

Commerce Commission issues draft report on Wellington International Airport

2 November 2012

The Commerce Commission has today released a draft of a report to the Ministers of Commerce and Transport on how well information disclosure regulation is promoting the purpose of that regulation for Wellington International Airport.

The Commission is required to provide its report to the Ministers in respect of each of the regulated airports as soon as practicable after any new price for a regulated service has been set. Wellington Airport set new prices on 1 March 2012.

“Our draft findings are that the information disclosure regime is working well in some areas, but it is not limiting Wellington Airport’s ability to extract excessive profits,” said Commerce Commission Deputy Chair Sue Begg.

“Wellington Airport’s target of a 9.5% return is excessive. Our analysis, based on the prices Wellington Airport set in March 2012, indicates that they would actually have a return of 10.18% from the start of Part 4 information disclosure regulation to the end of the 2013-2017 pricing period. Either figure significantly exceeds our estimate of a reasonable rate of return, which we base on our cost of capital input methodology. We think a reasonable return is in the range of 7 to 8%,” said Ms Begg.

“On the other hand, information disclosure regulation has had a positive impact on quality and on how Wellington Airport collects revenue for different services and from different consumers. Innovation levels also seem appropriate, and there has been less dispute about forecast investment for this next pricing period relative to the previous pricing period. Wellington Airport has also adopted a more transparent process in setting prices,” said Ms Begg.

The review does not make any recommendations about whether regulation other than information disclosure should apply to Wellington Airport (or whether information disclosure should continue to apply). This is outside of the scope of the review required by the legislation.

The Commission’s final report to the Ministers about Wellington Airport has a target completion date of 21 December 2012. Reports for Auckland Airport and Christchurch Airport will be completed in 2013. The full draft report is available at <http://www.comcom.govt.nz/section-56g-reports/>

Background

What is information disclosure regulation?

Information disclosure is the most light-handed type of regulation available under Part 4 of the Commerce Act. Wellington, Auckland and Christchurch International Airports are subject to information disclosure regulation. Information disclosure regulation requires certain information to be disclosed publicly by the suppliers of goods or services regulated under Part 4. Information disclosed includes, among others, financial statements, asset values and valuation reports, prices and pricing methodologies, plans and forecasts, and quality performance statistics.

The information required to be disclosed is set out in a determination made under s 52P of the Act. We determined the Commerce Act (Specified Airport Services

Information Disclosure) Determination 2010 on 22 December 2010. It took effect on 1 January 2011.

For more information on the disclosure requirements, including our reasons, visit <http://www.comcom.govt.nz/airports-information-disclosure/>

What are input methodologies?

Input methodologies are the upfront rules and processes of regulation set by the Commission which underpin Part 4 regulation. For example, input methodologies concern things such as the valuation of assets, the treatment of taxation, the allocation of costs, and the cost of capital. We first published input methodologies for Auckland, Christchurch and Wellington Airports in December 2010.

To set information disclosure requirements, we are required to apply the relevant input methodologies. The airports, on the other hand, only have to apply our input methodologies for information disclosure purposes. Our input methodologies did not, and continue to not, apply to the airports' powers and functions under the Airports Authorities Act 1966 (AAA), which includes setting charges/prices for airport services. Wellington Airport is challenging the Commission's input methodologies in the High Court.

For more information on input methodologies, including our reasons, visit <http://www.comcom.govt.nz/input-methodologies-2/>

Which airport services are regulated?

Information is required to be disclosed about only some of the services provided by the three airports. The services are: aircraft and freight activities, airfield activities and specified passenger terminal activities (refer s 56A(1) of the Commerce Act). Each of these services is defined in section 2 of the AAA. These definitions are quite broad and include non-exhaustive lists of the types of activity that are considered to fall within each of these categories. Section 56A(1)(d) of the Commerce Act provides for other airport services to be regulated under Part 4, if required. At present other services, such as car-parking and retail, are not regulated under Part 4.

Prior to information disclosure regulation under Part 4, these airports were subject to information disclosure regulation under the AAA.

What is our task under s 56G of the Commerce Act?

Section 56G(1) requires the Commission to review the information disclosed under information disclosure regulation and report to the Ministers of Commerce and Transport on how effectively that regulation is promoting the Part 4 purpose. We are to carry out this review and report to the Ministers as soon as practicable after a supplier sets any new price for an airport service regulated under Part 4 of the Act in or after 2012. We must consult with interested parties in preparing our reports.

What is the purpose of Part 4?

The purpose of Part 4 is to promote the long-term benefit of consumers. It does this by promoting outcomes that are consistent with outcomes that are produced in competitive markets such that Wellington Airport:

- has incentives to innovate and invest, including in replacement, upgraded, and new assets; and
- has incentives to improve efficiency and provide services at a quality that reflects consumer demands; and

shares with consumers the benefits of efficiency gains in the supply of the regulated goods or services, including through lower prices; and is limited in their ability to extract excessive profits