?

MR MRDAK (DIT): It's not in breach. Potentially in the future under the lease the requirement is that they maintain an airport that meets pace with the growth of the aviation industry effectively. So in the future under the provisions of the lease the Australian government could seek to have a plan of management being prepared or an investment plan for which they'd rectify any deficiency in meeting demand. We aren't at that stage yet and I don't foresee that, but potentially you could see a situation where demand on the input is so great that you do have a shortfall in runway capacity which then flows through to delays and obviously economic costs for both the industry and the economy more broadly.

I don't think we're at that stage yet, but potentially there are provisions under an airport lease where the Australian government could as lessor seek a rectification plan effectively. But separate to that, there are all these statutory processes which have to be met under the Airports Act and obviously the relevant environmental legislation, both Commonwealth and state. They are lengthy and difficult processes. Given the amount that has been expended to reach this point of regulatory approval, I think our view would be it would be regrettable if this option here wasn't taken, given the rate of growth we are now seeing in the industry.

DR CRAIK: Has the government ever sought to take action under any of the leases?

MR MRDAK (DIT): For investment?

DR CRAIK: Yes, in relation to investment or airports not doing what - - -

MR MRDAK (DIT): No, we haven't. We have at times - as we work - we have two processes. One is the master planning process for each of the leased airports, that's the opportunity where we do work quite closely through the airport investment programs and their plans and that's often a time we have a discussion about whether we think that they are able to meet - in fact we're required, the government is required, to assess the master plans against whether they'll meet forecast projected growth. So through that process we work quite closely through those issues.

Secondly, in relation to the lease there is this issue where the Commonwealth can issue effectively a requirement for an investment plan to rectify deficiencies. That's not required at this point across any of the leased airports. In fact I think, as we have said in our submissions, one of the strengths of the Australian privatisation of the airports process has been we have seen a continued investment in aeronautical infrastructure, something which has not happened in some other countries where similar privatisation processes have been undertaken.

We think two things, that the regulatory process, but also the economic oversight, the monitoring regime, have been critical parts and the way that has operated have been critical ways of ensuring that aero and infrastructure has taken place in a timely way to this point. In fact we have seen in Australia aero infrastructure take place, say, for instance the way the major airports have handled the introduction of the A380 aircraft has actually happened in a much more timely way than both public and privately owned airports offshore.

DR CRAIK: Given that the leases relate to Commonwealth land and, you know, it's leased by the Commonwealth to airports, has there ever been any contemplation of making those leases public or the conditions of those leases public?

MR MRDAK (DIT): I think a number of the leases are public documents. They have been - - -

MR JAMES (DIT): Canberra is, for example.

DR CRAIK: Yes. But some of them don't seem to be.

MR MRDAK (DIT): Okay. Well, they're certainly largely a generic document, there aren't too many variations across the airports. I'll check that, but I think most of them, because they're generally registered for stamp duty purposes, are public documents.

MR JAMES (DIT): Not all are. It all depends on the local state laws.

MR MRDAK (DIT): Okay. But I'm happy to check that.

MR JAMES (DIT): But we can come back with details.

MR MRDAK (DIT): Yes.

DR CRAIK: Okay. That would be good. Thank you. Because if they're all essentially the same it would be good actually to have that.

MR SUTTON: Just one little side issue. In your original submission you took the view that the DTL should come under monitoring as well, and we of course have not recommended that. We have also recommended that the surveys from customs and the other government bodies cease. Have you got any views you can indicate about those issues?

MR MRDAK (DIT): We certainly agree with you that there needs to be a review of the monitoring framework, in terms of both the quality of service and the monitoring. We think that work needs to take place. We agree with your recommendation that that should take place to review the quality of service. I think our concern is that with the exclusion of the domestic terminal leases and also the way in which quality of service I think is largely focused on the relationship between the airlines and, say, the border agencies or government agencies and the airport owner, we're not actually capturing the quality of service for the passenger very effectively.

I think, understandably, the regime was put in place as part of initially the economic pricing regime for the leasing of the airports to try and ensure that there was an effective transparency about whether there was effectively a sweating of the asset by the airport owner which may impact on the quality of the service being achieved by the initial customer, the airlines or the agencies. But in many ways we have moved through that I think and we haven't seen that sweating in the same way that may have taken place under, say, a CPI minus X price cap regime or a price-setting regime.

As we have moved to the current arrangements I think there is a strong argument for reviewing the quality of service to actually focus on this quality of service being experienced by the user of the airport. Hence we believe using some of the quality of service measures that the airports use - say, the Airports Council International index is probably a much better measure of the quality of the passenger experience.

So to come to the short answer to that, John, we do think that the terminal should be included because that reflects much better the passenger experience, and we do need to get a total picture of that. In many ways a lot of the passenger

concerns are about the quality of that experience through the individual airline terminals, the DTL terminal, than it is with the other aspects of the airport. So I think that they should be included and also the quality of service needs to much more effectively look at total passenger journey.

MR WILSON (DIT): John, if I can, it goes back to the information that is available to the public. The public are the people that actually use the airports. Yes, we recognise that the airlines utilise and have a commercial relationship between themselves and the airports, but at the end of the day the monitoring reports are actually used to inform the public.

I don't think the public could have any understanding of the fact that what's put on the front page of the newspaper actually relates to in some cases as little as 40 per cent of the airport, nor that the people that are actually providing the information that the survey is reporting on are the airlines' and immigration, customs officials, nor would they understand that it's not actually about their journey from just outside of the airport into the airport, through the airport, through passenger facilitation, into the plane and out. It doesn't capture the experience that they would envisage is actually being monitored, they would read the headlines that says, "Sydney is the worst, Adelaide is the best, "or whatever the current performance is and just go off that.

So from our viewpoint, as Mike says, we think the monitoring needs to be broader, we think it needs to take into account the full passenger experience and needs to ensure that it actually captures the airport. Now, we recognise the rationale for why it was designed the way it was, which was the sale of the airport, but I think we have matured past that point and now need to examine it from the point of view of who the actual user of the airport is, the predominant user of the airport, which is the passenger.

DR CRAIK: But it's not a market power issue. So those who want that interesting information pay for it, because it's not coming to the question of market power - - -

MR WILSON (DIT): Details. Yes, at the end of the day the person that pays for it is the passenger. The person that pays for the utilisation of the services is the passenger, it flows through. The airlines pay for it, but it flows directly through the price that an individual pays.

DR CRAIK: Either the passenger can pay for it or the taxpayer can pay for it, I suppose that's the distinction. I guess I'm trying to draw - - -

MR WILSON (DIT): Okay, yes.

DR CRAIK: - - - that people would find it interesting - like the tourism authority or whatever it is - which is often how it's proposed to us, because, you know, it's often Australia's gateway. But why it comes under, the whole issue about market power, the question for market power - to us is an issue that - - -

MR WILSON (DIT): That's why I think there may be avenues to better draw on information and have that information being provided by the airport operator, who are often collecting this for a variety of other purposes, and make that available to the commission as an adjunct to the information that has been provided in other areas. I just think at the moment it's very narrow. You're right, the original intention was to see whether the market power is being used - the sweat of the assets. We have moved a little bit beyond that. We still need to ensure that's not happening. But at the same time this additional information I think can form an adjunct to the ACCC's monitoring in a way which gives a better capture of what's happening. I think that can be done by the airports themselves.

MR JAMES (DIT): Provided the methodology is reviewed, as you've outlined in the draft report as well.

MR SUTTON: That's right.

MR JAMES (DIT): Because it still rests that the data is very incomplete in terms of airport performance. So how do you rank five airports on quality of service when you're not including a large number of passengers in your example.

DR CRAIK: The airports could get blamed for something that's not their fault.

MR JAMES (DIT): Indeed.

DR CRAIK: Which hardly seems - in the DTLs, if there was a problem at a DTL at an airport - and the DTLs are the majority of the airport - then the airport wears it, as opposed to the people providing the services.

MR WILSON (DIT): The quality of the monitoring reporting would need to be beefed up in terms of making the information available to actually identify where the issues are and who owns the issues, as opposed to just blanket, "Melbourne is good, Sydney is bad," yes.

DR CRAIK: I can imagine what a tabloid paper would do; they'd find those fine distinctions somewhat challenging, I suspect, in a headline. John, do you have more?

MR SUTTON: I might go to a totally different area. In this inquiry, as opposed to other PC inquiries, we have been asked to look at the problem of congestion around

airports and land transport to and from airports, and I'm sure the government had places like Sydney Airport in mind. But we haven't been able to go all that far, there's a lot of people working on this terrain at the moment, but I'm sure it's an area that is uppermost in your mind, in the department's mind. So I might start with that, then I'll go over to the question of - well, I suppose I'll say it now. The other issue we raise is about should airports have any responsibility for off-airport consequences, particularly in relation to non-aeronautical enterprises or commercial developments they put on-airport. So sort of two bits there.

MR MRDAK (DIT): To cover the first bit. Certainly in asking the commission to have a look at this issue of land transport linkages, it does recognise the fact that it is an area of increasing concern, that, while we have seen good investment on-airport, effectively the aviation industry has invested for growth, we have not seen the same linkages taking place, effectively both in planning and investment in terms of the land transport access to a number of our major airports, and we now see situations, not just at Sydney but at a number of our other major airports, where the road and rail system to and from the airports is no longer capable of handling the growth.

For instance, the department is currently co-chairing a review of Sydney basin airport for the Australian and New South Wales governments and what has become clear there is that the most immediate constraint on Sydney Airport is not aeronautical capacity but is in fact the land transport capacity of the road and rail system to actually transport the passengers who are currently there, let alone meeting the growth rate which is projected. So in fact the major issue there is going to be how do you move the quantity of people through the surrounding roads intersections and how do you upgrade the public transport system. Hence the critical issue for which the commission has looked at - and you're right there are "fill in this space" but the commission's work has been important in actually focusing on the need to improve the planning relationships between what have been essentially federal islands in the past and state and local governments in terms of access.

Also, in focusing on the fact that the airports are the major economic nodes for most of the major cities, if you look at an area like Sydney Airport, that quadrant of Sydney around Sydney Airport, Port Botany, is the major economic node for Sydney and the state. But that's not recognised in the way the land transport system operates to and from that precinct, so that needs to be addressed. So those areas need to be on the table. Also, how do we better improve the way in which the airports operate within state and local planning schemes? As you know, as part of the white paper that the government issued in 2009 one of the initiatives is the planning forums which are designed to get state and local planning, the airport and federal agencies all together and work through a proper structured planning process to make sure these issues don't arise.

Second point there about should airports contribute? Yes, that has always been a basis on which successive federal governments have operated, that where there is a development taking place on-airport which has implications for local traffic or which needs to be linked into the system then it is not unreasonable that the airport contributes, and that has been judged on a case-by-case basis. Airports have generally reached agreements with state and local governments in relation to road access, for instance. The broader issue of compatibility of development is something that we've also sought to improve by the way in which we do the master planning process, and under the changes to the act, the Airports Act, which were in place last year, the requirement for land transport plans and also a much better coordination of on-airport development with state and local zoning has become much more prominent for these very reasons. But we've always taken the view that it is appropriate for airports to contribute to those linkages, particularly to the land transport network where it directly connects to the airport site.

DR CRAIK: Is there a time line for something coming out on access to Sydney Airport in terms of this process you're talking about - - -

MR MRDAK (DIT): I'm furiously trying to have a report to government by the end of this year. As always, with anything to do with Sydney Airport it's a complex issue, to say the least. Where this study is a little bit different to previous reviews of Sydney is it is a joint Commonwealth study and has much more focus on the airports in terms of the spatial growth of Sydney but also, because it's being done jointly with New South Wales Planning and Transport, has a very strong component looking at the land transport linkages both to Sydney Kingsford Smith but also the other airports in the basin in terms of how it fits in with Sydney's metropolitan plan and their transport plan. As I said, one of the key findings is - which is known by all travellers to Sydney - the Sydney road system just can't cope with the growth of traffic around Sydney Airport.

MR SUTTON: That inquiry is the one that's looking at the second Sydney airport, is it? Is that the same one?

MR MRDAK (DIT): It's looking at potential additional sites, that's right.

MR SUTTON: Yes, I mean because in the public domain that will be almost the exclusive focus.

MR MRDAK (DIT): That has been our challenge, that this is not a search for a second Sydney airport. What this is is a 50-year strategy for how Sydney aviation has to develop. To do that you actually have to address the Sydney land transport needs as a priority.

MR WILSON (DIT): But John, more to the point, it actually is - the design of the study has been around the economic development of Sydney as a region, rather than where can you find a reasonably flat piece of land to land planes. So as Mike said, it takes into account what the long-term development of the whole of the Sydney basin will be, and the Sydney basin, writ large, will be, and what the aviation needs of that economic development will be, rather than just, "Well, we don't like where Kingsford Smith is, so we'll find another site to land planes." So it's a far broader analysis than just where do you put another airport. Having said that - - -

MR SUTTON: It's an ambitious project.

MR WILSON (DIT): Yes, and when the report comes out everybody will turn to whatever page it is that - - -

MR SUTTON: Yes.

DR CRAIK: A final question from me. We raised the issue of the curfew and noise and things and John decided on that - the noise issue. You came back to us. We'd spoken about who can land between in the hours between 11.00 and 6.00, I think it was, and you came back and reported that there are specified aircraft that can land, and that's the way it's done, rather than doing it on a noise performance - you know, performance based on noise. Given improvements in technology and changes in kinds of planes and things like that, instead of having an approach based on specified aircraft - a bit like saying we all can drive Toyotas but we can't drive the latest model of some other kind of car even if it's better. Is there any way - I mean is there any consideration been given to trying to deal with those; that's an issue.

MR MRDAK (DIT): Certainly the criteria are based on trying to ensure that new generation low-noise aircraft are there. For instance, the most recent changes to some of the operating parameters have precluded what are called chapter 2 or hush-kitted aircraft from some noise sensitive airports for those sorts of reasons.

In relation to curfew operations, you're absolutely right. The aim should be to try and ensure that we get the quietest aircraft operating to the airport; and so analysis is continuing on that issue. We continue to work and provide advice to the government. At this point the Australian government's position is that they do not wish to see a change to the arrangements for access at this point. That's a matter which will be kept under review.

DR CRAIK: Okay, thanks. John, any more questions?

MR SUTTON: No.

DR CRAIK: Thank you very much for your time today. Thank you for your comments. Thanks a lot.

DR CRAIK: Next, Aerial Capital Group. Could I ask you to state your names and positions for the record, and then if you'd like to make a brief opening statement we'd be happy to hear from you. Thank you.

MR BRISCOE (ACG): My name is Tony Briscoe. I'm a director of Aerial Capital Group.

MR BRAMSTON (ACG): Mark Bramston, managing director for Aerial Capital Group.

DR CRAIK: Would you like to make a brief opening statement?

MR BRISCOE (ACG): Thank you, commissioner. We submitted to you DR119, I believe it is, and we'd like to speak to that in relation to your original draft report, and maybe also refer to our previous submission that we gave.

DR CRAIK: Yes.

MR BRISCOE (ACG): In terms of background, Aerial Capital Group is 51 years old, as far as operating our business in the ACT. We've provided continuous service to the airport over that period of time. We are a company structure with individual shareholders and we employ 65 local people. We really only want to address basically two points. I will speak as a director, as I said, but also as a taxi operator on behalf of how some operators view certain things at Canberra Airport, and Mark can speak on behalf of the company's operations and dealings. The two areas that we would like to cover are the efficiency of the operation and how working as a transport provider in land-side services affects the operation of us and the airport, and also commercial negotiations that we've had over time with the airport.

In relation to the operation of land transport services, we operate taxis, hire cars and we also operate shuttle bus services - or a shuttle that's operated that does pick up and operate out of the airport uses our services. From a taxi's point of view they currently pay a \$2 levy to line up and service the taxi rank at the airport. On some figures that we've compiled in the last 12 months, or currently over the last full year, we estimate that that levy brings in a revenue of somewhere in the order of \$590,000. For that I can pretty much say that we receive nothing. That is in stark comparison to other - nothing except for the ability to access the taxi rank. That does contrast severely with what is available for other taxi service operators around Australia who pay similar levies.

On top of that in the last 18 months we - when the first part of the new terminal opened, our service taxis and hire cars were offered the opportunity to take some parking spaces in the undercover carpark, which we believed for the benefit of our

customers we needed to do. But the figures that are paid there for the 10 spaces that we took we believe will increase the revenue that the industry pays to Canberra Airport up in excess of \$750,000 in a full year. That's just for providing service to the travelling public.

Leaving those sort of things aside, I suppose a relevant question would be well, how important is the airport in relation to a profitable taxi service being able to operate in this jurisdiction. Now, we've again done some figures based on 2010 hirings and we instigated some software that will allow us to work out the amount of times that taxis turn their meters on within the precinct of the actual taxi rank. Based on those 2010 figures the number of jobs that we ascertained the airport pick-ups - I'm stressing now, not drop-offs, only pick-ups - equates to about 12 per cent of the total taxi work in this area.

Again taking some figures that we used in determining changes to the fare review every year that we submit every year to the government, based on the average number of jobs, it gives us a turnover of somewhere in the order of 58 million per annum. So that 12 per cent of - and 12 per cent of that 58 million equates to around about seven million. I have rounded these figures off for the sake of convenience. So as a share of our total income that's quite a substantial amount, and I stress again that that is pick-ups, not dropping off.

Where we see some problems going forward as part of your report, and part of this submission based on that report, is that we believe that the provision of parking services at Canberra Airport has a great chance of impacting on our business going forward. Taking some stats from Canberra Airport web site, they currently have two parking spaces, one of which is enclosed and one of which is open. These are spaces that service the airport, as against spaces that service the office buildings out there, the airport people - travellers as against the office and that. That equates to around about 450 spots. Again, looking at some of the averages that are quoted as to what it cost to park there, and leaving aside - which in some respects is not necessarily accurate but leaving aside weekends and things of that nature, there certainly are cars parked out there all over the weekends - but even equating back to 276 days in a full year we believe that the estimated income from those parking areas to the airport would be somewhere in the order of 4.7, 4.8 million dollars.

The web site also says that with the final development, second stage, of the airport that that area would - or those number of spots would double in time, which would take it up to somewhere in the order of nine and a half million dollars. I think, on some of the Canberra Airport plans that I've seen, they do look at the total area of - triple that when the airport is totally complete, which again would take us into a figure around 14, 15 million dollars. So we believe from a market power point of view that that does impact on the provision of a satisfactory land transport

arrangement from the airport and would have a major impact on our transport business in the years to come and providing a service to the travelling Canberrans.

If I could switch to the second part, which is the commercial negotiations. I did note in your report on page 196 in box 9.3 that there was a quote from Canberra Airport in respect to the arrangements that they had - of various commercial arrangements. They weren't detailed but they did say that some of them were in place for upwards of 15 years. So I took that to mean that that would be arrangements they had with various airlines. We believe to operate an efficient and effective taxi service that we - and we always have for many years have what are colloquially known as commissionaires that operate on the taxi rank to organise the travelling public, particularly the people that aren't familiar with Canberra, to more efficiently use the transport services that the taxis provide.

Those commissionaires were withdrawn from the airport a few years ago, and I won't go into the reasons why, but we have been trying to negotiate since the end of 2008 to have commissionaires placed back at the airport. Those negotiations have proved particularly difficult. We certainly have not been offered an arrangement that would lead us to believe that we would be able to get a contract of up to 15 years. As a matter of fact the agreement that we have been offered is less than 12 months. We find that a little hard to understand why, unless there is some maybe unforeseen plan as to when the next stage of the airport is completed, that there are going to be changes to the provision of land transport services at the airport.

So based on that we have an issue with point 11.7 in your draft report, draft recommendation 11.7. We believe that that should be amended to reintroduce Canberra Airport into the ACCC monitoring regime, particularly in relation to the provision of land-side access services provided here.

DR CRAIK: Okay, thanks. Mark, did you want to add anything?

MR BRAMSTON (ACG): No. I can answer questions.

DR CRAIK: Okay, thanks very much. In relation to your - where you talk about the carparking spots and the undercover carpark that you've taken out, so am I right in estimating you're paying approximately 15,000 a year for a permanent carparking spot for your 10 - - -

MR BRISCOE (ACG): 15,000 per spot, yes.

DR CRAIK: 10,000 per spot.

MR BRISCOE (ACG): No, 15.

DR CRAIK: 15 per spot.

MR BRISCOE (ACG): For 10 spots.

DR CRAIK: Yes. Whereas if you just paid the regular parking fee it's only about 8000?

MR BRISCOE (ACG): Well, one of the great difficulties is we have to make a commercial decision whether to take that. I said that was based on service to the passengers. The part of the taxi fleet that pays that is our silver service fleet and our hire car fleet. People using that service expect some level of - particularly in rainy periods, being able to get to their vehicle in a dry condition. So we believed that we had no choice but to take them. We weren't offered any negotiation. It was, "Here they are, they're 15 grand each. Take it or leave it."

When I talk to Sydney operators who operate the same level of service, and even Melbourne - and I suppose this goes to the design of the airport, which I know is beyond your scope at this point in time. Sydney, for example, adjacent - and I'm talking domestic now, not international. As you come out of the domestic terminal there are spaces allocated to both hire cars and silver service. They cost \$3.50. So you pay \$3.50, buy an e-tag, have an e-tag fitted to your car, you go through the barrier, the barrier puts you into that area and for that \$3.50, you can stay there for between 30 minutes and three hours. In Melbourne it's a similar thing. The high-rise building at Melbourne airport has a flat area in front of it, which again is accessed by hire car and silver service and the like, limousines and things, again through a boom gate. I'm not sure of the exact amount of time, but it's a similar sort of fee. Last time I spoke to an operator down there, it was \$3. I'm not sure what period of time that covers.

DR CRAIK: 20 minutes.

MR BRISCOE (ACG): So no provision of any service of that sort of nature has been made at Canberra Airport. So the problem with paying the large amount of money that we did is that, for example, today we had five people coming in between 8.15 and 8.30. I only had three cars, so I had two other operators helping me out, who were able to offer services to those five people. But there were other silver service jobs there at the same time. So even the parking spaces that we have, there was no room for my cars to go. So, as an operator, we've gone to the extent of employing another person who just works out there a couple of hours in the morning and he actually walks the people out to the cars.

So the inefficiency is the fact that we're paying the amount of money for 365

days a year, when we probably only need it for a couple of hours every day. If we had an operation similar to Sydney or Melbourne where we could access that area for a short period of time and \$3 or \$3.50 is a far more reasonable expenditure, compared to what we believe it's going to cost us over a full 12-month period. We're about eight months into the first 12 months, I think, but to recover costs alone, without even considering making a profit, we're probably looking to have to charge somewhere in the order of an additional \$10.

DR CRAIK: We are aware that in New Zealand some of the airports auction the space off and the taxi companies actually pay quite substantial amounts for that space in front of the airport.

MR BRISCOE (ACG): And then recoup it back again by a levy on top of the fare.

MR BRAMSTON (ACG): One of the concerns of that is in talking to the New Zealand taxi operators, they see their market share as diminishing over time. I think the numbers that Tony has put forward, our greatest concern is if we see parking at Canberra Airport as projected to triple over a number of years, then that growth will come from other services, apart from the actual growth there is there. One of the areas we're concerned about is with the pressure put on us, we seem to be likely to suffer the most loss in growth.

DR CRAIK: So in your commentary on the likely increase in the number of carparking spaces, are you suggesting that Canberra Airport shouldn't be increasing those number of carparking spaces or - - -

MR BRAMSTON (ACG): No, I think our argument is that's good competition and what we're after is just open disclosure of information. Point 6 in our letter is just asking for more information to be made available, both on carparking and on land side services, so that - - -

DR CRAIK: You mean in a monitoring way?

MR BRISCOE (ACG): Yes, monitoring services, because one of the things with Canberra Airport is there's no off-site competition at this point in time.

DR CRAIK: Why is that?

MR BRISCOE (ACG): There's potentially nowhere to put it at this stage. That might change in the years ahead, how far is a bit hard to gauge, but if the upgrade to Majura Road does take place sometime in the next two to three or four or five years, then there may be potential along that road, when it is built, for other providers to come in to offer airport parking arrangements, which might require a shuttle bus or

some sort of arrangement. I've used them in Sydney when I've been travelling internationally and they're very competitive from a price point of view. But certainly for the next, I would imagine, at least five, if not more, years, there won't be an opportunity for somebody to offer that service in Canberra.

MR SUTTON: I was just going to explore this question about taxi availability in Canberra. To me, coming here reasonably often, this situation you have here of multiple hiring, I'm not used to that in other parts of the country, so that's some evidence to me that there is some lack of taxis. We had Canberra Airport sitting where you are this morning saying there is a lack of taxis.

MR BRISCOE (ACG): That doesn't surprise me.

MR SUTTON: I say it's the only place I know of where multiple hiring is a very, very common thing. It probably didn't happen to me last night or whatever, but it frequently does happen here. Can you say a bit more. You're adamant that there is no shortage of taxis, so what's your argument?

MR BRISCOE (ACG): The concept of multiple hiring started many years ago when I would agree there was a shortage of taxis. I'm going back 15-odd years, not just in the recent period. The problem with Canberra Airport - and it's probably more so than any other airport in Australia - is the peaks that we have. There are five fully-laden planes that arrive between 8.15 and 8.35 and they come in just about every day of the week Monday to Friday. That dumps a huge number of people on the tarmac at any one point in time. No land transport provider can cope with that number of people in that short period of time. It happens again in the afternoon, normally around about 6 o'clock, but not as bad. The morning peak between 8.20 and 10 to 9 is the worst of the day. The concept of multiple hiring was to overcome the situation of having to put a huge number of additional taxis on just to cope for that half-hour period.

In the last three years though, there has been - I'm not sure what exactly the figure is today, but about 140 or 150 additional planes have gone on. We have at our expense, at this point in time, put commissionaires back into the airport. The feedback that we're getting back from the commissionaires is that multiple hiring is nowhere near as needed today as it was 15 years ago when it first started. But it did start then because of the lack of taxis.

One of the sad things about Canberra Airport constantly saying that there's a lack of taxis is that I sat in a forum with Mr Byron with the minister of the time, John Hargreaves and Stephen said at that forum, "Put another 100 cabs on the road and it will fix the problem." We put more than 100 cabs on the road and he's still saying, "I need another 100." But he needs another 100 for that half-hour of the day,

because you can go out there pretty much at any other time, leaving aside wet days, which create another challenge, and you'll find that there are more than enough taxis to deal with the passengers that are coming through that airport.

MR SUTTON: On the commissionaire issue, you just said "at no cost" or some words to that effect. We've heard something about \$1.20 additional charge. Can you flesh that out?

MR BRISCOE (ACG): The \$1.20 is, after a lot of negotiations with the government, they agreed that for the provision of that service, that we could redeem the cost of it. That \$1.20 is now part of the fare submission that goes into the local government every year. So a taxi that passes through the boom gate and pays \$2 to the airport is then able to recoup \$1.20 from the passenger and that's been going since 1 July. We're running an open book with the local government. The figure started at somewhere between \$1 and \$1.50, \$1.20 was where it settled at. At the end of 12 months, we'll give the books to the government and we'll see - - -

MR SUTTON: It's additional to the \$2.

MR BRISCOE (ACG): It's additional to the \$2.

MR SUTTON: It is at some cost then to the passenger, isn't it?

MR BRISCOE (ACG): Yes, sorry. The cost I was saying is that Aerial has agreed to put the commissionaires in at a cost not to the operators of the vehicles at this point in time.

DR CRAIK: I think Canberra Airport said to us that the \$2 charge was for infrastructure and because a lot of the - and it started, I think, some - I think a figure of about 15 something years ago. Given that a lot of those roads have been ripped up into the airport that they haven't recouped their cost yet for their initial roadwork that that \$2 fee to taxis was designed to cover, hence the continuation of the \$2, do you have any response to that?

MR BRISCOE (ACG): I'd like to see the amount of money that they've raised from that \$2 over time compared to what the amount of revenue - I mean the amount raised that have been ripped up really only has happened in the last few years with the start of the new terminal. Before that I'd like to know - there were certainly no roads ripped up that affected taxis. If the \$2 - if they were taking it from taxis to cover their total infrastructure costs I would find that hard to believe. With the amount of money that has been raised they certainly haven't spent that on improving anything as far as the taxis are concerned.

DR CRAIK: So do you have the facilities that you would like from the airport at the airport? I know you don't have the commissionaire and things like that, but the other facilities?

MR BRISCOE (ACG): Well, only when you look around for what other airports do for the fees that they charge. There is a whole list of things that do come to mind. Some of them are slightly off the wall maybe, and some of them aren't. But we're not hard and fast on exactly what we want. We have submitted to the airport in the past a list of things that are offered by other airports around Australia.

To this point in time we - one of the things we did ask for a long time ago was a simple method of an e-tag type system, because we have this incredibly inefficient put a coin in a slot. If the thing breaks down - they actually did take us from two lanes, so at least when one lane broke down all the taxis would go through one other lane. It created a bit of a delay but you would get through. They took us down to one lane and when that broke down the taxis had no way to get through. You'd see a photo of 50 people standing on the taxi rank and there'd be 50 taxis down there that couldn't get through to service them. So I really don't think that the money that the taxis have generated for them has been put back into any benefit for the industry. When we asked for an e-tag system, a simple system, we were told, flatly, no.

DR CRAIK: So your overall recommendation is that you want the land-side transport services to the airport to go back into the monitoring regime for Canberra?

MR BRISCOE (ACG): We certainly think at this point in time it does need to be - while the rest of the development is done and then probably into the first year or two of operation after it becomes fully operational as the new airport I think there would be benefit in those figures being made available. Then if they were available we could look at them and work out how best they would fit within our business model, getting service to the travelling public.

DR CRAIK: John, any more questions?

MR SUTTON: Just one further bit on the commissionaire issue. You only have those commissionaires there during the two peak periods of the day or are they there 24 hours?

MR BRISCOE (ACG): They operate from 7.00 in the morning till the last flight, Monday to Friday. Nobody there on a Saturday and they go on at 4 o'clock Sunday afternoon - 3 o'clock?

MR BRAMSTON (ACG): I'm not sure.

MR BRISCOE (ACG): It's either 3.00 or 4.00 Sunday afternoon through till last flight. So they're there from the first arrival flight in the morning to the last flight unless - occasionally a flight comes in at 1 or 2 o'clock in the morning. Normally they don't stay for that. They will advise the taxis that there is a late flight coming in. But normal commercial operation, first thing in the morning to last flight at night, which in most instances is around 11.00, 11.20.

DR CRAIK: Okay. Thank you very much. Thanks for your submissions. Thanks for your comments today and answers to questions. Thank you.

DR CRAIK: Okay, we've got the Australian Taxi Industry Association here. I wonder if you guys would like to come up and take a seat, thank you.

MR DAVIES (ATIA): My name is Blair Davies, and I'm the CEO of the Australian Taxi Industry Association.

DR CRAIK: Great, thank you. Would you like to make a brief opening statement?

MR DAVIES (ATIA): Yes, look, we have put in our submission to the commission. We have now read the report and provided a further submission. Probably the two things that I would like to say: firstly, the draft report suggests that there is some difference of opinion between the New South Wales Taxi Council and the Australian Taxi Industry Association. That is not the case and would not be the case; the New South Wales Taxi Council submission was seen by the ATIA and ours seen by them before presentation to the commission. So we had no expectation that the commission would see them as contrary. I have provided to the commission a letter from Mr Peter Ramshaw, who is the CEO of the New South Wales Taxi Council. He has the same view that I do, that it is somewhat offensive to both our organisations for the draft report to suggest that there is a contrasting position. So importantly we'd like that - the wording changed to reflect that there is congruence between our positions.

The second point for us is that our focus is on the toll that is usually charged for taxis to exit the airports. We note that the commission has formed the view that the tolls do not seem to be set with excessive market power being applied to them. In fact, the draft report goes on to talk about reasons why those tolls might differ from a cost plus a reasonable rate of return or profit margin by discussing location, rank and something in the order of a congestion charge or a congestion tax. The ATIA's position is - and it's also the New South Wales Taxi Council's position - we'd like to see transparency in setting those fees. It seems as though there is a considerable disparity between the fees charged by airports - - -

DR CRAIK: You mean between different airports?

MR DAVIES (ATIA): Between airports, yes. So Melbourne Airport, as the draft report identifies, is something like \$1.32 to exit the airport, Sydney Airport is \$3.50. It seems to me that there is a significant variation in the way that airports are approaching the setting of that toll. The taxi industry would like to see a transparency in the setting of those fees and some entity, whether it's the ACCC or some other entity, being able to scrutinise the setting of those fees. Just to perhaps pre-empt a question, it is true in the states and territories that where an airport charges a toll it is recoverable from the customer. So from the ATIA's perspective we are representing not just taxi drivers and taxi licence owners, we are also

representing the interests of taxi passengers.

DR CRAIK: Okay, thank you. Well, we'll certainly take your comments on board about the views of the New South Wales Taxi Association and the ATIA. But I'd have to say our reading of the submission gave us a different view of the world, but if you put another one in that clarifies that, that will be helpful for us, thank you.

I guess you'd be aware - you know, you talk about the price that the airports charge for taxi access. I guess you must be aware of the New Zealand system at some airports where that space is auctioned off and the price paid by taxis is probably a lot more than \$2 a taxi. Do you have any views about that?

MR DAVIES (ATIA): Yes, we do. In fact, the New Zealand model is replicated in quite a number of cities in the US. Now, where airports auction off access to the airport or pick-ups from the airport, effectively what they do is they create an inefficiency for the taxi industry. Essentially at the moment you will find that taxis go out to the airport dropping off customers, the taxi drivers are self-employed business people, so they make their own business decisions. At a micro level they're working out whether they stay out at the airport and pick up from there or whether they go back and service either the centre of the city or a suburban location. Across Australia that will vary considerably, particularly depending on how far out the airport is. So where you've got - how far you've got to run back to where the customers are going to be.

Where an airport then creates an exclusive right for some taxis to pick up and some not, then effectively all those cabs that then drop out at the airport then run dead back to wherever they can find a customer. At the end of the day - - -

DR CRAIK: Shouldn't they change cab companies then?

MR DAVIES (ATIA): Sorry?

DR CRAIK: Shouldn't they change cab companies then so they can pick up?

MR DAVIES (ATIA): No, the customer is actually going to - well, first off, the customer is going to call the cab company which has the cabs that are servicing their local area. So they are also going to call the cab company where they may well have a preference or there might well be a corporate account. So they will pick whichever cab company to go to the airport.

Second thing is that if you have a look at what happens over in the States where this has been more popular, you tend to find that the cab companies that win the contract at the airport can end up with their cabs sitting at the airport so that

they're not servicing the rest of the city to get that journey to the airport and then to do the one back from the airport. So you get this dislocational impact on the industry.

The Australian taxi industry is considerably different to New Zealand and the US. One of the things that distinguishes is that we have been an early adopter of dispatching technology. So in every cab in a capital city you will find that there's a sophisticated dispatching system. So in Canberra, Brisbane, Sydney, Melbourne, Adelaide and Perth the new dispatching equipment is being provided by a company called MTDData. It's all around minimising the dead running of cabs.

So effectively in a place like Brisbane - I can't speak for Canberra's stats but 50 per cent of the work that is done in the cab industry is done by bookings. What that means is that the cabbie drops off a customer and the system identifies that the cab is available for hire and then out of the bookings it then starts to allocate that job to the - or will offer the job to the cabbie to minimise their dead running. When you allow airports to set up these exclusive rights, what you do is you then start to increase the dead running in the cab industry. The reality of that is that dead running has to be paid by somebody. It gets paid for by increases in taxi fares.

DR CRAIK: But I guess the point I was trying to get at is - I mean you've got an example in New Zealand where cab companies pay a lot of money for that space, that small space near the airport. Now, would you prefer a system where they charge you per cab, like a couple of dollars per cab - three or four dollars, whatever it is, per cab - or something where they auction off the space, because clearly it's valuable space, given the amounts of money that they've paid and you seem to suggest that you'd like to ACCC to actually set price maxima for access, but I guess when you look at those options for that space, it's a pretty high price that people are prepared to pay for that access.

MR DAVIES (ATIA): I think we probably have a somewhat different view of what the taxi industry does. The taxi industry is part of the public transport infrastructure. That means that we provide not only services to business travellers, but we provide services to pensioners out there. In Australia the mass transit providers typically don't service a whole swag load of the community and certainly don't service a whole range of areas, the fringe areas, as our urban cities have sprawled out, those fringe areas typically don't get serviced by mass transit providers. Those fringe areas tend to be the areas where those people who are economically disadvantaged are buying houses.

So, oddly enough, when people look at taxis, sometimes they think that the taxi is a very expensive form of public transport. That is not really the case because a significant proportion of our customer base are people who are not the wealthy or the

economically advantaged, they're the economically disadvantaged. There are plenty of people who have physical disabilities who rely on taxi services. Our taxi fares are set by the government based on cost and the ability for those people in the industry, taxi drivers, taxi operators, taxi licence owners, to be able to make a return on what they do, a profit. That same model is the one that we're recommending for tolls at airports, that somebody takes an interest in what the tolls are.

DR CRAIK: The ACCC monitors it at the five major airports and reports it.

MR DAVIES (ATIA): From our perspective, we don't see that there is transparency in the setting of those fees.

DR CRAIK: But you also say you'd like to see monitoring, as I understand, to include ground transport access fees, revenues and costs and that already is monitored at the five airports and published in the monitoring report.

MR DAVIES (ATIA): We understand that the fees are known. We're not convinced that the analysis of those fees and the determination of those fees is being monitored. I don't understand how an airport can be charging \$3.50 and another airport can be charging \$1.32.

DR CRAIK: I suppose it's like airlines charge different fares for the same leg of the journey.

MR DAVIES (ATIA): No, because in fact the \$1.32 applies to every taxi exiting Melbourne Airport, whereas the differential airfares can be on the same journey and the \$3.50 at Sydney Airport applies to all taxis leaving Sydney Airport. From a taxi industry point of view, our fares, we have a market position and there is a regulation which prevents people from doing hail and rank work. We understand that that position could be exploited if somebody wasn't setting or looking at the fares that were charged. So we accept that along with that market power, there goes a loss of autonomy over the setting of the fare structure. We understand that.

When we look at the airports, seemingly they have a market power as good as the one that we've got and they seem to be able to set their tolls without anything like the same degree of scrutiny. What we see is that there is a significant difference between what one airport can charge and what another airport can charge.

DR CRAIK: Is the taxi rate the same everywhere in Australia?

MR DAVIES (ATIA): No, it's not.

DR CRAIK: I don't understand then the - - -

MR DAVIES (ATIA): But there is a transparent process for the setting of taxi fares and so if you came to Queensland, we have a model for the determination of taxi fares. You can actually calculate what the fare increase will be. If you head down to New South Wales, you can do the same. I believe there's a model for determining taxi fares in Canberra, which is knowable to the public. I have no understanding or knowledge of how any of the airports are actually determining their tolls in the first instance and how they're working out their increases, apart from the odd media statement, which suggests that it's to pay for some extra facilities.

DR CRAIK: There are the ACCC monitoring reports, which do report that information.

MR DAVIES (ATIA): I'd be interested to scrutinise that, but I don't think we're talking exactly about the same thing.

DR CRAIK: In terms of your view of airports, whether airports are using monopoly powers to reduce competition, the submission seems to state slightly different views, so I would be interested in relation to whether you think airports do use their monopoly power to reduce competition in relation to, say, the taxis.

MR DAVIES (ATIA): I just struggle with the language there. I don't think and my industry doesn't think that airports are moving our customers away to use their parking facilities or in fact whether they also are able to set prices. We're not aware that they are trying to move our customers away from using limousines or buses. It seems more likely to us that airports are trying to maximise their profits out of each of those lines of business and are not looking to cannibalise one in favour of another that has a better return to it.

DR CRAIK: Thanks.

MR SUTTON: I'm a bit confused about what you're saying. I took you to be suggesting earlier that you do have an opinion that some airports are charging an excessive entry price for taxis.

MR DAVIES (ATIA): Exit fee, yes.

MR SUTTON: If it's excessive in your view, isn't that synonymous with them presumably doing it to favour the parking that they have. Isn't that saying the same thing, or not necessarily?

MR DAVIES (ATIA): No. In fact they're exploiting a market position and they're trying to seek to maximise their profits out of parking and their tolls out of taxis and

whatever else that you want to fit into that substitutable market. I don't think it's practical and I'm not aware of any airport that's trying to do it where they're trying to move people out of taxis into carparking, but they are charging taxis more than they otherwise would need to. So you maximise the revenue stream out of the line of business for taxis, you maximise the revenue out of your line of business for carparking. The fact that they don't try and move from one to the other doesn't mean that we're not seeing an excessive price for the taxi toll.

MR SUTTON: I tried to lay my hands on your latest submission, but I can't quite grab it, but let me just cut to the chase. From your national perspective, can you indicate to us which airports, in the association's view, are the ones that either are the offenders in terms of too high prices or the charge is excessive, I should say, and/or for the charge that they apply, the services they supply are inadequate, in your view.

MR DAVIES (ATIA): In the case of Brisbane and Sydney, their exit fees are \$3 and \$3.50. Most of the other airports are \$2. The Melbourne Airport can charge you \$1.32, but the effective rate to the passenger is \$2. So presumably the benchmark figure out of those numbers would be \$2 and the 50 per cent extra at Brisbane is significant and the \$3.50 at Sydney Airport would seem to be significant.

DR CRAIK: The New South Wales Taxi Council commentary to us suggests that they weren't concerned about SACL's charges.

MR DAVIES (ATIA): I don't think you could say that they weren't concerned about it. They said that they neither endorsed it - they didn't hold a view that it was the exercise of excessive market power either. Sydney also has the highest taxi fares in Australia. So presumably the New South Wales Taxi Council is of the view that passengers catching taxis from Sydney Airport are not dissuaded from catching taxis by that toll.

DR CRAIK: Well, the highest percentage of passengers getting to the airport is by taxi in Sydney, compared with other places where it's pick-up and drop-off.

MR DAVIES (ATIA): Sure. Again, as the nature of - each airport has a different customer base and a different proximity to the CBD. It's a very long run from Melbourne to Tullamarine, it's not a short run, and it's a congested run, from Brisbane city out to the Brisbane airport. So each market is somewhat different. As I say, I am more familiar with Brisbane Airport than the other airports because I'm based in Brisbane. It is true that at Brisbane Airport the airport has built facilities for the benefit of the taxi industry. So we used to have a feeder area very close to the terminals. That space became obviously better to use for some other purpose for the airport. They have moved us out to some distance away from the terminals, but in the process of doing so they've built some very good facilities for taxi drivers. As an

industry body we have worked with the Brisbane Airport Corporation in the design of those facilities and also on the operational aspects of getting cabs from that remote location down to the terminal with the minimum of inconvenience to customers.

In terms of working with airports, we're not suggesting to you for one minute that the airport or airports around Australia universally don't talk to the taxi industry. That's not the position we're taking. It might well be difficult discussions between Canberra Airport and the taxis in Canberra, but generally around Australia there is discussion between the airport and the taxi industry in terms of facilities being provided. However, the issue that we're talking about here is the pricing of the tolls that are charged on taxis exiting the airport and the passing on of that and the implication that has for taxi passengers.

DR CRAIK: You don't believe that the toll reflects the service plus dealing with the issues of congestion and scarcity of space and things? Is that what it comes down to really?

MR DAVIES (ATIA): The argument that airports would need to treat the charging of the taxi toll as a congestion measure doesn't make a great deal of sense to me. There are good reasons - and we're aware of them in our discussions with at least Brisbane Airport for airports to give road space to taxis and buses that is close to the airport. Quite frankly, shopping centres and a whole range of other facilities do exactly the same thing because they recognise that their business shuts down if people can't easily get to their venue. If you go to many of the sporting facilities, you will find that there are taxi ranks and bus stops in and around those facilities. If you come to Brisbane, you'll find that we've actually got venues where you can't park your private vehicle within cooee of the venue because there's a recognition that there's an advantage to society but also to the venue in giving priority to public transport.

So the notion that the airport needs to charge a congestion tax or a congestion fee to deter other people from using that road space doesn't make a great deal of sense.

DR CRAIK: What about charging for the value of the land?

MR DAVIES (ATIA): I don't know where you would think that an airport is going to relocate the taxis and buses to and still be an effective venue and, as I pointed out in my letter to you, most venues and most governments are actually addressing the issue of how do we make our facilities, our destinations and our transport to those destinations accessible. The overwhelming majority of people who suffer from a mobility disability will tend to rely on taxis to get those venues. We have no difficulty in talking to many of those venues in the context of disability legislation in

getting positions that are proximate to those venues. The most difficult conversations we have are with people who are looking after buildings that have been around for a considerable amount of time or there is road space that's already been built and they're looking to retrofit their buildings and their access to those buildings to accommodate the people with disabilities.

In the case of people who are building from scratch or making significant redesign of their facilities, building in accessible transport is actually something which becomes a priority to them. Quite frankly, there are plenty of venues around that have worked out that people don't go to an airport to sit around, they go to an airport to get on a plane to go somewhere else or they're getting off a plane to get somewhere else and very few of them are actually going to hold their meetings at the airport. The most difficult people for us are the people that actually want to do something on the airport, when they only want to go within the precinct of the airport, they're short fares, we have difficulty with our cab drivers liking those particular passengers, as you are probably aware.

DR CRAIK: I've experienced.

MR DAVIES (ATIA): Consequently, my view is that the airports are not competitors to the taxi industry, in fact we're in a supply chain and in my own state we've tended to work with our local airport in that vein. But our passengers become their customers and the customers of their customers, as in they jump on a plane. When we have that view of the world, working out what facilities should be put on an airport actually get relatively easy. However, when airports actually then start to look at what tolls they can charge, some of those discussions and that camaraderie actually exists and it seems to us that the fees get set basically by what the market will bear and in the absence of somebody saying what is reasonable, then the airports charge whatever they can.

DR CRAIK: Okay.

MR DAVIES (ATIA): My view would be that difference between \$3.50 and \$3 and \$2 and \$1.32 has a great deal to do with the attitude of the airport and what their view is of what the market was prepared to bear at the time and has little to do with their cost plus profit.

MR SUTTON: Are you actually saying that there should be some regulator that fixes what you call a reasonable price or are you happy enough for the market to sort that out?

MR DAVIES (ATIA): How would the market sort it out?

MR SUTTON: You say at the moment it's what the market will bear. Are you complaining about that? You talk about there should be a reasonable price so are you advocating that some regulator fix the price?

MR DAVIES (ATIA): The answer to that would be if the airports are setting their fees responsibly and reasonably, then the need for somebody to intervene and cap their fees isn't there. If an airport is trying to increase their fees unreasonably, then intervention is required. I'm not privy to know what their costs are and, quite frankly, it seems to me that in my dealings with airports, what they do is they talk about some activities that are going to go on airport, some capital works that are going to be commenced and then in the context of those discussions, then they put up the toll. So they put up a recurrent fee that is going to be collected on the basis of some capital works.

I haven't been privy to the costings of those capital works to work out whether the fee they charge merely covers those capital works plus a modest profit or whether in fact those capital works get paid for in the first year or two and the ongoing extra fee that has been paid becomes pure profit thereafter or location rent or congestion tax.

MR SUTTON: Just a different line of inquiry. This is the third time the Productivity Commission has looked into the economic regulation of airports but in our terms of reference we're asked to look at land transport congestion around airports, something that your members would be very much interested in. So the whole issue of getting large volumes of taxis in and out of airports efficiently is an important question for us to be focusing on. It would seem that, at the very least, communication between your industry and the big airports or all the main airports is critical to moving large volumes of taxis. What do you say about the state of communication between your industry and the airports? That's one answer. Obviously there are lots of other problems to land congestion around airports, the actual infrastructure itself. Let me just stop at the point of communication. Is there good communication at the very least or it varies, I suppose.

MR DAVIES (ATIA): It varies. To my knowledge there has been substantive communications in the case of Brisbane Airport, Sydney Airport, Adelaide Airport. I'm not aware in the case of Melbourne Airport or in the case of, say, Canberra Airport that there's been the same discussions. In the case of Brisbane Airport we have, along with a whole range of other ground transportation service providers, sat down at presentations from the Airport Corporation and looked at traffic modelling over years - not for some time. We certainly have an interest in how easily we can get our cabs to the airport.

You may well be aware that one of the other transport providers, Airtrain, up in

Brisbane was running billboards with - it was a photo out of America because they had American cars in there gridlocked; I don't know why they were using American cars and an American photograph but obviously that's Airtrain's issue - and making the point that, "Don't miss the plane, catch a train." If road congestion is an issue with us, we try and work with the airports and that was probably something that I was prattling on about before, that one solution to congestion is to try and concentrate the use of public transport and to get that mix right between the mass transits of train where you've got rail to the airport but also bus and taxis.

The reality for - just so we're clear on this - taxis are part of the public transport infrastructure. In Queensland the numbers are something like about 120, 130 million people will move by person. Something like 70 million people will move by train and the taxi industry moves 85 million people per year. So the notion that we're contributing 5 to 7 per cent, as some people think, is just a complete nonsense. The second thing is in the case of transits to airports, not only are taxis the preferred public transport method for people who have a disability, because people are usually travelling with luggage, then taxis tend to have an advantage over the other transport providers.

I didn't read it in your report but focusing on passengers travelling individually, which is where your costings come from, is probably a little curious as well because when people travel in pairs or as families then putting them in a taxi tends to be a heck of a lot cheaper than buying four or five train tickets.

DR CRAIK: Thanks very much for coming along today. Thanks for your submission.

DR CRAIK: The final people today are Sydney Airport. If you could state your name and your position when you're ready and if you'd like to make a brief opening statement that would be great.

MR FITZGERALD (SACF): My name is Peter Fitzgerald. I'm the chairman of Sydney Airport Community Forum. Basically the background to the forum was that with all of the dispute about noise and aircraft into and out of Sydney in the 90s there was a Senate hearing chaired by Senator Warwick Parer called Falling On Deaf Ears, the outcome of which was, for Sydney, a long-term operating plan and appointment by the minister of the Sydney Airport Community Forum. It consists of 25 members and 20 of whom are elected members of either the federal or state parliament or local government and the peak industry groups that relate to Sydney Airport, including Sydney Airport itself.

The areas of the report that we'd like to touch upon and reinforce our submission is, firstly, the curfew; the shoulder period of the curfew and the cap of 80 movements an hour and the use of quieter planes. I don't know how you would like me to do it, whether you would like me to take you to it chapter by chapter or - - -

DR CRAIK: If you just make brief comments about your views, we've got your submission.

MR FITZGERALD (SACF): You have the submission there.

DR CRAIK: If you just make some brief comments and I will ask you questions and John will on everything except noises.

MR FITZGERALD (SACF): The reason is these are long-held doctrines that have been chiselled out of blood and stone, if you like, in Sydney. Sydney has been a cauldron for aircraft noise over a long period of time that's related in some directions and occupation of the airport and things and there are reasons for that. People don't do it for no reason. I only want to stay with the curfew at Sydney Airport. I note from the report that you say that the shoulder period - that there are less allowed by the regulation than are by the act. It is our view that the act is facultative and the regulation is deliberative. That is, that the minister who makes the regulations has made those deliberately and they're done for a reason and it's probably in this sense probably the rare piece of good legislation where there are actually - and you don't have to run at the maximum all the time where actually there is a facultative legislature that would allow the things to grow without needing to change legislation.

There are reasons why people don't want planes between 5 am and 6 am. There are hundreds of thousands of people in Sydney who are affected by aircraft

noise and they are the sleeping hours. The curfew runs from 11 pm until 6 am and they're nibbling away of it at those two shoulder times of either 5.00 until 6.00 or 11.00 until 12.00, right - it certainly would be more productive but so would 24-hour operation. The people live around the airport - and remember we had no jet aircraft into Sydney until the 60s and all of the areas that are around the airport that are severely affected by aircraft noise were all occupied long before the 60s. It's the chicken and the egg, if you like, or the houses going first. There is absolutely no doubt about this.

I do note from some of the blogs from other places there people believe that the people who now live in those houses have no rights. If they have no rights, then the airport should acquire all of them and move all of those people out. Now, that's not possible. That's farcical. The other question of the cap of 80 movements an hour is to give some respite, right, or put some limit upon the operation of the airport. At 80 an hour, it's pretty close to capacity. All through the Olympics, which was the busiest time it's ever seen at Sydney Airport, they were able to survive with a cap of 80 an hour. You can't get many more movements than that. If you don't have a numerical number for both the time of the curfew and the cap then it becomes open slather. It's one of the few areas where both the current government and the opposition - and even when they were in reverse roles prior to 07 - both sides of government agreed with it. There is no dispute between the two governments.

I'd actually been specifically requested by the person representing the member for North Sydney, Joe Hockey, to draw to attention the fact that it is deliberative as to why the regulations give less movements in the shoulder than they do. So it's an issue that's not just a Marrickville Mascot issue or a Rockdale issue, it affects the people certainly down on a far bigger rim. If we go to your other part where you said that maybe we should have a curfew or a shoulder that's more performance based where the quieter aircraft - would be about the amount of noise, not the quantity of noise, the myth of quieter aircraft is an absolute myth.

The Boeing doesn't have its 787 ready, which is supposed to be quieter than existing aircraft. The aircraft now are up to either chapter 3 or chapter 4. Chapter 2 aircraft are no longer allowed into Sydney; that's the old, noisy 707s and hush-kitted DC9s and those sort in chapter 2. But the quieter aircraft between chapter 3 and chapter 4 is minuscule, somewhere between two and three decibels per plane, which is not perceivable to the human ear. They can't tell the difference between the two noises. So I can't see how - - -

DR CRAIK: Sorry, I'm not sure I follow. Are you saying these - - -

MR FITZGERALD (SACF): There are no quiet aircraft.

DR CRAIK: - - - quieter aircraft are no quieter than normal aircraft, or are you saying they're not discernible.

MR FITZGERALD (SACF): That's right, there are no quieter - they are minusculely quieter than normal aircraft.

DR CRAIK: I see.

MR FITZGERALD (SACF): But there aren't many of them. If we take the A380 for argument's sake, there's probably less than 20 operating to and out of Sydney. From your figures in the back of the directory there, there is 275,000 movements. Those 20 aircraft will make no difference.

DR CRAIK: I mean, either they're quieter or they're not, and then the percentage is a different issue, isn't it?

MR FITZGERALD (SACF): Well, no, it's not, because if it's the number of movements - and Sydney Airport is round about 300,000 movements a year, right, and it's growing and in the life of the current master plan it will get into the high 300s. So the 09-10 figures you've got there of 275 and the life of the master plan, there is 100,000 additional movements. Of those, 90 per cent will still be the same old noisy planes, the planes with the same noise. So the percentages do matter.

The other question that comes into account is that in those quiet hours people are entitled to some peace and quiet. They're entitled to lead their lives and not have an impost placed on them by an activity that operates down the street. You wouldn't put up with it if it was a factory. You certainly wouldn't put up with it if it was some other - you know, a mine or some other activity, so why should the public have to put up with it for no perceptible benefit.

DR CRAIK: Thank you. I think we did acknowledge that actually, the issue of people having a quiet period of time. I think we acknowledged that in our report, and we raised all these issues in the context of might be worth considering rather than actually recommending that they be all introduced; that they were worth considering I think and you'd have to assess the costs and benefits of doing it, is the approach that we were taking.

MR FITZGERALD (SACF): That's true. But I can tell you, for the lack of trust that's around Sydney Airport, I'm quite nervous about what might happen and how the storm might gather, and I'm sure that the operators and the airport would like to see all of those things go.

DR CRAIK: You raised a couple of issues. You said right now that 80 per hour is

about the maximum capacity; and yet if it's at maximum capacity then the airport won't be able to fit any more movements in, will it? Or what am I not understanding?

MR FITZGERALD (SACF): Yes, what it will mean is it will operate at 80 for more hours, whereas now it operates just in those peak hours.

DR CRAIK: In those peak hours.

MR FITZGERALD (SACF): The early mornings and late afternoons. So the quieter time will disappear. So the 40s will become 80s.

DR CRAIK: In terms of performance-based standards for aircraft operation, presumably, over time, aircraft will become - as I understand that's how aircraft are going. Is ruling that out as the way down the track - I accept your opening remarks about these arrangements were squeezed out of stones and blood dripped and things like that on the floor as a result of it, but moving to a performance base where it is related to quieter aircraft, it seems kind of logical to a person who doesn't live under an airport, I agree.

MR FITZGERALD (SACF): In theory it's logical. But there is nowhere on the horizon an aircraft that is significantly quieter. If you take the 747 that still flies it was designed in the 60s. 50 years on it's still the same work horse that moves most of the people. Some of the myths that are put out about aircraft noise is that you can get a 737 that can take, say, 50 more people than another one and they both make similar amounts of noise, but they then say it's quieter per passenger. If you're asleep in your bed you don't care whether the plane is empty, two in it or 200.

DR CRAIK: That's true.

MR FITZGERALD (SACF): But that's part of the myth that's often put up, that it's the noise per passenger.

DR CRAIK: What about the issue that relates to that during the curfew hours there are certain specified aircraft that can land - but that list hasn't been updated since November 2005 - and there are now, according to those who seem to know, we're told, quieter aircraft available, but, because it's a specified list, people aren't going out and buying those because they wouldn't be able to land them.

MR FITZGERALD (SACF): The quietest aircraft that operated for a number of years - jet aircraft I'm talking about, not propeller aircraft - into and out of Sydney was the BAE-146, and they were even allowed to land on the Docklands in London because they were a quiet aircraft. But because of other reasons it's no longer a

viable aircraft. It had some other technical issues that relate to it. It's a quiet aircraft. But I'm not aware of any other significantly quieter aircraft. When you're talking about noise levels of somewhere between 70 and 100 decibels, to remove two or three decibels, it's not possible, and where the engineers are working now is marginally in the engines, the nacelles that go round the engines and the air frames themselves. But their targets are for one decibel and two decibels, that's their target for their design projections as time goes on. They're spending significantly more time with engines and getting fuel efficiency but the air frame makers are talking about really small - - -

DR CRAIK: Small, incremental changes. So given that what we're doing is a kind of system wide review of the whole economic regulation of airport services, what would you like to see us say in our final report?

MR FITZGERALD (SACF): What I would really like you to say is, "The commission considered it, but rejected it." That's what I would like you to say. It's up to you from there.

DR CRAIK: Okay. John, do you have anything?

MR SUTTON: Yes, well, it is not appropriate for me to comment on things like the curfew or the movements per hour, et cetera and I won't go there. But what about issues - like, you were sitting up the back earlier when we were talking to previous people about the land transport, congestion issues, et cetera.

MR FITZGERALD (SACF): Yes.

MR SUTTON: We have in our report reflected on in the case of Sydney the serious congestion issues - which, you know, there are related things like lack of road infrastructure investment over a long period of time, there's the question of the under-utilised rail link from the city through the airport, there's the question of no public buses to the airport, these kinds of issues. Are these issues that your group is active on, or it's not within your purview?

MR FITZGERALD (SACF): I want you to know, from our submissions, that we did briefly touch upon that question, the public transport. We say the commissioner has rightly identified the congestion problems that can occur and we go on to say - - -

MR SUTTON: Can you take us further? Have you got any developed thoughts on these kinds of matters I raised?

MR FITZGERALD (SACF): Yes, I have. The real problem is that you've got the congestion from a seaport, an airport, and a major link through, the M5 link that goes

all the way round the bottom end of the airport, and Qantas Drive, which is airport land, that goes round the top, have over a period of time become just normal streets. They can do whatever they like with the M5, but if they don't double the tunnel they may as well not do it. The pinch point is the tunnel - and I actually drove here today, and if you come down past the M7 link it's four beautiful lanes, and then you go to Mascot - where I used to work every day - and you squeeze back to two. I mean, you don't have to be Einstein to work that out.

MR SUTTON: It's murderous with all those trucks around you, isn't it - I find it in the tunnel.

DR CRAIK: 110 kilometres an hour.

MR SUTTON: Everywhere you look you've got a big truck surrounding you. Keep going.

MR FITZGERALD (SACF): In a previous role - I've just retired as the general manager of Botany Bay City Council, so I can tell you it's issues of trucks, where they put a million truck movements on the seaport and didn't do an EIS on the traffic. Don't ask me. They're the questions that happen. You can't jam any more in, there's the long and short of it, and unless you're really prepared to take the big lick and double the tunnel and then - I don't really know what you can do with Qantas Drive. I also understand that there's a noncompete clause in the rail thing that was done with Transfield, that was initially done with Transfield and then bought out by the state government, as I understand it, and there is a noncompete clause in there that says, "You can't compete with it on public transport."

DR CRAIK: On bus routes.

MR FITZGERALD (SACF): Well, that then forms a public transport. So I don't know the answer to that. If the clause is there, how stuck are you with it, or do you buy it out, or what do you do? These are issues for a state government, who are now the proprietors of that thing, to either raise the bar or not raise the bar.

DR CRAIK: Have you had input to this group, the Commonwealth/state group, on planning around Sydney Airport, which picks up that.

MR FITZGERALD (SACF): Aviation needs of the Sydney basin.

DR CRAIK: Yes.

MR FITZGERALD (SACF): Not directly, but via another association, because, as I understand it, it consists of the Commonwealth government, Department of

Planning and one representative from the Local Government Association of Australia, and that's the link into there.

DR CRAIK: Okay. Do you have anything else, John? Okay. Thanks very much, Peter. Thanks very much for driving down today. That ends proceedings for today. Does anybody wish to make any brief comments before we close proceedings for today? If not, we resume at 9 o'clock tomorrow morning in Melbourne. Thank you.

AT 3.38 PM THE INQUIRY WAS ADJOURNED UNTIL
THURSDAY 6 OCTOBER 2011