



Australian Government

Department of Infrastructure and Transport

Acting Secretary

File Reference: 10/15220
Contact: Marcus James

Dr Wendy Craik
Presiding Commissioner
Productivity Commission
GPO Box 1428
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Dear Dr Craik

Submission to the Inquiry into the Economic Regulation of Airport Services

I refer to the Commission's draft report released on 22 August 2011 in which the Commission presented its findings and recommendations and made several requests for additional information in relation to the ongoing economic regulation of airport services.

The Department of Infrastructure and Transport is generally supportive of the findings of the draft report which suggests the continuation, with some enhancement, of the current airport economic regulatory approach. The Department wishes to make further specific comments as set out below.

Ongoing economic regulation

The Department believes the continuation of the current regulatory framework to 2020 with a review by the Productivity Commission in 2018 (ie a review in seven years time) is reasonable. Since the commencement of price monitoring in 2002 the economic regulation regime has facilitated airports and airline customers reaching commercial agreements to meet anticipated demand for aeronautical services. Extending monitoring for the medium term will support regulatory certainty and enable continued investment in airport capacity to meet future economic growth and enhanced productivity.

Airport monitoring regime

The Department agrees that monitoring by the Australian Competition and Consumer Commission (ACCC) is adequately supported by a range of options available to Government and industry should a pattern of inappropriate airport behaviour be identified. The Department also agrees that the current monitoring regime could be improved to ensure the reliability of its data and consistency of the annual reports.

"Show cause"

The Department can see some merit in the proposed 'show cause' approach to support the monitoring role of the ACCC. This approach is consistent with the notion that annual monitoring provides an early warning of inappropriate market behavior. The Department also agrees that the 'show cause' trigger should only be used where the ACCC can demonstrate long-term patterns of poor airport behavior.

In practice, the Department views the 'show cause' process as both a chance for the ACCC to follow through on its prima facie evidence while affording airport operators the opportunity to provide their reply before a price inquiry is contemplated. Should the show cause approach be adopted, the Department believes the ACCC is the best placed government authority to undertake the process.

The Department has some concern that the proposed show cause process could introduce regulatory uncertainty into the airport sector and affect investment decisions. The Productivity Commission could consider a more detailed explanation of how the approach would operate in practice given there has been little regulatory activity in relation to the declared airport services in the past.

Pricing Principles

The Department sees merit in the development of additional guidance on the conduct of commercial negotiations through expanding the aeronautical Pricing Principles. The Department would appreciate the opportunity to work with the Productivity Commission, the ACCC, airports and airlines and other key industry stakeholders to amend or extend the Pricing Principles to reflect Government expectations and contemporary practices for such negotiations rather than developing a voluntary code of conduct from first principles.

Improving the quality of service monitoring

As the Department advised the Commission in its April 2011 submission, the current approach to quality of service monitoring can be improved. In particular, the current monitoring regime does not pick up the broader 'passenger experience' at airports. The Department agrees with the Commission that some specific enhancements could be made to the current monitoring regime to improve its validity, reliability and transparency.

The Department agrees that the objective criteria underpinning the quality of service monitoring should be reviewed and that the need for surveys of border agencies should also be reconsidered (draft recommendation 11.5). The Department notes that the Commission's recommendation 11.5 that airline surveys be dropped where airports have service level agreements with all airlines which include performance standards could create an incentive for airports to further develop such agreements. The Department suggests that publishing the results of the objective performance measures contained in such service level agreements could also provide an incentive to maintain and improve standards.

Airport planning and coordination within local communities

The Department agrees that the current arrangements introduced from 1 January 2011 to better connect airports to their local and State communities should be allowed to mature and reviewed after a suitable interval, before any new regulatory action is considered (recommendation 12.1).

In the draft report the Commission asked whether airports should contribute to the cost of infrastructure beyond airport boundaries (page 286). It seems reasonable that airports contribute to off-airport infrastructure provided the infrastructure funded has a direct relationship to development at the airport, and notes that some airports, as demonstrated in a number of submissions to the Inquiry, have voluntarily undertaken such investment. Airports advise local councils of major developments and other future works through airport websites thus presenting opportunities for councils to engage with airports on possible cross-boundary impacts and contributions.

It should also be noted that improved planning and consultation with local communities through Planning Coordination Forums and Community Aviation Consultation Groups, initiatives arising from the Government's Aviation White Paper, will also enhance planning between different levels of government and the engagement of the local community in airport planning issues.

Airport noise and curfew management

The Commission has made a number of observations about management of aircraft noise in Section 13.4 of the draft report. The report states that "...the Commission considered the anomaly between the *Sydney Airport Curfew Act 1995* and the regulations operating under the Act suggesting that aligning the Sydney Airport Curfew Regulations 1995 with the Act would allow additional aircraft to use the shoulder period from 5am to 6am" (p 305).

These arrangements are not an anomaly as the Act provides for the Minister to allow, through the Regulations, a number up to 35 international arrivals per week at Sydney Airport between 5am and 6am. The Regulations currently set this number at 24, as provided for by the Act.

The Department would also like to clarify the arrangements which apply at Australian airports during curfew hours. None of the curfews in place at Australian airports totally prohibit operations at night. The legislation imposes a range of restrictions on specified runway usage, and on numbers and types of aircraft that may be used, to balance the operational needs of the aviation industry with the objective of providing night time respite for residents. Furthermore, aircraft such as those specified aircraft less than 34 tonnes that meet noise standards are not exempt from the curfew at Sydney. They are allowed to operate provided they use specified runways to maximise over-water operations. If the specified runways are not available the aircraft are not permitted to operate.

Noise management measures at Sydney Airport comprise a range of measures including the night time curfew, the 80 movement runway cap and the Long Term Operating Plan. It is true that modern aircraft have become progressively quieter and that other noise abatement procedures are available to the industry. However government policy over some time has recognised these measures as complementary to regulatory provisions, rather than being designed to replace them.

Extending the Pricing Principles to regional airports

The Department's view is that the parties providing the services ideally should work together through negotiated commercial agreements that indeed could be conducted with reference to the existing Pricing Principles.

Aviation security charges

Darwin International Airport and the Northern Territory Government expressed concern in their submissions about the level of security charges at Darwin airport, claiming aviation security charges resulting from mandatory security requirements have a negative impact on inbound tourism. These parties noted alternative methods for recovering security costs at Australian airports in the form of network pricing or direct funding assistance.

Consultations undertaken during the formulation of the Aviation White Paper canvassed support for some mechanism to equalise screening costs among airports, whether through network pricing or some form of subsidy scheme. However, the key matters of who should pay for cost equalisation and whether or not there should be one price across all screened airports were not resolved. Consultations determined:

- network pricing would inflate the cost of screening and disadvantage certain airports by removing a contestable element of competition; and
- no clear consensus was reached as to whom, other than the user (passenger), should pay for the cost of screening.

The Aviation White Paper determined Australia's current screening regime delivers a cost-effective and robust security outcome by international standards.

Technical comments

In addition to the above general observations and to assist in drafting the final report I have attached separate comments that are more in the nature of technical corrections and clarifications.

If you have any queries about the comments in this report, the contact person is Mr Marcus James, General Manager Airport Economic Regulation Taskforce, phone 02 6274 7242 or email marcus.james@infrastructure.gov.au.

Yours sincerely



Andrew Wilson

30 September 2011

Perspective on the patronage “success” of Sydney Airport stations, page 267.

The report suggests that the trains serving Sydney Airport represent “only” 11 per cent of airport users. Similarly, on page XL, it is suggested that the train service has “low usage”. It is unclear why the authors believe that, in some way, the train service is under-performing relative to other access modes. There is no doubt that the patronage is considerably less than had been forecast, but why is it not assumed (as is the case with other under-performing infrastructure projects) that this shortfall has arisen because the forecasts were too bullish about the service’s true potential? The financial model underlying the private sector partners’ station investment assumed the current “high” fares (page XL), albeit that outturn patronage has been considerably less than forecast.

Impact of removing Sydney Airport’s station access fee.

The report suggests that Booz & Co’s patronage estimate of 26 per cent “initial uplift” if the Sydney Airport railway stations’ access fee was removed “may be considered conservative”. This conclusion is made because Booz under-estimated the patronage increase that resulted from removing the access fee from Airport Link’s non-airport stations at Green Square and Mascot. However, Booz’s under-estimation of the impact of the effective lowering of the access fee arises because they used a generic price elasticity; the responsiveness to fare changes is location-specific, reflecting the fact that travel options vary across locations and traveller types. Further, the price elasticity estimate will have been derived from small scale price variations and should not have been applied to the large fare reduction at Green Square and Mascot.

Capacity of CityRail services to accommodate a surge in Sydney Airport passengers, page 268.

While the report suggests that the likely patronage uplift of 26 per cent arising from removing the Sydney Airport railway stations’ access fee is “conservative”, the report also quotes Sydney Airport Ltd in saying that the Airport & East Hills line has operated at capacity during the morning peak hour (0800–0900) over the last three years. This means that the additional (post-station fee removal) airport travellers would need to come from outside of this important time. Would the train service have the capacity to be able to cater for the sorts of patronage growth experienced at Mascot and Green Square?

Relative levels of Sydney Airport station access fees, page 269.

The report suggests that the “cost of the [Sydney Airport] station access fee is particularly pertinent to discouraging usage by on-airport employees”. It is true that, cumulatively for an individual employee, the station access fee would add more than \$800 to the annual travel costs. However, persons (airline travellers) paying \$11.80 access fee with a single ticket, or \$9.30 station access per trip with a daily-return ticket are surely *more* discouraged from using the train than employees (who pay \$1.80 per trip with a weekly ticket, \$1.29 per trip with a four-weekly ticket or \$1.21 per trip with a 90-day ticket). In that context, it may be that removing the access fee would generate relatively low incremental employee patronage on trains.

Bus routes to Sydney Airport, page 270.

The reference to “140 000 [Sydney Airport] users per day” is somewhat confusing, especially in the context of the single “bus route”. First, the “users” referred to here relate to airport “users”—it does not mean “bus users”. Secondly, the airport’s employees are included in the classification of airport “users”. This, again, is somewhat confusing as it is somewhat misleading to refer to employees as “airport users”. As a related point, the cited Heathrow Airport example of the ground transport task could be made more comparable by noting that in addition to the 183 000 daily passengers at the airport, there are 72 000 airport employees (<http://www.heathrowairport.com/portal/site/heathrow/menuitem.7056258327efb09a893460109328c1a0/>) who also access the airport. That is, the number of people travelling to/from Heathrow is considerably larger, and more consistent with the 29 bus routes, than the people flowing to/from Sydney Airport (with its single bus route). Nonetheless, it is recognised that Sydney’s single bus route is a relatively low route provision.