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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO PRICE REGULATION OF AIRPORT SERVICES

PROF R.H. SNAPE, Deputy Chairman
DR N. BYRON, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON MONDAY, 26 MARCH 2001, AT 11 AM

PROF SNAPE: Welcome to this, the first day of the public hearings in Sydney of the inquiry into prices regulation of airports, conducted by the Productivity Commission. My name is Richard Snape, and on my right is Dr Neil Byron. There are staff members present who will be pleased to give advice on procedures, etcetera, should it be required.

The terms of the inquiry are specified in the terms of reference sent to the Commission late in December last year by the Assistant Treasurer. The Commission has circulated an issues paper that sets out what we perceive to be major issues. Copies of the terms of reference and of the issues paper are available near the entrance. We anticipate issuing a draft report in August, while a final report is due with the government in December. We plan to hold a second round of hearings after the draft report has been digested.

The purpose of this inquiry is to examine whether new regulatory arrangements targeted at those charges for airport services or products, where the airport operator has been identified as having the most potential to abuse market power, are needed to ensure that the exercise of any such power may be appropriately counteracted. The Commission is to report on whether there is a need for prices regulation of airports and, if so, the appropriate form of any prices regulation, taking into account a number of principles that are set out in the terms of reference. The public hearings provide the opportunity for interested parties to make oral presentations. Generally this is in the form of speaking to written submissions, these being available on the Commission's Web site as well as in hard copy.

The hearings also provide an opportunity for the Commission to seek clarifications and to pursue with participants matters of interest to the Commission. Transcripts of the hearings are sent to the relevant participants to check for accuracy of reporting. They are normally available on the Commission's Web site within a few days of the hearing. At the end of the scheduled hearings for today, I shall invite any persons present, or at least present then, to make unscheduled presentations should they wish to do so. Now I invite our first participants to introduce themselves for the transcript. That will need each of you to speak and to identify yourselves so they have the voices, and then to speak to your submission. Welcome.

MS RULE: Thank you, Professor. Catherine Rule of Australian Airports (Townsville).

MR MOFFATT: And Jack Moffatt, chairman, Townsville.

PROF SNAPE: Thank you very much. Now if you would like to speak to your submission.

MS RULE: Thank you. I would like to thank you for the opportunity to present AAL's position in the Productivity Commission's inquiry into price regulation of airport services. In preparing our submission, our main thrust was from the perspective of AAL and the practical application of the current and any future price regulation on Townsville Airport specifically.

The main points of the submission I would like to highlight are as follows: AAL is supportive of airport-specific price regulation. We believe this would provide regulatory certainty, consistency in approach and an informed arbitrator, being ACCC. Having said that, we believe that we need to have the correct price starting point. The current system creates cross-subsidisation or transfer of rents to the airlines. In effect, non-aeronautical revenues are cross-subsidising aeronautical revenues, which is inefficient and is effectively a partial single till approach to which we are opposed.

The lessons we believe should be learnt from the current prices regulation are unmet revenue expectations arising out of government sales memoranda and perceived regulatory creep associated with the Sydney ACCC draft pricing decision, in particular, the inclusion of carparking in the regulated basket. This could have major implications for future investment decisions. Therefore we believe any future price regulation needs to ensure that the process is well defined and hence discretion on behalf of the administrator is minimised. Thank you.

PROF SNAPE: Thank you very much, Ms Rule. It has been a very interesting submission. Mr Moffatt, do you wish to add?

MR MOFFATT: No.

PROF SNAPE: We will start I think by just seeking a clarification. You have one airport which is regulated at Townsville, and one which is unregulated in Mount Isa. I wasn't quite clear in reading your submission and listening to your summary just then as to whether you were saying, "Given there's going to be regulation we would prefer airport-specific regulation."

MS RULE: That's correct.

PROF SNAPE: What I'd like then to tease out a little bit more is why you are - or to phrase it another way, do you support regulation versus no regulation? In reading your submission, you see, it seemed to read, "We assume there will be regulation, so make it airport-specific," but what was not so clear in reading your recommendation was are you really saying, "We would prefer regulation or no regulation"?

MS RULE: I think we're saying that we would prefer regulation, for the reasons that I mentioned of the regulatory certainty. You've got a consistency in approach in airports and, at the same time, should there be an issue when it comes to the market power, we then have an informed arbitrator who makes the decision. We're aware that there's section 46 of the Trade Practices Act but we believe that that could be quite lengthy and any process quite costly, and the arbitrator is not necessarily informed on airports.

PROF SNAPE: So you're saying then that having the regulation there gives you some comfort that you'll know what the regulation is and regulation won't be suddenly introduced, as it might be if it were not there, but also I think you were saying that the regulation gives you some defence against the airlines.

MS RULE: Correct.

PROF SNAPE: Would you like to elaborate on both of those points, please?

MS RULE: I think we're looking at it from the perspective that we are a small business when it comes to the airport, as opposed to the airlines who are a much larger business. Therefore any process that needs to be undertaken needs to be as simple as possible and as cheap as possible for our purposes. Some of the matters that we're looking at are should we be required to undertake any necessary new investment in the future. I believe it allows us to have a clear process for ensuring that we can implement the necessary new investment with certainty, and I believe at the same time it gives some transparency and comfort to the end consumer that the process is transparent.

PROF SNAPE: Yes. I think you're in just about a unique position in that you have both a regulated airport and an unregulated airport. In Mount Isa it's unregulated and you seem to get on quite easily without the regulation. You don't apparently appear to need - I may be wrong, but you don't appear to need the regulation to defend your positions at Mount Isa.

MS RULE: I think there are probably two different aspects there. When we took over the airport at Mount Isa, it was recognised at that early stage that work needed to be done to the airport to ensure that it was at the standard that the community expected. Now, that was recognised by both the airlines and also by the community, so a process was undertaken where consultation was taken with the community, and it's a small population, a smaller base of the amount of people you're talking to, and at the same time less airlines to deal with.

PROF SNAPE: You were able, nevertheless, to go ahead in what one might call a normal commercial relationship without any regulatory oversight, other than the Trade Practices Act which applies to everyone, and you were able to come, as I understand it, to a number of agreements which satisfied both parties, and so you didn't need a regulatory framework. What's the difference between that and Townsville?

MR MOFFATT: I think the difference in Mount Isa lies in the fact that we really only had to deal with one constituency, which was the community. The airlines were passive followers there. That has not been our experience in Townsville.

PROF SNAPE: I might mention that the microphones are just for the transcript, they're not for amplification. I could hear you very clearly. Perhaps you would like to elaborate on that, as to why the relationships with airlines are different at Mount Isa from, say, Townsville.

MS RULE: I'll say from one perspective and then Jack may have a few other points to say there. At Townsville we have four airlines as such that we would be dealing with when it comes to the regulation. We have Qantas, Ansett, Flight West and also Mac Air, so that's four airlines that we need to deal with. At the same time we have an opportunity at Townsville for new entrants to enter the market, which has in effect

happened at Townsville. Mount Isa from another perspective has a market there that from our experience doesn't necessarily have that opportunity to have a new entrant into the market.

PROF SNAPE: How many airlines do you have there?

MS RULE: And there we have Ansett that goes from Brisbane to Mount Isa, and then we also have Flight West that goes from Townsville to Mount Isa, so effectively you're only dealing with the one airline from each market there.

PROF SNAPE: But in one sense I suppose if the airlines had as much power as some participants are suggesting, you'd be in a more exposed position in Mount Isa where you're only dealing with two, than where you have a number.

MR MOFFATT: What I was saying earlier about Mount Isa in terms of the community - we were able to put in a passenger service charge at Mount Isa. We were able to complete the redevelopment of the terminal quickly in a time frame which the community accepted or were happy with. Had we needed to go through a long, tedious process with the airlines and have it included as an element of the aeronautical charge or the landing charge, we would still be doing it.

PROF SNAPE: I think in part that is illustrating the point that I was trying to get at. Townsville is regulated and so you have to go through that process. At Mount Isa it is not regulated; you don't have to go through that process.

MR MOFFATT: Mount Isa in terms of how much we spend is a much smaller problem than Townsville is. In Townsville we need to spend, for community expectation purposes, not necessarily operational reasons, something in the order of about \$8 million. That necessarily will require us to go through the airlines, will necessarily require us to go through the ACCC for new investment expenditure. That process will be difficult but, in the end, what we will be arguing for there is not so much an increase in aeronautical charge but a passenger processing charge to pay for these additional services.

PROF SNAPE: But I assume that to pay for that amount of work at Townsville the passenger processing charge that you would require would not be much more, if any, than you had to charge at Mount Isa for the works you did at Mount Isa.

MS RULE: No, it would be less.

PROF SNAPE: It would be less in fact?

MS RULE: Our calculation is in fact it would be less.

PROF SNAPE: So where's the problem?

MS RULE: I think from our perspective, too, our experience of dealing with the airlines in Townsville is - and we put an example in there - increasing apron capacity, for argument's sake, and one of the easy ways to do it from our perspective

without putting in additional funding was to go to nose in, push back. That would free up quite a large amount of our apron and we had agreement from two operators and two other operators saying, "The growth at the airport hasn't come from us, it's come from the other parties. Therefore, we don't believe that there's any need for us to do anything," and effectively we've got this capacity that's being isolated and we weren't in a position to do very much.

PROF SNAPE: You see, it seems to me that that might be the sort of problem that a great number of businesses have, in that dealing with customers - perhaps a small number of customers - "We wish to have this and so we're going to have an extra charge." Okay, some say, "All right, we accept that." Some say, "No, we don't want it," and so you go into a commercial negotiation about it, and either they do pay, or if they don't pay it you don't deal with them any more. It doesn't seem to me that that is in kind any different from the normal commercial negotiation that's happening all over the city at the moment between consenting parties. They don't need a regulator to sort it out.

MR MOFFATT: In this case we could agree with the airlines that the work needed to satisfy the community expectations is unnecessary. The effect of that then is we have an unhappy local community. The regulatory process allows us to go to the regulator, in this case to increase the capacity of the apron, but also for service standard improvement.

PROF SNAPE: Then you are able to blame the regulator.

MR MOFFATT: No.

MS RULE: No, we would not be looking at blaming the regulator.

MR MOFFATT: We're saying the regulator, we would hope, would take the view of both sides. In the end if he doesn't take our view, we don't do it.

PROF SNAPE: I think I am at a bit of a loss to see where it is differing from a whole lot of other industries.

MR MOFFATT: In this case we have four airline operators. Beyond that we have something like 800,000 passengers. The issue really is which is your customer in this case.

MS RULE: And the needs and the wants of the airlines aren't necessarily the needs and wants of the customer.

PROF SNAPE: If Safeway is going to open a new store somewhere or close an old store, they would be looking at their various customers. I am sure if they close an old store or if they open somewhere and a corner grocer closes down, there will be people who are cross about that. But that's normal. That's life. Some people are better off, some people are worse off. That's business. What's different about airports?

MS RULE: I accept that as being business but I believe that me as a consumer at Franklins, Woolworths, can get my point of view across personally.

MR MOFFATT: They have options, too.

MS RULE: And there are other options at the end of the day.

DR BYRON: Could I just butt in for clarification. It seems to me you're arguing that the regulation is a good idea and even necessary for an airport like Townsville but not necessary for an airport like Mount Isa. Is that right? Because the next question that follows is, where do you draw the line between them? That's one of the things that we have to decide fundamentally - whether airports need to be regulated or which airports under which circumstances need to be regulated. Where from your experience regulation is unnecessary or unhelpful and there are others where regulation is necessary or useful, how do we distinguish and where do we draw the line between the two?

MS RULE: I think looking at Mount Isa's point of view, we went to the community and went to the airlines and we had already considered the major investment that was required into the future in setting that passenger charge. So all those factors were taken into consideration to get acceptance from the community. From Townsville's perspective, no consideration in terms of the prices has been given to increased investment, and we believe that the circumstances themselves create a different environment.

PROF SNAPE: You have just been speaking there about the situation as you took over the operation of Mount Isa but if we go down the track a bit, and 10 or 15 years where the history of you taking over the operations doesn't matter so much, would you then be arguing for regulation to help you?

MR MOFFATT: It's a much smaller community. I think I saw something about an axe and a scalpel in one of the submissions. That would be the case. We're talking about a community of 19,000 people. It relies on the airport as basically its only means of quick communication. Regulation in that circumstance is quite a different situation to Townsville where you have a community of something like 200,000, with the infrastructure being very important to them as well but for different reasons. Those reasons there relate to its use as a common use airport as well as the sort of services that we provide and its image as a city, how they want to project themselves; their concern when they look at other airports and compare Townsville with theirs.

It is a community issue as well but of much significantly higher proportions than it is at Townsville. We think that Townsville needs the regulatory certainty to be able to do the things that the city itself would want to be done in the longer term. It is very much like the government-owned airports around us. I can understand your concern that there is a difference between the two but to us it just seems that Townsville is a much bigger airport and requires that regulatory certainty.

PROF SNAPE: Of course what we are being asked is about airports that are very much bigger than Townsville as well.

MR MOFFATT: Yes.

PROF SNAPE: That is not a concern of yours but we, nevertheless, have to establish the principles in the context of our terms of reference and so on which would lead to regulation - should it be there at all and, if so, to which and why. As I understand it, you're saying that there should be regulation at airports, specific to Townsville. Because of the nature of the community interest you need an arbitrator in that case because of the three-way pulling between the airports, the community and you as the airport owners, whereas in Mount Isa life is simpler perhaps.

MR MOFFATT: Because everybody is pulling in the same direction.

PROF SNAPE: Yes, because you see it all pulling in the same direction. The question is, I suppose, why would the airlines be pulling in the same way as the airports at Mount Isa and not at Townsville, if that is the tension. If you're saying that you've got the airport and the community on one side and you've got the airlines on the other side, why in one case are they pulling in the same direction and in the other not in the same direction?

MS RULE: I'm just looking at it from the feeling and the expectation of the town of Mount Isa when AAL took over the airport itself. I believe there were some concerns at Mount Isa. They understood under FAC itself, the airport wasn't even a cash-positive airport. They understood that, they were across the annual report, and they understood therefore for the airport to portray the image and keep the level of investment on the infrastructure to the required standard that there was a need to increase or introduce a passenger charge, to ensure that their interests as a community were being met. The airline, being Ansett, is very much tied up with the Mount Isa mines and the mining out at Mount Isa, so their interests are very similar at the same time.

PROF SNAPE: But in Townsville you wouldn't see that the much larger community in fact perceiving the need of the airport to make a return in the same way that the community at Mount Isa perceives it.

MS RULE: Yes, we do see that. However, I think that the community is a broader community, its interests aren't in one field. Its interests are the diverse economy itself, some interests in terms of the tourism expectation and growth and the interests of the airlines is very much more of a competitive environment between the airlines than out at Mount Isa; there is not so much of a competitive environment out there because of the number of airlines servicing the airport.

PROF SNAPE: You had a survey that about 10 per cent of people coming to Townsville come by air.

MS RULE: Domestic air, that's correct. That was part of an economic report done.

PROF SNAPE: Do you know what percentage of people coming into Mount Isa come by air?

MS RULE: That's a very good question.

MR MOFFATT: No, we don't, but we would suspect that it's about - it would certainly be 40 per cent.

MS RULE: Yes, I would say it would be a whole lot higher.

MR MOFFATT: The rest would be people on tours, retirees, that sort of thing.

PROF SNAPE: So in a sense you don't have as much competition from other forms of transport at Mount Isa as you do at Townsville.

MS RULE: The competition for the public is the car, not so much the rail. Competition for freight would be rail, car and the airport itself.

PROF SNAPE: We might leave that point for a moment, you will be pleased to hear.

DR BYRON: On page 14 there is a very interesting statement that competitive airport charges are a minor decision factor for airlines servicing an airport. That's not inconsistent with a lot of other things we've been told. You've also got the statement there that no airline has withdrawn from the airport because of landing charges, airport charges. Can you elaborate a bit for us on the relevance of airport charges from your point of view in the way airlines do their routes or the frequencies or the size of aircraft they put on particular routes and so on?

I guess what I'm thinking of is, hypothetically, if you were to double your airport charges, what difference, if any, would it make to the number and the size of aircraft that landed? If your landing charges were to be free, would it make any difference to the number of times or the size of aircraft that the airlines put there? The second question is, would it be reflected in the price tag on the airline ticket to the passenger? You have got a very interesting figure there on how much the landing fees are on an \$800 ticket between Brisbane and Townsville. So what I am trying to get at is, how sensitive is that to the airport fees component?

MS RULE: I don't believe it's very sensitive at all. I believe that the factors that create the sensitivity are, as we have got down, the yields that the airlines can get from the airport itself - makes the decision as to what size aircraft they put on. They wouldn't have a 767 operating if it was only 50 per cent, 30 per cent full. They would change the type of the aircraft; the demand of the market, which relates back to the size of the aircraft as well. Airlines make a decision based on, "Is there a demand at that airport for our services?" I believe our charges are about 3 to 5 per cent of the ticket in the overall scheme. Virgin has started operating at Townsville at about 70 per cent off the mark that they start paying the same airport charges as the other operators are paying, so I don't think the ticket price is relative to the airport charge. I believe it's the yields and the type of passenger that is going through the airport.

Our mix at the airport is 50 business, 50 tourist, which is high yield. If you compare that to other airports where it is a lower yield, you'll find that the airline ticket price is different and there will be more packaging that goes along with that. There is no packaging for Townsville.

PROF SNAPE: No packaging at all?

MS RULE: No - by the airlines, no. It's something that the town itself, with the introduction of Virgin, is looking at doing - packaging.

DR BYRON: With the 50 per cent business traffic into Townsville it is mainly point to point; you know, people who come into Townsville do business.

MS RULE: That's correct.

DR BYRON: They're not hubbing through there.

MS RULE: No, mainly point to point. There will be some who do the Mount Isa-Townsville-Cairns route.

PROF SNAPE: Which is Flight West, is it?

MS RULE: That's correct, yes, Flight West.

PROF SNAPE: You say on the other hand on page 17, following up from that discussion there, that airlines have substantial countervailing power in terms of exercising options to transfer seats to other locations, where demand and yield are higher, and I think the context of this as it sits there is discussing countervailing power of airlines. You're saying that if you started to put your costs up or if you started to put extra conditions on them and requiring them to pay more they could in fact transfer their seats elsewhere. Is there any evidence that that has occurred?

MS RULE: Not that I have evidence, having gone through the research for this, no.

PROF SNAPE: Has it been threatened?

MS RULE: It hasn't been threatened from the perspective of airport charges, no.

PROF SNAPE: How does that threat come? Has it been related to other things that you do?

MS RULE: In terms of changing the business?

PROF SNAPE: Yes.

MS RULE: Looking at this from another perspective, too, is the major airlines perspective and the general aviation operator, as well, and we do get some comments from the general aviation operator saying that, "We could operate from another airport or use another airport as our base, other than Townsville," and they'd be the

airports that would be in closer proximity to Townsville. From the airlines I haven't had any - - -

PROF SNAPE: You don't have the same sort of regulation applying to general aviation.

MS RULE: Yes, we do.

PROF SNAPE: The same - - -

MS RULE: Yes.

PROF SNAPE: A price regulation.

MS RULE: That's correct.

PROF SNAPE: You have the same price regulation?

MS RULE: Yes.

PROF SNAPE: Would you want that regulation to continue with respect to general aviation?

MS RULE: I would suggest, yes. Looking at it from the general aviation operator's perspective and looking at it from our perspective, they would be more comfortable with price regulation, knowing that we are required to go through a certain process for approval of any charges - any increase in charges, any works that were required. I believe it gives them comfort, especially when most of the general aviation operators own their own business.

PROF SNAPE: Again I am worried about that principle. If you start to apply it to other parts of the economy, where do you stop? I mean, I may get more comfort if I am employing a gardener if that gardener had to go through a regulator before he increased the charges, but we don't apply that throughout the whole economy. Where do we stop?

MS RULE: I understand what you are saying there. I think it goes back to the point of you have a choice of another gardener in terms of performance and in terms of the price they charge. If you're not happy with what you are getting from him, there are a lot of other gardeners out there who could be doing that same service.

PROF SNAPE: Yes. So we come back to the degree of monopoly, and you're saying that the monopoly in this case - if the gardening industry was a monopoly and there were barriers to entry for various reasons then I would want a regulator. Is that right? Probably would, yes. So we come back to what is in the terms of reference, which is a key phrase - the degree of monopoly power - but they speak there about the degree of monopoly power of the airports.

MS RULE: Yes.

PROF SNAPE: But here you are saying that as an airport you want the regulation to protect you against others.

MS RULE: We're looking at it for the protection of all the users of the airport and the comfort of the end user, for the transparency of any costing, the comfort from our perspective dealing with the airlines because, yes, we are a small industry against the airlines, and then from the airlines' perspective there is some comfort there, as well, so I think we are looking at it from all sector interests.

PROF SNAPE: Okay. I wonder if we would skip right to the back, where you give a very convenient table and, no, it's not one of those tables that were confidential, so don't worry. It is the table which is appendix D, which is on page 39. It is a rather nice summary table you have got there. It relates to this abuse of market power that we have just been talking about and the first five items mentioned there are aircraft movements, aircraft parking, runways, taxiways and aprons, air site roads and grounds, and airfield lighting and visual aids. In each of those you say the potential to abuse market power is minimal because - and in each case you say "as required under regulations to comply with" - I am sorry. Let's treat the first four of them.

MS RULE: Yes.

PROF SNAPE: The first four of them leave aside the air fare, lighting and visual aids, sorry, and in each of those you say the minimal is required under lease agreement with federal government to provide access to all operators. Is that under the lease agreement as such or is it because of the declaration under the act of the airports?

MS RULE: We are required under our lease agreement to provide access to all operators. We cannot withdraw the services and, even besides that, we are also required under the civil aviation regulations - the declaration, as well, but the lease agreement specifically states that we are to provide access. Should there be any difficulties with operators, prior to withdrawing any services we are required to receive approval from the government.

PROF SNAPE: As I see, that is a lease agreement which goes for 49 years with an option for another 50.

MS RULE: That's correct.

PROF SNAPE: And so that would seem to give all the protection that one would need. The only extra point on that, I guess, is on what terms you have to provide access. Does the lease agreement specify the terms upon which access has to be given?

MR MOFFATT: No, it doesn't, but it is very wide. You can be a delinquent debtor and still get access, continuing access.

PROF SNAPE: You are talking about the general aviation there, I assume?

MR MOFFATT: Talking about anyone.

MS RULE: Not just - - -

PROF SNAPE: Not just?

MS RULE: No.

PROF SNAPE: But if you decided, for example, to multiply your charges by 10 or by 100 they would still say you can have access at these new charges. There would be nothing in the lease agreement, as such, which prevented that?

MS RULE: No.

PROF SNAPE: In the lease agreement, as such.

MR MOFFATT: No.

MS RULE: No.

PROF SNAPE: So it's a guarantee of access on - does it say that that access has to be non-discriminatory between airlines in the lease agreement?

MS RULE: No.

PROF SNAPE: And so therefore if we are talking about the terms of access rather than access per se then we are taken into the regulatory framework, rather than the lease agreement.

MS RULE: At the same time we have conditions of use.

PROF SNAPE: Could you elaborate on that. This is in the lease agreement?

MS RULE: No. This is the conditions of use of our facilities and that goes down to things like the costings, the fee for the use, payment terms for that fee, contacts; advising us in advance of any changes to scheduling - those types of aspects.

PROF SNAPE: What you referred to there are into commercial deals with the airlines?

MR MOFFATT: They don't alter the access - - -

MS RULE: No.

MR MOFFATT: - - - arrangements, no.

PROF SNAPE: But they are just negotiations that you have made with the airlines as to the - - -

MS RULE: Yes.

PROF SNAPE: Okay.

DR BYRON: And they have been accepted?

MS RULE: There are some points that the airlines have not accepted but they continue to use the airport, and some of those points they have advised us they don't agree with us but we haven't been able to reach agreement.

PROF SNAPE: But you have agreed to give continued - well, you say you can't refuse access.

MS RULE: That's correct.

PROF SNAPE: So what power do you have to enforce any agreement?

MR MOFFATT: None. It's commercial negotiation, purely.

PROF SNAPE: Commercial negotiation underwritten - over the requirement to provide access?

MR MOFFATT: Yes.

PROF SNAPE: Access to what?

MR MOFFATT: The aircraft movement area, aircraft parking areas, air side roads and grounds, airfield lighting.

PROF SNAPE: And they're all in the lease agreement?

MR MOFFATT: Yes.

PROF SNAPE: Terminal desks?

MS RULE: The lease doesn't go down specifically to those but it talks about the airfield infrastructure.

MR MOFFATT: It talks about air site access.

MS RULE: Yes.

PROF SNAPE: It is quite important, I think, to know what is already established in the leases, which are separate from any regulation, and so to know if a regulation were to be removed on any airport as to what would still remain in terms of lease conditions which operate for a very long time and so they, quite apart from any regulation, would define a framework for a very long time unless, of course, the conditions of the lease were to be renegotiated.

MR MOFFATT: Sure.

PROF SNAPE: I think that is something that isn't coming out as well as it might in the submissions in general, as a matter of fact.

MR MOFFATT: I think Hobart referred to it.

MS RULE: Yes, and Brisbane referred to it a little bit in one of their charts that they had.

PROF SNAPE: But I think as a general approach this isn't being addressed as well as it should be; at least, that's my impression.

DR BYRON: Yes. A couple of the other submissions have pointed out that the ex-FAC airports are subjected to the Prices Surveillance Act and the part declared for the Part IIIA access regime and section 192 of the Airports Act, but it may well be that what is in the lease agreement is really what is controlling - - -

PROF SNAPE: Or at least overlaps with what is in those other matters and would remain, even if the others were revised.

MS RULE: Yes.

PROF SNAPE: And it is that interaction, I think, we would have to look at somewhat. Your lease agreement is not a public document?

MS RULE: Yes, it is.

PROF SNAPE: It is a public document?

MS RULE: Yes.

PROF SNAPE: The full lease agreement?

MS RULE: Yes.

PROF SNAPE: Do you have congestion at any time of day or week?

MS RULE: We have congestion on our apron and that is overnight, especially Tuesday night being our major time.

PROF SNAPE: Not parking. You mean parking?

MS RULE: Yes, apron parking.

PROF SNAPE: You don't have sufficient other parking spaces?

MS RULE: No. Overnight we experience congestion there. We always seem to be

able to work around it.

PROF SNAPE: That could be eased by having more parking spots somewhere.

MS RULE: Correct.

MR MOFFATT: Or changing the arrangements for arrival and departure.

MS RULE: And the method of the use - where we spoke about the freewheeling as opposed to nose in, push back. Nose in, push back, frees up more apron space.

PROF SNAPE: Do you try to dissuade airlines from bringing their planes in at those times?

MS RULE: We have very little power or control over that.

PROF SNAPE: So you haven't offered any incentives to bring them in at 10 o'clock or at least at another time of day?

MS RULE: We have spoken to them about that and we have also tried to work with them on having them leave. For a while there we had about eight flights all leaving between quarter to 6 and 6.15 which, for a very small apron, is a lot. We spoke to the mine operators who we felt we could have some control over the times they left and their comments were, "That is what the market demands. That is the time we will leave."

PROF SNAPE: For parking spots, you can't do a deal with the air force, for instance?

MS RULE: Yes, we do, and vice versa. However, it's not the most efficient use of the airline's asset and infrastructure or ours as well. It means that they have to remove their aircraft over to another side and then bring it back.

PROF SNAPE: Yes.

MS RULE: But we do do that.

PROF SNAPE: On page 30 you have a remark there which you did refer to in your opening remarks also, and that is, "It's apparent that the legislation has been interpreted more liberally than intended." Would you like to elaborate on that?

MS RULE: I think that's really where we went to in terms of the Sydney ACCC draft pricing decision where the carparking has been included in the basket for aviation type circumstances. There's also the example, and it goes into the unmet revenue expectations I spoke about, where we expected to be able to introduce a fuel levy should we require, and we already had that in the contracts under FAC at the same time as access charges for taxis. Any business that utilises our facilities should be separate from the monitoring and considered as being part of the price cap. They were the expectations.

PROF SNAPE: So it's the ACCC's report on SACL which is being referred to here?

MS RULE: That one, yes, but also where Brisbane and Perth have introduced the fuel levy where there is still no final decision.

PROF SNAPE: Yes.

MS RULE: Plus the other airports like Perth, Brisbane, Melbourne, Canberra have introduced the taxi access charge.

PROF SNAPE: Yes.

MS RULE: That is considered for the price-cap compliance to be under the aero charges. That was not an expectation originally.

MR MOFFATT: They were all elements of revenue which were suggested in the - not the sales memorandum - - -

MS RULE: The information memorandum.

MR MOFFATT: The information memorandum, as being available sources of revenue.

PROF SNAPE: Yes.

MR MOFFATT: Now, we haven't implemented any of those, but nevertheless it seems to us that there has been a different interpretation placed by the regulator to what was proposed originally.

PROF SNAPE: I guess you don't have any of those charges at Mount Isa?

MR MOFFATT: No, we don't.

PROF SNAPE: Even though you would be free to impose them.

MR MOFFATT: Yes.

MS RULE: But we also felt that that was covered by the passenger charge in those circumstances. Should we look at introducing the fuel levy at Townsville, we would consider it out at Mount Isa. I think that's a joint management decision that we manage both airports. It's not the regulation issue.

PROF SNAPE: I see. So even though they have got quite different markets in the two places, you would still tend to introduce the same sort of charges on one as the other?

MS RULE: Depending. The taxi as itself - because people pay directly or

indirectly, and when we were looking at the passenger facilitation charge out at Mount Isa it was considered to cover quite a few aspects - carparking, taxis, those type of things.

PROF SNAPE: Could I ask you a little bit about dealing with the airlines and negotiating with the airlines in the regulatory context, and the problems of precedents. Do you strike any trouble with - you know, you've got one set of regulations applying across a whole of lot airports being implemented by the ACCC, and the fear that if they agree to something at Townsville which might be sensible they might suddenly find that it's a precedent for Sydney or for Melbourne, for all the big ones. Do you have any problems with that?

MS RULE: We do believe that that is a concern in terms of the precedent. One example may well be that when we're looking at the apron parking, trying to negotiate with the airlines directly on that, any decision they make for us they will need to follow through for Sydney. We also see the precedents the other way, from the ACCC's interpretation, as being applicable to us as well, and the Sydney case specifically. So there's the two-way precedent situation.

PROF SNAPE: That would seem to me to create regulatory uncertainty. You were talking about the advantage of regulation before, giving you a greater degree of certainty. But if in fact you're going to have something that might be a precedent derived from Perth or somewhere else used then as a precedent for you, you are going to have to require them to do something that would seem to give greater uncertainty to you.

MS RULE: One of the criteria that ACCC should be considering - what they say is that they deal with every application on a case-by-case situation, and they're reading them, because we haven't been in the situation where we've put in an application - reading them, they are coming up with different circumstances in terms of relativity of elasticity, inelasticity. They are looking at the airports on a case-by-case situation. The debt equity, betas seaters, those type of things, they do have specifics for airports which gives you some certainty there. At the same time I think they're also saying each airport does have different circumstances that we need to consider on a case-by-case basis.

PROF SNAPE: So the airlines are in fact being unduly sensitive by assuming that something small that was decided at Townsville would become a precedent for Melbourne?

MS RULE: Good question. We haven't been in the circumstances where anything has been decided at Townsville.

PROF SNAPE: No, but have you seen the situation in which what might appear to you as a perfectly small and reasonable thing that should be agreed is not being agreed, or is being put through all the hoops of the airlines' lawyers for fear that it would be in fact a precedent for another airport?

MR MOFFATT: No, our concern is the other way. I mean, precedents taken at

Sydney, for example, will apply to us. We go back to what we said earlier: that the department, or the treasurer, set out rules on what would be regulated and what wouldn't be regulated on airports. There has been progressive creep in that area, or changing of the goalposts, if you like, in some of them, which is of concern to us overall. That's why we want regulatory certainty. We want all those particular areas spelt out, defined, and we can operate through that.

DR BYRON: That takes me back to the point that you made on page 10 about ultimately we have to work out the appropriate level of infrastructure at the appropriate price, what's the mechanism for working out what is the appropriate level of infrastructure, and there are concerns that in some cases airports might fail to invest. In other places there are concerns that airports will do all this gold plating and over-invest, and then expect everybody else to pay for it. So we're trying to look at the incentive structure for getting the right level of infrastructure investment. The statement that you've made in the submissions is, "Well, you know, what is the most sensible mechanism for working out exactly what's the right level of infrastructure investment?"

MS RULE: I think the right level of infrastructure investment can be seen as a three-way process: the airport operator, the airline being involved, plus also the community who has expectations of the level or standard that they require and what they're willing to pay for that level or standard. When it comes to the runways and the airfield infrastructure, we're required to have that to a specific level and we're required to maintain that to a specific level for civil aviation regulations, safety regulations, that type of thing. When it comes to the passenger processing type infrastructure, that's the type of thing that goes down to community expectations, what they demand and what they're willing to pay for it at the end of the day.

DR BYRON: Yes, but in your submission you seem to be arguing that a public transparent process, but run by the ACCC, is your preferred way of actually working through those three slightly different sets of interests, from the airport to the airlines and the community, to come up with a sensible level of investment and a sensible decision about who pays how much for it.

MS RULE: We believe that the process should happen that there is consultation between the relevant parties prior to going to ACCC. We don't believe that you should go immediately to ACCC and let them make that decision. We believe that we need to sit down and talk to the airlines, we need to sit down and talk to the community, work out all the mechanics, work out what is required, look at the costings, look at a general dollar figure for that and then go through the process, where the transparency is, from the end consumer, that they can see that it has not been gold plated.

DR BYRON: But in terms of achieving a consensus or unanimity amongst the airlines about some possible new investment, it has been proposed to us that if you've got three or four airlines, one is going to benefit more than the others or one is going to benefit relatively less than the others. So there is always somebody whose interest is best served by saying, "No, I don't agree." So the chances of getting unanimity are pretty slim. Even if everybody benefits, somebody might benefit less than the others.

So it seems to me that one of the problems is, how do you get all the parties to agree that some new investment in infrastructure is absolutely necessary and efficient?

MS RULE: Yes, I think the agreement by all parties is the difficult one, and the point about the ACCC process is the support from the users, the majority of support from the users, and "the users" doesn't necessarily mean the airlines. "The users" can mean the passengers, the community - - -

DR BYRON: You want consultation, but not necessarily unanimous support?

MS RULE: Correct, yes.

PROF SNAPE: How is the community view expressed to you? How do you perceive it? How is it communicated to you?

MS RULE: There are different ways of doing that. We are very much a part of the business community, we're a major player in the business community. We're on the Townsville Enterprise Board, which is the peak economic marketing body. We also have airport consultative committee meetings where we have the Chamber of Commerce. We also have Townsville Enterprise, we have the airlines on that, we have the two councils that form part of that. We belong also to the Chamber of Commerce, and on the Townsville Enterprise Board we have the major players in the town there. We have the Chamber of Commerce, we have the state development, we have the university; all the tourism bodies are represented. So we play very much a part where the community tells you their expectations. We also then have regular one-on-one meetings with the mayors and those types of things, and they most definitely tell us what they expect from the airport.

PROF SNAPE: But I think we've had an interesting development recently in the country, in Australia, in which an airline which caters to quite a different market has started up and wants quite a different product.

MS RULE: Correct.

PROF SNAPE: It is, at least initially, having a high level of demand apparently from people who are wanting no frills, cheap and basic transport. Are you touching into that market at all, that potential market, or just touching in with those who want the higher grade service?

MS RULE: We believe that we would be touching into the whole market.

PROF SNAPE: You see, none of the groups that you just identified as communicating what we've called the community view to me seem to be representing that group of people who, in fact, are potential - - -

MS RULE: The tourists - - -

PROF SNAPE: Apart from tourists. Yes, the tourists maybe, but apart from that - maybe this isn't the conventional tourist.

MS RULE: Yes.

PROF SNAPE: Maybe this is the bottom end of the tourist market. Those voices, community view - it may be just a part of the community that you're hearing.

MS RULE: A community view meaning the people that we spoke to?

PROF SNAPE: Yes, the people that you're already dealing with and not the people who you might deal with.

MR MOFFATT: We're talking to community representatives rather than the community in the terms that you're - - -

MS RULE: Yes.

PROF SNAPE: Are you really touching in to what another part of the community may want?

MS RULE: We would propose that we would go out to the community as a whole for any of the major proposals that we have in here. We would do a public consultation on that process. We're starting off to see whether it is supported - any infrastructure requirements are supported by that level of community that we spoke about. But at the end of the day it's the end consumer that would be - - -

MR MOFFATT: There isn't very much difference in the use of airport services by that company or the other companies that provide the higher service. That company in fact uses one of the other operators to do their handling on the airport, and uses exactly the same facilities. I don't think there's any facility that they can't or would not use which isn't essential to their operation.

PROF SNAPE: The others don't want push back anyway. That's one thing that Virgin Blue - - -

MR MOFFATT: Not necessarily. One may.

PROF SNAPE: One may?

MS RULE: Yes. One has actually approached us.

MR MOFFATT: We have one that does already, and there may be a second.

PROF SNAPE: So you may get a marked differentiation of a type of product that they want?

MR MOFFATT: It's possible.

DR BYRON: It would be, I imagine, too early to tell whether there's any differential in the sort of spending behaviour inside the airport between the top and

the bottom ends of the tourist market.

MS RULE: You're talking about the ancillary, the retail?

DR BYRON: Yes, shopping or buying hamburgers and Cokes.

MR MOFFATT: It's a bit early. They started on 15 March.

MS RULE: We're finding, though, that the retail is up. But it is too early.

PROF SNAPE: We had heard one comment that they may not buy Pierre Cardin but they may buy a hamburger because they don't get it on the plane.

MR MOFFATT: That same operator would argue, "Don't give them a brown paper bag. We don't want them on the plane."

MS RULE: But they sell it themselves.

PROF SNAPE: Neil, how are you going there?

DR BYRON: I've only got one more question. Most of what we've been talking about is the extent to which your airport has some sort of monopoly power and a countervailing power and whether it should be regulated and so on. I think some of your submission also deals with, if there is to be regulation, they should at least get the base prices right. My understanding is that the basic charges were inherited from the FAC days.

MS RULE: That's correct.

DR BYRON: A number of people around the country have already said to us in their submissions that they don't think that what the FAC happened to be doing was necessarily perfect, in the sense of their pricing behaviour. Do you have suggestions, if there was to be continuing price regulation, of how you would at least get the starting point right?

MS RULE: We did look at that, and I don't know what page I put it on.

DR BYRON: Sorry. Have I missed it?

MS RULE: We spoke about taking into consideration - I think it's around page 21 - the forecast of growth - - -

DR BYRON: Sorry, yes.

MS RULE: - - - in movements at the airport; at the same time forecasted expenditure over a certain period. We suggested, say, five years. We're not looking at the necessary infrastructure expenditure; we're looking at the major maintenance items because in the last five years we've had no major expenditure on the treatment of runway. So by looking out five years, I believe you're evening the situation out

and you're also taking into consideration any increases that you'll get in growth at the airport.

DR BYRON: You basically work out an expected sort of break-even landing fee with a reasonable retail investment factored in there?

MS RULE: Yes.

DR BYRON: And use that to reset the base levels. I think that the airports have said that there was enormous variation in what phase they were in the FAC cycle, in the sense of whether they'd just had a lot of work done or whether they were coming up to it at the point of privatisation.

MS RULE: Yes.

DR BYRON: What was your point in that cycle at the time that the company acquired the lease? Would you say you bought it with a lot of work needing to be done or it had just been fixed up?

MS RULE: Major investment required in terms of the runway, runway-taxiway infrastructure; minor type of works in terms of improving the amenity of the airport itself. However, I think there's also the aspect that under FAC no interest charges were taken into consideration as well, where we have substantial interest costs there.

DR BYRON: Yes. So, again, the process for doing this would be to put out on the table the expected demand growth, the expected expenditure outlays per requirement, and hopefully with all the information the airports, the community, the airlines, would agree to a sensible answer coming out of all that.

PROF SNAPE: Summing up on page 30, first of all you get your base prices right.

MS RULE: Yes.

PROF SNAPE: Then you go for a CPI-X for some airport services.

MS RULE: That's correct.

PROF SNAPE: And then another form of regulation for runways, taxiways, aprons, lighting and aids?

MS RULE: We believe the airport services - - -

PROF SNAPE: Are they included within that?

MS RULE: - - - should be the runways, taxiways, aprons, airfield lighting and vis aids.

PROF SNAPE: They are into that.

MS RULE: Yes.

PROF SNAPE: Then you go separately for aerobridges and others, which is a passenger processing facility.

MS RULE: Yes.

PROF SNAPE: Which would be, again, regulated. Would they be regulated?

MS RULE: Yes.

PROF SNAPE: On what basis would they be regulated?

MS RULE: They would be the scope for pricing reviews for the new investment, for our example.

PROF SNAPE: Yes.

DR BYRON: There was just one other point. A couple of other submissions have said that, rather than the regulator being involved in all discussions about new investment automatically as of right, that the regulator becomes involved only when negotiations have clearly failed and break down. Again, some have suggested that the early involvement of the arbitrator, or the arbitration process, may actually hinder the sort of normal commercial negotiation that was in the government's policy at the time of the privatisation. Do you have any thoughts on that point - of whether the arbitrator or regulator needs to be involved early to sort things out very quickly, or whether they only become involved in the sense of a complete breakdown of negotiations?

MS RULE: I believe that the discussions and the negotiations should start off between the major parties straightaway, and I don't believe that the arbitrator should get involved at that stage. Now, whether the only recourse is to the arbitrator should the negotiations break down - in theory may work very well, but in practice if you know you've got that recourse to the arbitrator it may well not work in a practical application.

PROF SNAPE: Where does that lead you to in the negotiate, arbitrate process?

MR MOFFATT: The arbitrator is in early.

PROF SNAPE: Arbitrator is in early?

MR MOFFATT: Is that what you say?

MS RULE: Yes, but I believe that the arbitrators need to say that clearly you should be out there negotiating with the first parties and deciding whether the investment is necessary, discussing the level and the quality that you're doing that to. Then send off all the information to the arbitrator for the tick-off at the end.

PROF SNAPE: Some of these questions have arisen, I might say, in two or three other inquiries that we've got on at the moment in the general provisions of access under Part III of the Trade Practices Act, also the telecommunications specific regulation, and both of those are having draft reports released on Thursday.

MS RULE: Okay.

PROF SNAPE: You may be interested in some of the discussion there of the negotiate-arbitrate process which, of course, is relevant to both of those inquiries. In fact, there's a third draft report also coming out on Thursday which Neil has been involved in. It's the Prices Surveillance Act as well.

MS RULE: That's out Thursday as well?

PROF SNAPE: Yes, the three of them are coming out at the same time at a minute past midnight on Thursday morning.

MS RULE: They'll be on the Web site?

PROF SNAPE: Yes, at that time.

MR MOFFATT: We'll be able to read it.

PROF SNAPE: With any luck. Thank you very much for that very interesting submission - I say that sincerely. It was in fact a very interesting submission - and also for the very interesting discussion which we've had. If you should think of other points in the next little while which you would like to add, we would like to see a supplementary submission if you felt that way. As I say, the draft report should be coming out in August and then there's another round of hearings following on that where people can tell us we've got it all wrong. Thank you very much, Ms Rule and also Mr Moffatt, for your presentation and for being with us today. We shall now have an intermission. Our next participant is not scheduled until 3 o'clock, so we'll resume the hearings at that time. Thank you very much.

MS RULE: Thank you.

(Luncheon adjournment)

PROF SNAPE: We're now going to resume our hearing, our first day of hearings in this inquiry into the price regulation of airport services, and we welcome the Australian Taxi Industry Association. Gentlemen, would you like to identify yourselves separately so the voices are on the transcript so the transcribers can recognise people, and then if you would like to speak to your submission. Thank you very much.

MR BOWE: My name is John Bowe. I'm president of the Australian Taxi Industry Association.

MR EVANS: Jack Evans. I'm an adviser to the Australian Taxi Industry Association.

PROF SNAPE: Thank you. Would you like to speak to your submission, thank you.

MR EVANS: We certainly appreciate the opportunity to appear before the inquiry into airport pricing. Our understanding of the current situation is that the airport access fees that are being charged on taxi pick-ups at airports are covered by the land side road and lighting provisions so that it is encompassed within the price cap of the CPI-X. Certainly we're aware that the Canberra International Airport and the ACCC have been in dispute in regard to the Canberra charge of \$2 per taxi and that this position was, we understand, accepted in the decision that was handed down on Friday by the ADJR.

Notwithstanding that, we recognise that these fees are going to be an ongoing fact of life; therefore as an industry we see ourselves very much in the situation that airports represent the largest single market in major cities for taxi services. Based on what happened here in Sydney during the pilots' dispute, we estimate that it could be as high as 25 per cent of journeys that are generated by the travel to and from the airports, but that normally we'd say in the major cities it would be between 10 and 20 per cent of taxi hirings.

If there is no price control, then we see the airports very much able to enjoy monopolistic powers and exercise that as price-setters, with the taxi industry being very much a price-taker. For example, we understand that in negotiations between the Canberra International Airport and the Canberra taxi service there has been talk of imposing additional charges for access to the rank in addition to the \$2 they already charge. The taxi industry is very much in the position where it faces the problem of potential financial hurt, given that the states and territories regulate fares, and if they for some reason do not allow the airport access fee to be passed on to the passenger, then the industry would have to try and absorb those costs. As far as we can see, the principle of regulation at the state level to control taxi fares is seen as a justified public interest and can be expected to be continued for the foreseeable future at least.

Whilst this problem of the potential of the airport wanting to increase charges and the risk of the regulators not passing it on hasn't occurred as yet, we still obviously see it as a potential major problem. We're also concerned about the

capacity of the airport operators to potentially start to increase the fee to a level where it starts to affect demand for taxi services from airports. In this regard we'd note that with the millennium celebrations at the end of 1999, where a number of the states allowed surcharges to be charged for that evening, it did impact adversely on demand and it also produced quite a few unsavoury incidents on the night, so much so that in a lot of cases drivers decided it wasn't worth the aggravation to collect the fee.

In addition to those broad principles, the industry also consistently works with the airport operators to try to improve the management of the taxi pick-ups and drop-offs within the airport, often providing resources at our own cost. We see it very much as trying to deliver efficiency in this task, whilst making sure it does of course happen safely, and we see this liaison as an ongoing participation between the industry and each of the airport operators. We also in this regard see it as being far more effective if the airport access charge can be collected after the passenger enters the taxi, as this helps to create a far more transparent transaction. We recognise, of course, that it does potentially involve some traffic separation and wouldn't necessarily say that that should take precedence over the primary concern of making sure the throughput, the flow-through, is as efficient as possible.

We'd also note that there have been occasions when the airport operators haven't perhaps shown as much sensitivity to the broader impact, on particularly the taxi industry, of what they want to do in their pricing, and I'd note what happened down in Melbourne, where the decision of the airport operator to try to introduce a charge at a time that closely followed the introduction of the GST and also the City Link tolls, did create quite a strong reaction within the industry.

I'd also add that one of our difficulties, I guess, in dealing with organisations like airport operators is that the industry itself is very atomised. Each of the taxi operators does take a lot of decisions about how they're going to run their business themselves, so it does take a lot to suddenly produce a universal reaction from within the industry, say in a city like Melbourne, and we would hope that over time we could get to a situation where there is a sensible set of arrangements, where perhaps the controls might be exercised through the fact that it is a situation where the regulators do have to control our capacity to pass on the charge to the passenger, and it may make sense that the airport operators end up in a situation where they have an obligation to consult with the regulators before they introduce or increase charges, and that they commit not to actually make that change or introduce the charge until it has been endorsed by the regulators. Thank you very much.

PROF SNAPE: Good. Thank you very much, Mr Evans. Has there ever been a fee, for example toll fees, et cetera, for which the regulator has not permitted a pass-on to the consumer, the passenger?

MR BOWE: We have the situation in Sydney with toll roads where there are parallel roads, and if the passenger elects to travel by the toll road, then they are allowed to impose the toll charge. However, the driver can't elect that route himself.

PROF SNAPE: I understand that, but I was just trying to think in general, and

taking it just away from airports, to think of these extra charges which might occur, and tolls was the first one and perhaps the only one I could think of. Has a regulator ever refused the passing on of that charge?

MR EVANS: Generally with tolls they are imposed either by the state government or government itself or as part of an arrangement, say, for example, where there's a private contractor who builds a road and operates it for a certain time. Whilst I would agree with you, as far as I'm aware there hasn't been a case where that has occurred - - -

PROF SNAPE: I wasn't stating it; I was simply asking.

MR EVANS: No, as far as I'm aware, there hasn't been a situation, but the sort of potential difference between the tolls and the airport charges is that the tolls come under the state's control as well, whereas the airport charge doesn't necessarily and one couldn't discount the possibility that for its own considerations the state may decide it's not now the appropriate time to allow a charge to be imposed or increased.

PROF SNAPE: Yes. On the other hand, the taxi fees themselves are regulated.

MR EVANS: Yes.

PROF SNAPE: And so to disallow a charge would in fact undermine the regulation of the taxi fees.

MR EVANS: We would certainly agree with that, yes.

PROF SNAPE: So therefore, the regulator having determined an appropriate structure of taxi fees, it would then appear to be very inconsistent not to allow the passing on, when it would in fact undermine what they have decided is an appropriate structure of fees.

MR EVANS: Yes. I mean, I can accept that argument but still have the concern that it might be just a question of timing; for example, say a state government was in the run-up to an election and it decided for broader political considerations that it wouldn't tick the box in regard to an airport access charge.

PROF SNAPE: Yes. Are there any other businesses, to use that term in a very wide sense, which charge access fees for taxis? For example, are there any shopping malls?

DR BYRON: Or central railway station, a five-star hotel or a big hospital?

PROF SNAPE: Or a sporting stadium?

MR BOWE: Certainly not that I'm aware of.

PROF SNAPE: So, as far as you know, this is the first time in which a commercial enterprise is charging an access fee.

MR BOWE: It's similar to the American system, and only speaking in relation to taxis where the airport operator contracts the pick-ups at the airport out for a tender price. All of the other taxi operators can drop at the airport but only the successful tenderer - and that applies at hotels where they have their own stands and where they rent space on the porte-cochere of the hotel.

PROF SNAPE: So it's a fairly common occurrence in the United States at least.

MR BOWE: Yes.

PROF SNAPE: Other countries?

MR BOWE: I'm not aware of other countries but certainly in the United States it is.

MR EVANS: I think it relates very much to the provider having control of that particular piece of ground, so obviously if it's general street frontage they wouldn't have that capacity, and certainly, as John indicated, it's not something that's occurred here, though at times I understand there have been sort of special relationships established in regard to for example making certain that there are taxis available, say, when a passenger ship docks in places like Darwin or Hobart or something like that. But that's generally been making special ranks available so that the taxis can wait there for the passengers.

PROF SNAPE: So in one sense it's not a shot out of the blue.

MR BOWE: No. I think it's fair to say we don't disagree with the right of the operator if he's providing the infrastructure and the amenities for the drivers that wait, but we believe the state regulator should be the final sign-off, if you like, on any increases beyond what is considered reasonable.

PROF SNAPE: And that's in a sense because your charges are regulated anyway.

MR BOWE: And we have to advertise those on our fare sticker labels.

PROF SNAPE: Well, you'd probably choose to do so even if you weren't required to, wouldn't you?

MR BOWE: They've got to approve those too.

PROF SNAPE: But even if it were to be completely unregulated, you'd probably want to tell people what they're going to be charged.

MR EVANS: Well, I mean, it's part of the principles of the way the taxi industry operates. The idea is that there is a clearly defined fare and it's metered, and people have a reasonable understanding of what they will pay, given those factors, before they hop in the taxi.

PROF SNAPE: Just following that same point, and it's the second paragraph on

page 3 of your submission, which is in the introduction, you say:

The initial long-term leasing at most major Australian airports, the ATIA understood that access fees -

et cetera -

would be covered by the CPI-X cap on price increases.

When did you form that understanding?

MR EVANS: Well, progressively over the period since the leases were introduced. There was a review that the Department of Transport and Regional Services initiated where they indicated that that was their broad understanding, and of course the issue, as far as we understand, has become clear because of its ADJR appeal by Canberra International Airport against the ACCC taking that same view.

PROF SNAPE: You referred to that in your introduction and you said that that was decided last Friday.

MR EVANS: Yes.

PROF SNAPE: Would you like to elaborate on that a little bit more, please, and just explain it. I think I missed that in the news. What ADJR is - - -

MR EVANS: Yes, the Administrative Judicial Review Board. What happened, as I understand it - and I don't want to pre-empt the actual details of the ACCC's position - when Canberra Airport got to the stage where they were about to introduce the \$2 charge, they did advise the ACCC that they were proposing to introduce the charge or intending to introduce the charge.

The ACCC then advised the Canberra International Airport that its view was that the charge would be covered by the CPI-X cap and that therefore the question was could they impose that within the cap and, if it couldn't fit within the cap, then what other adjustments would they make to stay within the cap? The Canberra International Airport took that decision by the ACCC to the ADJR and the hearing was 10 days or so ago and Gyles J handed down his decision on Friday, the gist of which I understand was that he supported the ACCC position.

PROF SNAPE: Good, that's a helpful comment. Of course, one reason I was quizzing on this second paragraph of the introduction there was that we have had it put to us - as you probably know - by several airports that their understanding of what was stated when the leases were being sold - and it's in the selling process - that this type of charge would not be included within it and that's why I was asking you when was it that you came to the understanding that they were. Was it at the time when they were being sold and that people were encouraging people to buy them or was it somewhat later?

MR EVANS: I would say that we weren't terribly closely involved with the

negotiations, obviously, in terms of the tendering process, so we weren't party to any discussions at that stage, but our view and our understanding had been that once the leases were organised and signed up that it did include the provision that covered things like the airport access fee for taxis.

PROF SNAPE: So there was no information or advertising or whatever you might want to call it at the time, which led you to the conclusion opposite to that which a number of airports have said that they had formed at that time?

MR EVANS: No, not formally at that time. At that stage, we probably did have a view that it should be covered. Our understanding was always that the roadside facilities were part of what was to be controlled and therefore our position was included within the price cap.

PROF SNAPE: Thank you.

DR BYRON: I'd like to elaborate on the question about substitutes for passengers getting to and from airports. When we arrived in Sydney this morning, there are all different sorts of buses from Skybus and council buses and some hotel courtesy buses; there's the train, rent-a-car; you can bring your own car and park either at the airport or off-airport. You can get your friends or relatives to pick you up or drop you off or something. There's plenty of ways of arriving at or leaving from airports, apart from cabs. A couple of airports have said to us in their submissions that if they were to do anything with, say, increasing the on-airport carparking fees, you'd just get more people coming by cab and if they put a \$2 surcharge on the cabs, then more people would come by bus or train or a relative's car or something else.

All these different things are competing with each other all the time. What I'm trying to get a handle on is how special is the relationship between the airport and the taxi? It seems to me that the airport operators would have a vested interest in having a nice smooth efficient system where all the customers go away happily and the queue is not too long and so on. Given the competition between all these different forms of ground transport, why would we expect the airport operators to suddenly decide to savagely penalise one of these things, whether it's buses or rent-a-cars or taxis?

MR EVANS: A couple of points I'd make first and then maybe, John, you could talk about what's happened in Sydney when the train service out to the airport opened, in terms of taxi demand. First up, I'd say there is, at least theoretically, substitution available, but in practice it's fairly limited. If the airport, for example, massively increased the parking fees and didn't change other charges, that may discourage some people from driving to the airport and parking, as opposed to taking a taxi, so that's obviously an argument, but only at one end of the journey. The other one, the vehicle is still back in Melbourne and they're now in Sydney, so to that degree it doesn't apply. Generally, when you think about the demand and use of taxis to undertake the airport travel, it is, I think, fair to say that the price elasticity would be very inelastic.

People are paying X hundred dollars or whatever for the air fare; the taxi

charge on top of that is generally not a major consideration compared with the convenience. If the efficiency is not there and there are other factors - they have to wait too long - then potentially, yes, they may well look at other options, but generally, particularly in the major cities, you've got (a) the door-to-door service that taxis provide and (b) compared with things like car rentals, you've got no problem in terms of having to worry about parking at the other end of the journey, which obviously in a Sydney environment - sure, you can pick up a hire car at the airport, but what are you going to do with it when you get to wherever you're going inside Sydney? What price are you going to pay for your parking there as well?

There are all those factors that tend, I think, to reinforce the strength of the position of the airport operator vis-a-vis the taxi industry. Now, do you want to talk about what happened in Sydney?

MR BOWE: The fact of the matter with the airport link, it was always going to be a disaster in terms of the cost and, leaving aside the political decision to go ahead with it - - -

PROF SNAPE: Disaster for whom? Not the taxis, you mean - - -

MR BOWE: For the operator, because the bottom line was that two people in business could catch a taxi to the airport far more cheaply and not have to negotiate steps and all the things, than making their way to Central station to pick up the train. It followed that after a certain amount of time, the state government had to step in, after a lot of adjustments to fares, because the situation didn't rectify and it was proven by the statement that Jack made regarding the cost differential with a person taking an air fare, whether it be on holidays or on business, to wait on a railway station, as opposed to walking out of the airport and getting into a cab and being outside your door and paying the cab off, and that was the sole responsibility for your transport.

As I said, it was always going to be a disaster when it tried to make inroads into other forms of transport. To go back to your question, buses are fixed routes usually. The hire vehicle, to take Jack's point, has to be placed somewhere and unless you're doing business outside of Sydney, where parking is readily available, it's almost not a consideration around the CBD. The minibus operators and tourist vehicles that operate usually operate specifically on a hotel-type run for a fixed fare. I'm not sure of the charges applied against them by the Airports Corporation. I do believe they are charged, as is the State Transit for the bus services they run through there. That's about the extent of my knowledge, but I do believe they are charged, the same as the car rental people for their rental space and so forth.

PROF SNAPE: Have you seen any decrease in the demand for taxis at airports that have imposed the fees?

MR BOWE: No. From my colleagues interstate, there doesn't seem to be any resistance. Coming back to the convenience of the taxi, the \$2 charge is small by comparison, but again coming back to our problem, if there is no capacity to limit the charge, down the track it may make the taxi not as viable a proposition or not as

convenient a proposition as it is with a capped fee that everybody is aware of and preferably exiting the airport it's transparent.

MR EVANS: With the Sydney rail link, since it has been introduced, there hasn't been any real drop-off in demand for taxi services into or out of KSA, so again it sort of tends to reinforce the argument that whilst theoretically substitution is easily available, in practice it doesn't seem to be as readily available as say the airport operators and others might expect. Certainly at this stage, with the rail link in Brisbane nearing completion, the general feeling up there amongst the taxi operators is they don't expect it to have a significant impact on their demand to and from the airport either.

PROF SNAPE: Which must mean, of course, that very few people are going to use it.

MR EVANS: It might mean that those who use it are the ones either from private cars, which I think is unlikely, but more possibly the various buses that do provide services out there now.

PROF SNAPE: So to the extent that they get any passengers, it will be passengers who would have gone up on forms of transport other than taxis.

MR EVANS: Yes. From what I've seen of the use of the rail link in Sydney, it tends to be people like backpackers and those sorts.

MR BOWE: Workers at the airport.

PROF SNAPE: Who wouldn't have got a taxi anyway.

MR BOWE: You generally don't look for something other than a taxi in the first place, yes.

PROF SNAPE: But I guess that if you go to major international airports with rail links - and I'm thinking, for example, of Heathrow and I'm thinking I guess also of National Airport in Washington and Charles de Gaulle Airport in Paris, there's three.

MR BOWE: Geneva.

PROF SNAPE: Yes, Geneva and Stansted and Gatwick. In all of those, the rail presumably has been a major factor - and Tokyo was the other one I was thinking of. In all of those rail is a major factor and presumably would be a substantial substitute for taxis.

MR BOWE: I think comparing some that I know of - some of them I don't know, but if you look at the Sydney situation, it really only feeds a loop line and people are then forced to change, to change platforms and the like and I think that that is where the inconvenience comes in, plus they're bound by timetable which has got to meet the airport timetable of a flight. The Sydney airport link is generally used by the worker, mainly because of their inability to park now on the airport because of

restrictions on space. Brisbane will go, as I understand, into the main Brisbane station, but it doesn't seem to be a more promising outcome than Sydney.

PROF SNAPE: It may have done more damage to you if the eastern distributor hadn't been built.

MR BOWE: If they had gone ahead with Badgerys Creek they would have had to put a rail link in there just because of the time taken to get a motor vehicle from Badgerys Creek to the city. It would not have worked without a rail link; it would have been vital to that airport. But in Sydney we're talking about a 16 to 20 dollar cab fare and you should be here in 10 to 12 minutes.

MR EVANS: I think the examples you quoted of the overseas airports, undoubtedly the price differential between say the rail connection and taxi fare plus the congestion and therefore the time differential, certainly has taken the taxi position to the stage where it's not as inelastic in terms of price sensitivity as what we are at the moment, at least in Australia. That comes back to our concern that even though we acknowledge at this stage that generally the taxi demand would be very inelastic to price sensitivities at this point, there has obviously got to be a level at which if the charges were starting to force it up into that group, that situation would start to resemble more and more the overseas airports.

PROF SNAPE: A characteristic of many of those - not all of them but many of them - was that the airport was much further from the centre of the city.

MR EVANS: For example, I could see, say in Melbourne's case, where potentially if you're going to the eastern suburbs there and you're facing a much higher taxi fare, that people could very easily say, "Well, another \$5" - if that was the charge levied by the airport operator - "just makes it too difficult and I'm going to look for an alternative means of at least getting to the city, so not doing as much of the journey as I can by taxi."

DR BYRON: If the decision now is that the taxi surcharge would be under the CPI monitored X price cap, that would mean that any airport that imposed or increased the taxi surcharge just means that they charge less for aircraft landing fees, I guess, to stay within the cap. I have to wonder whether that makes a lot of sense, that the airlines should pay less to land a 737 because passengers are paying \$2 for the taxi.

MR EVANS: Yes, in the end the passenger pays, either through the airfare or the taxi fare. But the concern is what happens after the five years in terms of the airport leases and what provisions will then apply? Obviously if it gets to the stage where the airport operators don't have some sort of constraints on them about what they can charge, they may well be in a situation where they will say, "We will not only charge a 737 extra to land but when the passengers walk out of the terminal, they're going to pay more to park their car, get in the taxi, get in a bus, get on the train."

PROF SNAPE: I don't think any of the unregulated airports have introduced a taxi charge.

MR EVANS: No.

PROF SNAPE: Why would that be?

MR EVANS: I can't honestly answer that.

MR BOWE: I think it has been in the wings in Sydney for quite a few years. The industry has been strongly opposed to it and been very vocal against it, and it has probably been one of those decisions sidelined until the airport was disposed of.

PROF SNAPE: If you take Cairns Airport and Newcastle Airport - they're two unregulated airports - - -

MR EVANS: Cairns has been operated by the port authority up there for a long time.

PROF SNAPE: Yes.

MR BOWE: They did impose an annual charge, I think.

MR EVANS: Yes, they do have a charge up there.

PROF SNAPE: They do have a charge for taxis there?

MR BOWE: Yes, it's an annual charge I think that's paid by the company.

PROF SNAPE: So it's not just a product of regulation then, it would seem, insofar as there is at least one unregulated airport that has introduced it.

MR BOWE: I think it goes back a lot of years too; the early 70s, I think.

PROF SNAPE: Newcastle?

MR EVANS: As far as I'm aware, there's no charge at Newcastle.

DR BYRON: Have you ever heard of any airport impose a negative taxi fee? In other words, that pay you a couple of dollars to turn up at the airport to make sure that there's always enough cabs there when a plane lands?

MR EVANS: There have been some examples - not quite that - - -

DR BYRON: I'm exaggerating a little.

MR EVANS: Yes, but certainly in some of the unregulated markets in the US airport operators have stepped in to - as John was talking about before - contract the pick-up service to a particular operator in part to ensure that the quality of drivers and vehicles and other elements were up to an acceptable standard. I think also in Auckland there was - - -

MR BOWE: In Auckland following the deregulation of the taxi industry the airport authority had to step in and license any public vehicle operator on the airport.

PROF SNAPE: I can see that that would be quite a rational response if you are in a deregulated system, that you may wish in fact to ensure it's going to happen, but have you got any evidence about the relative efficiency of that sort of arrangement where, as you said, a number of US airports perhaps have that arrangement?

MR BOWE: We don't have any here but no doubt the international association would have paperwork. We're certainly aware of the Auckland Airport because of the damage done to the tourism trade mainly entering Auckland once they deregulated standards over there.

PROF SNAPE: That was a transition thing in a sense. You said it was deregulated, became a mess, and therefore Auckland - - -

MR BOWE: Reregulated it a bit, yes.

PROF SNAPE: They took the initiative themselves to say, "We will regulate what comes onto our premises", which is not an unusual response.

MR BOWE: No.

PROF SNAPE: So in a sense one might regard "the mess" as a transition phase.

MR BOWE: Yes, it was, I guess, typical of the deregulation that occurred in 22 cities in the US where because of the damage done to tourism, 18 of those cities have had to reregulate the industry.

PROF SNAPE: The taxi industry.

MR BOWE: The taxi industry.

PROF SNAPE: We're speaking generally, not just in airports.

MR BOWE: Yes, generally.

MR EVANS: And some of the other cities where the sort of arrangements we were talking about were introduced by the airport operators, and also some of the major hotels as well. Again, a concern about standards, safety and quality of vehicles.

PROF SNAPE: Yes. It is a very clear submission, so we are rather limited in what we are confined to ask you, I guess.

DR BYRON: One of the things that came up with regard to Melbourne was - I thought there was some question about how necessary the new "improvements" or the new facilities were, the scale of them, and I believe there was a question of, "Well, if it takes 10 or 15 years to pay off those new investments in additional facilities, is the taxi surcharge going to be lifted once the facilities have been paid

for?" and I understand the answer was no. So is there concern amongst the taxi industry about whether the so-called improvement or new facilities are really necessary or is it generally agreed that they're useful and worthwhile but the question is how they're paid for?

MR BOWE: I think that is the question. Certainly at Sydney airport, just take the domestics, it is to the benefit of both Ansett and Qantas to have a respectable looking area outside where people can catch a taxi from, and to let that standard drop would be to lower the standard of their terminal. So if you accept that would be a holding area for taxis that might have toilet conveniences, a canteen or maybe a fuel-filling point, as is the case for Sydney airport, it's hard to say really whether we would see that that wouldn't be part of the function of the people that are marketing the airport.

MR EVANS: I think at the end of the day though we recognise that the interests of the airport operator are obviously to recoup appropriate levels of revenue from whatever charges they can impose and that the industry is going to be faced with costs in terms of those charges that are going to more than what is provided in the way of facilities to help the taxi operations at the airports.

PROF SNAPE: But your primary concern is being able to pass on immediately any charges and that those charges shouldn't be introduced at an inopportune time.

MR EVANS: Yes, that's correct. The controls that are exercised on the industry mean that - I think it's recognised pretty well that the returns out of the industry are not generous by any means, and therefore the capacity of the operators to absorb any timing differences between the airport operators imposing the charges and when they can be passed on to the passengers is non-existent.

PROF SNAPE: Thank you very much. It has been a very helpful submission and thank you for coming along and speaking to it.

DR BYRON: Thank you very much.

MR EVANS: Thank you.

PROF SNAPE: Our next scheduled time is at 4.15 and, as I was saying earlier to the taxi industry representatives, as these have been advertised and people may wish to come and hear, it might be wise to keep to the schedule as we have got it rather than to jump ahead too much. So we will resume at 4.15.

PROF SNAPE: We resume our hearing and we would invite the representative from Impulse Airlines to state his name and position with the airline and then to speak to the submission.

MR WESTAWAY: Simon Westaway. I'm the corporate affairs manager of Impulse Airlines Ltd. We put in a very short submission and it probably covered most of the points that we wanted to talk about but, in effect, I guess this is an issue which we feel fairly strongly about and I don't want the short length of our submission not to outline the importance of the issue. We don't think massive amounts of paper basically quantify a view one way or another. We actually support a change to the CPI-X price cap and the general regime.

The reason we do that is that we don't think there isn't a role for the regulator and we don't think there isn't a view that airports could be deemed to be monopolistic because effectively in Australia you have got to deal with the major airports in the major capital cities. There is effectively only one Brisbane airport. There is effectively only one Sydney airport, although politicians will tell you otherwise. There is effectively only one airport in Melbourne. There is effectively only one airport in Adelaide, and so forth.

Unlike Europe and the United States where hub and spoke networks at numerous airports work quite successfully, there are only probably a few airports in Australia where that could occur. It is true that Impulse have developed a hub and spoke network out of our Williamstown facility, which we occupy with Qantas, where we do a bit of a hub and spoke operation with our regional network and have done some successful regional hubbing, but that's not the norm and effectively regional operations need - in New South Wales anyway - to find their way to Sydney, the main airport, as being the major hub.

A general view has been that Impulse grew up as a freight airline and then a regional airline and we have been a regional operator since 1993 and, as has probably been well documented, in June last year we entered the trunk routes, if you like, with a 'value model'. The airline recapitalised itself. It took on a number of major investors, including AMP Asset Management, National Australia Asset Management, GIC of Singapore, and subsequent other investors, which I'm quite happy to provide more details of if the Commission so wishes.

As part of that recapitalisation we leased new aircraft - they're Boeing 717 aircraft. We occupied both new entrant slots and utilised slots which we babysat through Airports Coordination Australia, the slot committee, and on 5 June last year we commenced with three Boeing 717s on the Sydney to Melbourne route and we have, I guess, built up our operations by flying from 28 August last year to Sydney-Brisbane.

At the moment we are now flying, subsequent to a little bit of a reschedule change next week, 19 return frequencies daily between Sydney and Melbourne, 10 return frequencies daily between Sydney and Brisbane, utilising the Boeing 717, which is a 117-seat aircraft. We also integrate the jets at the moment with a one

return service daily up to Newcastle Airport. As of Monday we commence a four times daily Melbourne to Hobart operation.

I guess one of the key elements to us getting started was negotiating with airports and getting common user or independent terminal facilities. I think everybody has read and digested over the years the Compass experience and where they failed. One of the problems Compass experienced was that they had a deregulated sky but, as they said - and I read what one politician quoted during the Compass fracas - they had an unregulated ground, and Compass of course had to utilise either tin sheds in some airports through to having to utilise Australian Airlines facilities in other airports.

We didn't want to go that way. We wanted independent terminal facilities of our own. At first we approached airports. We were of a view that we would like to utilise and indeed build terminals in some cases or come to an agreement where the airport would build a facility that could accommodate us. When we started last year we managed, after a lot of negotiation, to get the Sydney Airports Corporation to build in 56 days, as they like to say, a 5 and a half to 6 million dollar facility at Sydney airport. They badged it as "domestic express".

They built the facility on the premise that it would accommodate up to 2 million passengers over the course of a 365-day period. As of three weeks ago, from memory, it had officially it's 1 millionth passenger through the door, and that's inside about eight months, and their projections that it could accommodate 2 million passengers a year, I think, were a little bit excessive. They have already done, from memory, three modifications and a fourth modification will take place before Easter, and that facility effectively is getting close to full capacity.

They have an apron issue at Sydney airport. They have only five positions for 8 737 equivalent aircraft and, on a daily basis now, based on our operations and Virgin Blue's operations, really four to five bays are in use during the peak periods and, based on projections of slot movements and so forth, that terminal facility is at full capacity in terms of aircraft movements at peak times from about June or July this year. We've commenced some interim discussions with Sydney Airport about ways of resolving this issue, involving some extensions to both aprons, as well as further extensions to that terminal facility, which of course will require the usual toing and froing regarding passenger charges and so forth.

In Melbourne, Melbourne Airport was very gracious and they're a good airport to deal with, as are Sydney. Melbourne's difficulty was that they didn't have a common user facility of any sort based on the long-term leases allocated to Qantas and Ansett. The international terminal within the centre of that is however common user. Melbourne airport put together a short-term arrangement where we used a particular gate and a small area to accommodate passengers and that worked quite well, but we only had two stand-off positions, which we then had to share with Virgin Blue a couple of months after we started and, in the interim, we managed to negotiate with Melbourne airport - as was Virgin Blue negotiating with them - the construction of a multi-user domestic terminal - MUDT, as they like to call it - which was officially opened in December last year and that was a five-gate facility to

accommodate 12 check-in positions to accommodate us and Virgin's operation, and

with our arrival at that terminal we basically expanded our services at the time from 12 return flights a day up to 19 return flights a day.

That facility has been a good facility, although as we foreshadowed at the time, within about a 12-month period, based on our growth and projected growth of Virgin, that facility may have difficulty accommodating our medium-term let alone longer-term needs, and I think Virgin Blue have probably expressed a somewhat similar view. Already we have actually had some interim discussions with Melbourne Airport about ways of making that terminal bigger to accommodate our future growth, but that is going to come at a big cost.

I guess the issue of all this is that terminal negotiations take a lot of time and effort from our management. I guess it's another element to one of the many issues that we have to grapple with, let alone the day-to-day competitive issues of the two major airlines, who we compete head to head against on the routes we currently fly and the new routes we will fly in future times. The negotiation process in terms of us dealing with the airports I think has been pretty sound.

Obviously there are issues in terms of what we think should be a standard of terminal supplied and, in the cases of the different airports ranging from Brisbane, Melbourne, Canberra, Sydney, Hobart, Newcastle - the places we fly - we fly into varying standards of airport facilities and that is, I think, of some chagrin to us - I've got to be honest with you - but it's something we cope with based on the medium-term outlook. But getting back to the issue with common user terminals: we need them and it's necessary for us to survive but we have to work within the process which is currently there and we have to deal with airport owners who have to make a return on capital, particularly the privatised airports.

We have been criticised as being too close to airports on this. I mean, we find that quite funny because effectively we look at it as a tenant and landlord situation and why would you not want to get on with your landlord? If you don't get on with your landlord you've got problems, I would have thought. That aside, I think we have found the process at times fairly difficult. I think the highlighted example was the process that occurred last year in relation to Melbourne Airport during the negotiations regarding passenger charges and funding for that multi-user terminal at Melbourne.

I guess we got our fingers slapped by the ACCC for getting a bit agitated about the whole process where we signed a commercial agreement with Melbourne airport back in May last year on a struck passenger charge, which we thought was fair to get the facility built. The ACCC came out with a separate figure at the time, which we believed in the eyes of Melbourne Airport would have made the facility a commercially unviable proposition, and there was a fair amount of argie-bargie that went between ourselves Virgin, Melbourne Airport and the Commission until ultimately a compromise was struck.

The difficulty with that is that that delays the construction of any facility and I guess that was the first time we felt that the process really impacted on us where in a way it almost became anti-competitive. The ACCC in a way, just by their

involvement in the process, were putting forward issues that may have put obstacles, if you like, on what we were trying to achieve. That was, I guess, a big concern to us and we made some public statements at the time that we felt the process should be much more fluid and that if an airline can negotiate with an airport and get things happening that things should move forward, provided one party or the other hasn't got one arm tied behind their back.

We accept that there is going to be argie-bargie in these things but we felt that the process itself bogged down at a fairly critical time. I guess our view is that the Federal Government and State governments, many departments and many instrumentalities, and both sides of politics generally, want to foster and facilitate competition in our skies. It's a general view of both major sides of politics federally.

The Federal Government has released slots for new entrants at Sydney Airport specifically for new domestic entrants to fly domestic routes in competition. Most of those slots, particularly in peak periods, have been occupied now by Impulse and Virgin Blue. The difficulty is that, whilst that side of the policies works well, the infrastructure side of the policy in terms of the relationship between airports and airlines hasn't worked so well. The airports are locked in long-term agreements, lease agreements, with the two majors on their domestic precincts. We accept that and I am sure they accept that.

I am sure some airport owners would like to change that but that is not for us really to comment on. Our concern is, the way the current structure is set up, if we want to go to airports and say, "Here's our future growth prospects. These are the future aircraft we have. These are the routes we want to fly. These are the amount of gates and terminal space we think we're going to need," there's a fairly long and exhaustive process ahead of us, and in many ways our future growth can be hamstrung by the regulatory side of the process.

In summing up, I don't think there is a magic elixir to this. I think what we want to see is just a more flexible process. We're not anti ACCC at all, and I want to make that clear. It's a fine line in all this. The ACCC have a role in the process and I think that role should remain, but in some sort of overseeing process, and in a way if an airline such as ourselves or even Virgin Blue can come to a commercial agreement with an airport to make something happen, why can't that go through more quickly than the current process?

At the same time airports should be able to make a return. They're providing the facilities and they should be able to make a commercial return on providing those facilities, and we haven't got a problem with that. Whether that is capped or not obviously is one of the key issues you're looking at and we believe there probably shouldn't be a cap and they should be able to have more opportunity to be able to exploit commercially the relationship between an airline but at the same time provide facilities that can then generate future revenue opportunities for both.

I just think there are a lot of issues that ourselves as a new entrant face every time we want to look at terminal upgrades. We're aggressive and we're growing but the difficulty is that we are growing out of facilities that have been provided or are

currently being provided. The problem we are going to continue to face is continuing to hit this regulatory brick wall all the time, where the airports are hitting that wall and then passing that feedback onto us, saying, "You're going to have difficulties getting this through in the time period."

At the moment Sydney Airport are working around the major development plan criteria of the Airports Act, where the current terminal at Sydney Airport - they have done extensions under 10 per cent of the actual facility, because that doesn't immediately trigger off a major development plan and then can trigger off all sorts of spiralling issues relating to pricing and so forth. We just think that the system, the regulatory sort of umbrella, if you like, has to be made a little bit easier. We don't think airports should have open slather and we don't think airlines should have open slather, but we just think the process needs to be tweaked a little bit to make more fluid airline and airport negotiations.

PROF SNAPE: Thanks very much, Mr Westaway. I understand what you are saying - that you see a continued role for regulation and also that you're not picking at the ACCC as such, but you see that parts of the regulatory framework at the moment have caused you a great deal of inconvenience. But I'm not quite sure why you want to retain regulation.

MR WESTAWAY: I guess our concern is that if it goes fully open slather, does that create a problem for us down the track, as well? If you want to hold me to a view, our belief is that the regulations should probably go, to be quite frank. I guess there has to be a framework there, an overarching framework.

PROF SNAPE: You have got a framework other than the Trade Practices Act?

MR WESTAWAY: The Trade Practices Act should probably cover it. I mean, at the end of the day if we can negotiate something with an airport, that is what we want. We need infrastructure, and our view is that too often airports seem to be hamstrung in creating that infrastructure. If you look at Canberra Airport as an example in relation to some issues they are having at the moment, it's just too easy for the two major airlines - and I don't know if they do it deliberately or not - it's too easy for the process to be slowed down and bogged down. As a general rule, we need apron to park aircraft, we need terminals to be able to house people, because at the moment in some places we are bursting at the seams or we can't take the next step to grow.

Airports aren't going to make a commercial decision unless they can make a commercial return and the process just seems to get bogged down. Now, maybe that is because some airports have some difficulty dealing with the regulatory side.

PROF SNAPE: But not all airports are regulated.

MR WESTAWAY: No, that's correct.

PROF SNAPE: I mean, your base at Williamstown is not regulated.

MR WESTAWAY: That's correct, but you're not going to see many jets fly into Williamstown. Williamstown isn't going to be the new nirvana of jet aviation in the short term.

PROF SNAPE: No, but if one is considering regulated airports versus non-regulated airports - and you're not flying to Cairns at this juncture, so we can't compare with that one.

MR WESTAWAY: No, but you see we're going to face that issue. Cairns isn't so much of an issue. But I will give you an example. Say if we ever wanted to fly to Perth. At the moment in Perth you have the international terminal and you have the domestic terminal. There is an argument that we wouldn't be able to operate easily out of the domestic terminal precinct, so therefore we have to operate out of the international terminal and one could argue that that puts us at a market disadvantage. One could argue that it could put us at an advantage but the same situation in some respects, I guess, happens now at Adelaide, although Adelaide is trying to build a multi-user facility to accommodate everybody, and you've seen the long-ranging debate there. It is very easy for us, for instance, to fly into Hobart because there was a ready-made international terminal which no domestic operator bothers to use, so that was a fairly straightforward - - -

PROF SNAPE: You should have got a good rate on that one, I guess.

MR WESTAWAY: Well, no-one flew in there, so it makes it pretty easy to negotiate with an airport. But the point is you have got to have the infrastructure there. You need terminal facilities and you need apron space accommodating that, and I think airport owners with open arms - they want us to come. The issue is, have they got the infrastructure to do it? In the case of the major airports, obviously at times they're constrained by space and they're constrained by a number of other parameters. I guess we just want a system that allows us to negotiate more easily with airports.

PROF SNAPE: From all you've said so far it seems to me that regulation, or the implementation of the regulation, has got in your way.

MR WESTAWAY: I think it has, yes.

PROF SNAPE: But you then, I think in your remarks just now, went back a little bit on what you said right at the beginning of your presentation when you said, if I've got it right, you did not think that there was no role for a regulator. What you're now saying, I think, is that you would be quite satisfied with the general provisions of the Trade Practices Act and that you wouldn't want anything beyond that.

MR WESTAWAY: Yes, I think we could live within that environment. I mean, I know it's sounding a little bit wishy-washy and we may be hedging our bets a little bit, but we have a view that the Trade Practices Act should be strengthened in some levels. But if you're asking the direct question, do we want regulation or do we want

the rules changed, the way it is now we would like to see it changed and a loosening of the regulatory hold over the current situation.

PROF SNAPE: Would you like to elaborate a little bit more on your experience at Canberra? You say a bit about it in your written submission.

MR WESTAWAY: Yes, Canberra is interesting. I guess it's evolving. I've got to be a little bit careful with some of the comments; there are some issues still going forward. Canberra has been, I guess, a little bit of a struggle for us. We have an airport owner there that should be congratulated for putting in infrastructure when they probably didn't need to put in infrastructure, and have spent over \$20 million just upgrading the facilities there and, at the end of the day, I think they will be building a better airport. But Canberra Airport had a major issue until recently with apron space and it has a major issue which they're resolving very quickly now - they're also having an issue where if we quickly expanded, or indeed a Virgin or indeed any other operator, wanted to move into Canberra Airport you would have some short-term issues. But the Airport is seeking to get over those as we speak.

But Canberra Airport have, I guess, forged ahead in putting some facilities to accommodate our current regional operations going in and out of Canberra that caused some real hoo-ha with one of our competitors, where some untimely comments were made that our passengers may infect some of their passengers within the security area, and that airline then went ahead and put in alternative security arrangements so that their passengers were no longer infected by our passengers.

PROF SNAPE: Have any of Ansett's passengers been infected by your people?

MR WESTAWAY: No, they haven't been infected.

PROF SNAPE: They haven't?

MR WESTAWAY: No.

PROF SNAPE: Quite safe to continue going through their - - -

MR WESTAWAY: Yes, our passengers sit in areas next to their passengers.

PROF SNAPE: But you refer here to saying that it was able to stymie infrastructure development for two and a half years.

MR WESTAWAY: In many ways it has. I guess just the process gets slowed up. That's the only criticism we have, of the process. The regulations were probably there for a very good reason, but the infrastructure gets held up. We use the Melbourne Airport situation. That's a perfect example. We were in that small facility in the international terminal for much longer than we probably needed to be, because the process took so long between May, when we struck commercial agreement with Melbourne Airport, APAM, and then the facility didn't open until the second week of December. We were meant to have been out of that facility at Melbourne Airport before the Olympics.

We were operating out of a tiny area, not much bigger than this, where ourselves and Virgin had passengers, and we had two off-gate positions down four flights of stairs which were fairly steep. If you were an elderly person we had to bring them up via a lift, which provided technical problems under the way that we operated. I mean, Department of Transport and customs cleared it, but in some technical ways, as I understood it, there were some restrictions on its use. You were sort of going around the edges. During the Olympics period we were operating 80 per cent plus load factors, and we had our passengers and Virgin passengers sitting in a room not much bigger than this. Let me tell you, I was there a couple of nights when people tried to board and it was like a zoo trying to get people in and out of that facility.

That's the thing. We operated at a disadvantage through that critical start-up period, where we operated out of a holding area not much bigger than this. It wasn't the fault of Melbourne Airport, they were trying to get a facility built as quickly as they could. We were ready to go earlier than September, so hence we had to use a short-term facility and we accepted the costs that that may put onto our business in terms of some lost future passengers, but we were keen to get into a facility, the multi-use facility, by September. We didn't get in there until December, and a lot of it was due, I've got to say, to the delays in terms of getting the regulatory process sorted out.

There were some building issues then down the track, but the regulatory process wasn't smooth, and I guess that's what I'm saying - that if the regulatory process isn't always as smooth as it can be, it just makes it difficult for us to roll out our plan effectively. I guess we welcome the Productivity Commission looking into this matter, because effectively I guess we're trying to open up the skies and make them more competitive on the domestic level. So let's have as smooth a process as possible so that that can be achieved and so that everyone can get a return.

PROF SNAPE: If you look at our terms of reference, a key phrase there is:

The purpose of this inquiry is to examine whether new regulatory arrangements targeted at those charges for airport services or products, where the airport operator has been identified as having the most potential to abuse market power, are needed to ensure that the exercise of any power may be appropriately counteracted.

In other words, the whole basis of any of our recommendations for future regulation, for the continuation or for any special regulatory system, has to be the market power of airports and their potential to abuse it. Now, from what you're saying, I think your experience is that the airports have not been exercising monopoly power.

MR WESTAWAY: No, definitely not. The airports want us to go there, because they want us to come for obvious reasons. They're getting extra income in terms of landing charges, they're getting more people through their doors, they're making a lot more money on their carparking and they're getting better returns on their retail. So airports want us to come. I don't think the airports are abusing their market power

and we would feel very strongly if people were out there saying that they were. If the accusation is that we're keen to coddle up to airports, we will accept the accusation because we want the airports to put in place infrastructure that we can operate from. We want it to be of a good standard of infrastructure and we're happy to pay a fair price for that.

If it's an over-exorbitant price, and I guess that's where I clarified myself earlier, we don't want to pay over the odds, but you want to pay the odds so that our clientele, if you like, come through the terminal, and they get a good experience so that they come back. The issue is that terminals and so forth, people relate that back to the airline in many respects, and I guess we want to see, where possible, facilities of a level that we feel comfortable with. We're slowly getting to that stage, I think, in Melbourne, in Brisbane. I think in Canberra now and in the future we'll have a good facility.

In Sydney we're working closely with the airport now to get a better facility, because I think everyone accepts that the Sydney Airport terminal was just a good interim beginning. In many ways it works very well. It's very quick in and out and it encourages people to come in very late and get out very quickly, and that's the purpose of the terminal. But we've got to move beyond that now, because you've just got capacity issues. Sydney airport know it and they're working with us now, and they're making further modifications as we speak to put in more seats so that it can cope with the Easter period.

PROF SNAPE: So far you've been in the initial stages of development. Could you foresee that when you've settled down from the great excitement that you're in at the moment as an airline, that at that time the airports might in fact start to exert monopoly power against you?

MR WESTAWAY: No, I don't believe so. I think you've got to have a healthy relationship as an airline with airport owners and airports. I think if you don't have that healthy relationship, it's a dangerous thing not to have. You look at it as the tenant-landlord situation. I mean, you don't have to love your landlord, but you've got to learn to get on with them. I think that's something that we've always been prepared to do. As an airline the history has been, over the last eight years, that we've worked with airports, because at the end of the day you want a facility for your passengers that's amenable and acceptable.

You're always going to have your issues from time to time, obviously that's going to occur, but you're better off working with airports rather than against them. I don't think that they're abusing their monopoly power that they potentially could have in any way, shape or form at this stage. That's not to say that some airports in the future wouldn't, but I don't really foresee it, to be honest with you. I think as we grow as an airline it wouldn't be in airports' interests to go over the top in terms of the way that they deal with a customer like ourselves, because airlines have power in their own way as well.

PROF SNAPE: You would feel comfortable, just to reiterate, for the future, that the general provisions of the Trade Practices Act would be sufficient protection for

you against any such circumstance?

MR WESTAWAY: Our belief is, yes, absolutely.

PROF SNAPE: You said in passing a while back that you babysat slots. Would you like to enlarge on that?

MR WESTAWAY: Not overly, but that's all right. It's commercially in-confidence the number of slots we have at Sydney airport. You can work them out yourself if you've got the time to look at a timetable and sort of work it through, but we work within the slot provisions. We're the fourth largest slot-holder at Sydney airport. To develop our domestic operations we needed more than just the new entrant slots which the Federal Government allocated, and a number of our slots which we flew with regional aircraft were actually technically deemed domestic slots. So I guess it's just a term we use; we babysat some of those slots.

We converted over time some of those slots which we flew regional aircraft on and we started to fly jet aircraft legitimately on, because they were a domestic slot. In a way we were undervaluing the slot I suppose by flying 19-seater aircraft over it, where you could have flown 100 seater, 200 seater or, technically, a Boeing 767 on, on that particular slot allocation.

PROF SNAPE: So the babysitting slot means using smaller aircraft - - -

MR WESTAWAY: That's correct.

PROF SNAPE: - - - with greater frequency to keep them occupied.

MR WESTAWAY: Exactly, yes. You're operating within a cap and we had planned the move to becoming a domestic player for some period of time. It's not something you could have dreamt up within four or five months, because there's a whole host of issues relating to the one issue we've been discussing today about airports and terminals, but also issues relating to slot allocations in relation to aircraft and a whole host of other issues. A slot strategy at Sydney Airport is absolutely imperative to making a domestic operation work, which is why the terminal at Sydney Airport is such a critical issue for us and why we're forever working with the airport management to look at ways of improving that area, as indeed are the airport, because they want to see further growth of that area.

PROF SNAPE: How much would Sydney have had to increase its charges for landing, et cetera, aeronautical charges, for that babysitting to have been uneconomic?

MR WESTAWAY: I don't quite understand the context of your question. Are you saying in terms of should the airport be treating regional aircraft more harshly in terms of landing - - -

PROF SNAPE: No. What I'm saying is that if the prices of landing and take-off, aeronautical charges, go up for a slot, with respect to a slot - - -

MR WESTAWAY: Which they're probably going to, yes.

PROF SNAPE: If they go up substantially, then there will be an incentive, depending on how that charge is structured of course, to use larger aircraft with lower frequency, rather than small with increased frequency.

MR WESTAWAY: Yes.

PROF SNAPE: Thereby freeing up slots which are a scarce resource at Sydney airport - - -

MR WESTAWAY: Yes, but they have ring fencing in relation to that and also the Government - - -

PROF SNAPE: Yes, within - - -

MR WESTAWAY: Yes. Currently the proposal by Sydney Airport to the ACCC is treating turboprop aircraft, of 19 seats or under, with no effective real change to the landing charge.

PROF SNAPE: But a number of yours weren't within the ring fencing.

MR WESTAWAY: That's correct.

PROF SNAPE: I'm talking about outside the ring fencing.

MR WESTAWAY: Yes.

PROF SNAPE: You were, presumably, babysitting slots outside the ring fence, and that's what I'm talking about.

MR WESTAWAY: Yes, we have been, but it's our view, if we decide to use those, do we use a slot which we've been using a regional aircraft or do we utilise it in the domestic realm. That's just a commercial decision we have to make based on slots. I mean, slots aren't so much an issue outside the peaks - 7.00 to 9.30 in the morning and 4.00 to 6.30 in the evening obviously it's chockers, but outside those periods you've got more flexibility because there's slots available, because we're not reaching the cap. We aren't currently reaching the cap because the demand isn't there. As I understand it it's about five hours a day at Sydney airport now that's at maximum use, like all 80 slots are allocated and there's no room to change, and the shoulders are building up very quickly. The shoulder slots are just outside the - - -

PROF SNAPE: A lot of those slots are used by small aircraft.

MR WESTAWAY: Yes, some numbers of them. We were supportive of the Sydney airport, generally supportive of their proposal on the landing charges, because they treated regional aircraft fairly and I don't think they were being overly excessive with domestic aircraft. The charges don't go up that much for our aircraft

and I mean the international issue isn't really an issue for us, to be honest with you, and we felt there was no need for us to get involved in that debate and we're certainly not a part of what's going on at the moment with the international carriers, if you like, and Sydney Airport. It's not something we would want to enter into. We have a view obviously, but it's not something that obviously has a great deal of interest to us because we're not an international airline.

DR BYRON: In your submission you talked quite a lot about getting the right level of the right type of infrastructure investment. I was just wondering - an interpretation that occurs to me is that the current regulatory framework is basically geared towards preventing the airports from making excessive investments and you've got the opposite problem. You're trying to get them to make more investments because that's what you need as a newcomer, a growth airline.

MR WESTAWAY: Yes, I think that's a pretty good analysis. The way it's currently set up I guess doesn't encourage airports to build anything beyond what's necessary at the time.

DR BYRON: That's what I was going to say. Do you know of any cases where airports have actually been making excessive investments in infrastructure, gold-plating, and then trying to pass charges on to airlines?

MR WESTAWAY: There are a couple of airports that are a bit more - like looking out to the future. I think Canberra Airport is one that has planned ahead and I think a couple of other airports are looking at that, but I mean to be fair airports have got to see where the industry is moving as well. They're not going to build facilities unless there's a general need for airlines to utilise those facilities. So I think you're correct. That statement you made I think is generally correct. I think airports are generally just building a facility that accommodates existing and, I guess, medium-term needs rather than more longer-term needs, and I think to be fair too, I think both ourselves - I can't speak for Virgin Blue, but I think the airports have been somewhat surprised by the passenger uptake of our services. Our development has been quicker, I think, than everyone projected.

I think our passenger volumes were slow early and were, I guess, a little bit below our projections but then quickly it overtook those projections, particularly around the Olympics and post the Olympics, and through December/January, not so much February but in March, we were carrying some very strong passenger loads and it was over and above the expectations, I think, of the airports I think, to be fair, airports, such as in Sydney and Melbourne, initially played a little bit of a wait-and-see game, to see how the new entrants would fare, and they would then relook at the facilities that are there once the new entrants got established.

I mean the Compass issue - we don't like to mention that word very often, but I mean it overhung, I think, some decisions, and probably rightfully so. I think we are moving beyond that time now and whether or not there's a Virgin or an Impulse here in five or 10 years' time I think is beside the point. I think there will always be now another entrant. There will be at least another one, two, or possibly extra players, in

other routes and other markets now, I believe, no matter what occurs in the future, because I think the public are too used to it.

PROF SNAPE: You seem - I may be wrong in this - to want a higher level of airport facility than, say, Virgin Blue, appears to want.

MR WESTAWAY: Yes.

PROF SNAPE: That's because you're positioning yourself in the market differently from - - -

MR WESTAWAY: Yes, a little bit, but I think you've got to look beyond marquees and you've got to look at permanent facilities. We have a different philosophical approach to Virgin Blue, and I don't want to be critical or otherwise of their approach. They've got their own - - -

PROF SNAPE: I'm not seeking criticism.

MR WESTAWAY: No, I understand.

PROF SNAPE: I'm just seeking a different view on it.

MR WESTAWAY: Yes, we do have a different view to Virgin Blue and our view is that we want facilities that will stand the test of time, so to speak, and we want facilities, where possible, that are comparable to what the majors have, and that is that in an ideal world we would love to have aerobridge access at the major airports, in terms of Melbourne and Sydney, as we do in Brisbane. We utilise an air bridge in Brisbane. Virgin Blue choose not to. Part of the reason I understand they don't is that they like to fill both entrances of the plane, back and front, which doesn't accommodate an air bridge but, you know, we pay costs for using an air bridge in Brisbane.

We would love to use an air bridge in Sydney and Melbourne because we don't want our passengers to get wet, particularly our business passengers, which we carry a lot of on the routes that we service. So, yes, we would love to have aerobridge access in various airports, and that's ultimately where we want to be. We see ourselves as a genuine new entrant and we want to compete for business travellers and aid business travellers. I guess most passengers would much prefer to walk on an aerobridge, particularly if it's raining, than out in the rain with an umbrella.

PROF SNAPE: A quick turnaround isn't so crucial to you then?

MR WESTAWAY: Quick turnarounds?

PROF SNAPE: If you're not getting push-back, nose in and push back, then you can turnaround more quickly, can't you?

MR WESTAWAY: The way all the terminals are set up in Brisbane, Sydney and Melbourne they require push-back. You can't do a - - -

PROF SNAPE: In Brisbane?

MR WESTAWAY: Yes, Brisbane is push-back because it's off an air bridge and in Sydney it's push-back because of the restrained apron; in Melbourne it's push-back because of the restrained apron. We will be able to do a turnaround, power in-power out is the term, in Hobart, no problem. At the moment in Canberra if we put a jet in there it may require a push back because of the apron restriction. In Newcastle it's a power in-power out because there's a substantive amount of apron. Most of the other airports, such as - off the top of my head I know Gold Coast you could power in power out. Sunshine Coast you could. Most of the other airports in Australia you probably could. I don't know the latest apron layout at Adelaide but I think Adelaide would probably require some push-back. It depends on the restriction of the apron.

PROF SNAPE: It's not a big deal for you though.

MR WESTAWAY: You much prefer the power in power out if you could, obviously because you save on labour costs.

PROF SNAPE: But Virgin Blue in fact choose that at Brisbane, as I understand.

MR WESTAWAY: The power in-power out option - because they're not utilising the air bridge, yes.

PROF SNAPE: Except when it rains.

DR BYRON: Could you elaborate a little bit on your experiences dealing with both regulated and unregulated airports? I think you've probably got a particular insight there. You mentioned Maroochydore, Sunshine Coast and Gold Coast, or Hobart. Then you've got Newcastle and the New South Wales regionals that are unregulated. Is there any difficulty or any difference in the way you come to negotiated settlements about landing fees, et cetera?

MR WESTAWAY: It's much easier to deal with an unregulated airport. That has been our view because that regulatory layer that they've got to deal with just slows the process down. So it's much easier for things to occur at Newcastle Airport, for instance, partly because it's not as busy but also because it hasn't got the same sort of regulatory envelope that Melbourne airport would have. You have differences dealing between Sydney and Melbourne airports because they're a slightly different set of rules, if you like. So the answer to your question is yes, it's easier to deal with unregulated airports; not on every issue, I should say, but on general issues as a rule it's easier at least to sit down and talk. Whether or not we agree with each other is a different matter of course.

PROF SNAPE: If regulation were to continue should price caps continue, and if they do how should they be set?

MR WESTAWAY: I'm probably not the best person to answer that, to be honest with you, but I don't think there's a necessity for a price cap, as a general view. I know the airline's view is. I don't think we believe a price cap is necessary. I think that would be our general view. I'm probably not the best person to speak about it.

PROF SNAPE: No, I don't want to take you into areas that you're not confident about.

DR BYRON: Could you give us some indication as to what extent the landing fees and charges generally are a significant consideration when you're thinking about new routes, or is it simply a question of where you see a market and decent load factors? Is there any route that you wanted to fly into but decided not to because the aero charges were simply unacceptable.

MR WESTAWAY: Aero charges probably rank about 28th in a decision on whether or not to fly into a market. Seriously, it's just not an issue. At the end of the day it just really isn't an issue. The key issues are the market elasticity, if you like, market potential. Is a market under-serviced? Is it a good market to be in? What competitors are currently there? What aircraft are they flying? What sort of fares are they charging? So air charges are an issue but we actually accept what landing charges are. I mean when you come to issues like passenger terminal charges, that has some more significance.

It depends, I guess, on the route and the route dynamics, if you like; what sort of patronage that particular market has. Does it have a high business passenger content, business market potential, or is it mainly a leisure route, and what your competitors currently do on that route. Do they have a lot of capacity? Can they put a lot of excess capacity on to a route? I mean issues like the amount of seats that a competitor can throw at a market post your arrival is probably the main issue and can that market - obviously you will get a growth in passengers but can it absorb the potential competitive elements that could arrive after you do? Obviously you've got to know what the landing charges are but it's not a key issue with us, no.

PROF SNAPE: Are you comfortable with the amount of - for want of a better word - protection that you're able to get from what you were just describing, a competitor throwing extra seating on when you're contemplating or when you're opening a route? Are you comfortable with the amount of protection that you can get under the Trade Practices Act?

MR WESTAWAY: No, we're not. I guess, my comments before, we have a view about the Trade Practices Act, that it has no industry-specific element to it. It's something that we're going to be talking about a bit more in coming months. I guess we can't fight every battle at once but it's an issue that we've got a concern about. We've had a concern about that for some time, that the issue of seat capacity is the major issue facing the way that the new entrants, or any other new entrant, can compete effectively. We believe that there has been a lot of excess seat capacity put out into the market, not just by ourselves importantly but by our competitors, over and above what they would have done previous to our arrival.

You've only got to read the comments made by the chief executives of both the two major airlines in Australia in recent times, that they're going to be putting more capacity into the major domestic markets, which of course is code for, Sydney-Melbourne and Sydney-Brisbane, or Melbourne-Brisbane, or the main routes where you've got a couple of competitors snapping at their heels. It's a major issue and it's one that we acknowledge the ACCC are wrapping their head around but it's a difficult issue for them because the Act in relation to seat-capacity dumping, for want of a word - it's a tough thing to prove and it's something that we've been, I guess, working with the ACCC on for a while; just in general advice and provided information for them when they've requested it. We do know they're looking at the issue.

For instance, we did make an official complaint against Qantas last year when they, we believe, did place capacity onto the Newcastle-Melbourne regional direct route, which we used to fly. We believed in our submission, and we do know - we felt that there was in excess of a 300 per cent increase in seat capacity over a 365-day period. We felt that was the amount of extra seats they were throwing into the market, plus some fairly major price competition, which we obviously were competing strongly against, but that amount of seat capacity we just couldn't compete against, and we took that as an official complaint to the Commission.

Subsequently it was not found that it could be taken any further and we felt it should have been, obviously, but Qantas had obviously some good answers to their questions, but we felt it was a fairly clear-cut example of a fairly excessive amount of seat capacity put into a market and the Act couldn't really define whether or not there was any anti-competitive behaviour or not because of a number of different things, I guess we've seen that in our dialogue that we've had with the Commission and other government instrumentalities, that it's difficult to wrap your head around. It's a complex issue of what's illegitimate and what's not an illegitimate market reaction, or anti-competitive reaction, should I say, by one of the major airlines. They're entitled to compete; we don't disagree with that - but capacity is an issue that needs to be looked at more closely.

PROF SNAPE: Yes, there's a very difficult area there.

MR WESTAWAY: I mean something like what's occurring in the United States, that type of legislation, is something that we would love to have seen occur in Australia. We think that is a step in the right direction and it provides a good competitive environment but at the same time provides some sort of protection to the new entrants, to at least have a sustainable competitive market.

PROF SNAPE: Perhaps just while Neil is thinking - you said that airport charges and aeronautical charges came 28th on your list of factors.

MR WESTAWAY: Maybe 27th but it's a fairly low priority, yes.

PROF SNAPE: That would suggest that there could be very substantial increases

in aeronautical charges before it would affect any decision that you made.

MR WESTAWAY: That's probably true, if you want a direct answer to that. I think Australia has fairly low aeronautical charges by world standard. I've read that in numerous documents and I believe that to be the truth, so I don't think it's the number 1 issue. Infrastructure and those other issues I talked about are of far more significance: where we can park planes and can we put our passengers in airconditioned shelter large enough to accommodate them. That is a far more important issue presently than what the landing charge is.

PROF SNAPE: So what we are saying, I guess, is that there could be very substantial increases and it would have no real effects, in the sense of efficiency effects. It would only mean that it was their dollar instead of your dollar.

MR WESTAWAY: There are different gradients of how much is very substantial but you could wear an increase, yes. I don't want to put a figure of how much increase you want to wear, but I think we're fairly satisfied with where the landing charges are now in their levels. If they have to go up over time, then they have to go up over time, but they would have to go up a lot, I guess, before they would really hurt your bottom line. Obviously no-one likes to see things go up but it's - - -

PROF SNAPE: It's not just your bottom line, it's your behaviour.

MR WESTAWAY: Our behaviour. Yes, it's not really the issue because at the end of the day the landing charges are not the major cost to your business. It's a very small minimal cost in terms of your total package of going into a port.

DR BYRON: As long as the route is still profitable and as long as the customers want to go by air.

MR WESTAWAY: Exactly. It's the market dynamics of the route and the size of the route and the potential competitive reaction which you factor in and what sort of product you're putting into the market. The market dynamics, if you like, and market forces, are the issues that you need in developing your network further and how it impacts on your business and your route network and so forth. It's not landing charges at a particular airport.

DR BYRON: Although we have been concentrating on landing charges which relate to the airports and whether they have monopoly power, a few submissions have raised the question of the charges that are levied by Air Services Australia, which particularly for the smaller airports seem to be sometimes even more than the charges that the airport levies for landings. Is that also in the same sort of category that everybody has to wear them and you pay them as long as it's worth going?

MR WESTAWAY: Again it's not a major concern. They're all bundled up costs at the end of the day, and you bundle them in as your basket of costs, if you like, that you need to absorb, but it's not the be all and end all of looking at a new port. We have got a background of flying into regional airports and servicing routes as low as 2500 to 3000 passengers a year, so we're used to these sort of issues and we

understand that, and obviously there is a need to pay some sort of charge. Again, it's not a first order issue. It's not to say that if they were excessively increased that it may not become an issue, particularly on servicing a marginal regional service, but overall it's not a mainstream issue, in particular not for our domestic operation. I don't think it's a key issue.

DR BYRON: But for the smaller regional airports the landing fees per person can actually be quite large, can't they?

MR WESTAWAY: Mainly it's the terminal charges actually. Some of the regional airports have terminal charges which are much higher than they would be in a major capital city.

PROF SNAPE: I guess we're really referring to the terminal charges.

DR BYRON: Sorry, the terminal charges.

MR WESTAWAY: The terminal charges. That's a different issue. Yes, the terminal charges do vary from time to time but I think again it's just a matter of sitting down and negotiating with the airport. If you think that the airport are getting too great a take, sit down and talk about it. I guess you've got to sell your case a little bit. There's a need for and a need to maintain a decent standard of regional terminal, and I think again it's just building up a landlord and tenant relationship. There is also greater choice out in regional routes now with deregulation, so you can pick and choose a little bit. I won't say a passenger charge at a regional airport is the deciding factor but it is a factor.

In relation to the question, charges on regional aviation have more of an impact than they do on the domestic side. I think that's a view that we would want to have on the record. Again it's still a reasonably marginal cost, it's not overly excessive, although we believe in some airports we're probably paying a little bit too much. But we want to service the route too and it's not going to stop us from flying there tomorrow.

DR BYRON: So basically you have a normal commercial relationship between the airline and the airport but with a possible arbitrator or adjudicator in the background that would come in only if absolutely necessary, if something got wildly out of kilter.

MR WESTAWAY: I think if you came up with something workable like that, that just kept the regulator out of small issues - we're talking about a major airport terminal development. I mean major. We're not talking about an addition of a bit of apron or the addition of a couple of gates but we're talking of something major. Obviously the facility over at Adelaide Airport is a major facility which has major commercial implications on aircraft going in there. I guess there is perhaps room for someone in the back corner keeping an eye on things. But to get things done and to get things moving, I think if an airline can come to grips and settle with an airport owner on something that isn't going to overly impinge on that airline doing what it wants to do, get down to business and do it, and just move the process forward because you have to make decisions. This binding of the process just bogs things

down.

I keep coming back to the Melbourne Airport case but it is an important case in point. The process probably stopped us going into that new terminal three to four months post when we should have been there. That had a commercial impact on us at the end of the day. It's history now but we could have really struck competitively even harder during those early periods than what we did, and then of course we had to convince all our passengers that we had a new facility. This did cause some confusion. That facility in the early days is something we had to live with it because we wanted to crack into that Sydney to Melbourne market, but we wanted a larger facility to ultimately go to. We wanted it sooner rather than later and we all planned around being in there before the Olympic Games. Of course we didn't get in there until December, and I think that had an impact on our operation.

PROF SNAPE: I think I have got through my list. Is there anything further you'd like to say?

MR WESTAWAY: No, I don't think so.

PROF SNAPE: Thank you very much for that, Mr Westaway and to Impulse. It was a very helpful submission - short but helpful, and we had a very helpful discussion. At the beginning of today's proceedings I said that at the end of the day I would invite any people present who wished to make an unscheduled presentation to do so if they wished. We don't have any takers. We do have an audience, however, which is more than could be said for when I said it at the beginning of the day. So we thank you very much for your participation and we will now close today's hearings. The hearings will be resumed in Melbourne next Monday.

AT 5.09 PM THE INQUIRY WAS ADJOURNED UNTIL
MONDAY, 2 APRIL 2001

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