



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

INQUIRY INTO INTERNATIONAL AIR SERVICES

**PROF R.H. SNAPE, Presiding Commissioner
MRS H. OWENS, Commissioner**

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON WEDNESDAY, 22 JULY 1998, AT 1.35 PM

PROF SNAPE: Welcome to the hearings on the draft report on international air services, the draft report of the Productivity Commission. There will be further hearings next week in Melbourne. All the hearings as it's turning out are being held in Melbourne. Thank you for your cooperation in coming to Melbourne rather than insisting on being the only ones in Sydney. We will be resuming in Melbourne next Tuesday and be continuing on Wednesday. This, as you will have noticed, is a draft report of the Productivity Commission. This inquiry started under the auspices of the Industry Commission. Of course the legislation has been passed to create the Productivity Commission in the interim. You will see that the transitional arrangements which really do not have much effect on any procedures, that there are transitional arrangements outlined in chapter 1. It's basically that the Productivity Commission continues as the Industry Commission started off.

There are some provisions with respect to modelling that are in the Productivity Commission Act that weren't in the Industry Commission Act but anticipating them we took those into account in setting things up anyway. So as you know, you know our procedures, that we like to make things informal, but we do have to ask participants to identify themselves and their organisation so that the court reporter can identify the voices on tape. You know the reason that we tape it and we try to be as accurate as possible and so we can refer back to the transcript and so that other people may refer to the transcript as part of the transparency of our procedures.

We would ask again that if you're uncertain about anything, that you tell us, and then find out the accuracy, if you can get back to tell us so that the transcript can be accurate. Transcripts of today's proceedings will be provided to participants of today's hearings and if anyone else wants a copy they should contact the staff, many of whom are present here, and they will be pleased to assist you. We have met before but I remind you that Helen Owens is the commissioner with me on this. I now ask you to identify yourselves and then go on from there.

MR HARRIS: I'm Peter Harris. I'm the executive coordinator, aviation, in the Department of Transport and Regional Development. I have with me on my left Tony Wheelens who is the head of the international relations branch and our prime negotiator in international aviation issues, and Daryl Quinlivan on my right.

PROF SNAPE: I'm sorry, Peter, we do need the voices for the court recorder.

MR WHEELENS: Tony Wheelens, Department of Transport and Regional Development.

MR QUINLIVAN: Daryl Quinlivan, Department of Transport and Regional Development.

MR STAMFORD: And Chris Stamford, Department of Transport and Regional Development.

PROF SNAPE: Thank you. We thank you very much for your comments which you have provided in written form. We have tried to digest them. I know the time is short for you and I know the time is short for us to digest them but we have read through, and obviously we will need to reflect rather more on the written comments. Thank you very much for them, but also for the very valuable additional information which you have given us in those comments. Obviously you feel that our chapter 5 in particular doesn't give enough attention to the liberalisation which the department and government has championed in recent years.

I think that chapters 3 and 4 do acknowledge this liberalisation and they endorse the changes. Like any report I think it needs to be read as a whole, but of course this is a draft report and we shall be taking into account the points you make and we may be back in touch with you on some things, and particularly the sixth freedom that you mentioned quite a bit. Peter, I would invite you now to - or whoever is going to speak to it.

MR HARRIS: Okay, thank you very much. I think as you have noted, we felt that the nature of the draft that was provided, particularly in terms of chapter 5, and didn't provide a balanced treatment of the way policy has evolved. Of course, we can find in the report as we did, particular elements of it that support both the recommendations that the draft report puts forward, and necessarily linking those to policy as it has developed. However, viewed as a whole, my impression from the way the report was drafted was it left quite a clear impression, particularly from chapter 5, that the commission had found itself dealing with a dead-hand regulation regime.

We don't believe that that's the case. As we make a statement in our general comments, obviously our perception of how we manage our policy very much is coloured by our own experiences. The commission is here as an independent reviewer and will come to its own conclusions, but we believe that, and we have tried to present some additional evidence here, to support the contention that there has been quite a substantial effort towards liberalisation, and that the direction in which the commission wishes to go with its recommendations in our opinion could be as well-based on an extension of existing policy as it is on a criticism of the policy.

That's the degree of balance or the degree of presentation that obviously the commission itself will want to come to terms with and we provide our views for what they're worth. We did a listing, particularly on the second page of our submission, of the points that we thought could, as a collective, support the case that there has been quite a substantial liberalised regime in aviation. I think one of the clearest perceptions that came across to me in reading the draft report was that a less well-informed reader than people integrally involved in this process, could readily take the perception that Australia has not been at the forefront of liberalisation.

Now, we are not claiming to be the United States, and I think we made that clear in our first submission, nor are we claiming to be NewZealand, but we do claim to have run quite a substantial liberalisation process, and we think that the points that have been listed there on the second page as a collective certainly make a quite clear

case that Australia has pushed quite strongly for pro-competitive change in an environment in which we acknowledge of course that we haven't gone to open skies.

I think the strategic points that we make on the third and fourth pages of our submission are also quite important. We think that, presuming that the existence and the continuation of bilateralism is acknowledged, then by definition the Commonwealth and its representatives, the government, as long as it is a negotiator and will be a negotiator because of the nature of bilateralism and the source of bilateralism, is therefore in a negotiating strategic mode. We need to develop therefore a balance of competitive advantage in order to maximise the national interest, and judgments necessarily are made on a market-by-market basis. As a result of that a simple comparison of the degree of capacity that might be available in a particular market set of circumstances is a fairly simplistic and superficial comparison.

The way we see it is pretty much, as we will deal later when we look at the table at 4.2, that comparing the availability of capacity between a point in Australia and a point in a particular bilateral partner's home country, is not a sufficient mechanism for comparing there is already a competitiveness that might exist on those particular routes, and we note in our submission that the Australian Competition and Consumer Commission has accepted this as being quite a substantial document in support of the competitiveness on particular routes; that a concentration simply on the supply of capacity on a third, fourth basis, between two points, is an insufficient basis for determining the degree of competitiveness.

We note, and we obviously recognise that there's a degree of exposure to criticism in this under our comments on strategy, that we manage our negotiations in quite a different way between different sets of markets. We point out in this second submission that on the mature highly competitive routes we would tend to favour the least possible restrictions on capacity and routes, but in more fragile markets, and I might say we use the South American example here, but it could equally apply to markets related to regional points in Australia, we tend to try and take some cognisance of the importance of the degree of development which actually applies in those routes.

We believe that to date the government has supported us in doing this. However, there will always be the capacity to make different judgments than those made by the negotiators at the particular point in time. We don't make this point about strategies in relation to more fragile markets because we expect endorsement of this as an overall policy approach, but nevertheless we make the point more to try and assert that in our view there is a need for strategic considerations to be taken into account in any bilateral negotiating arrangement.

Quite a substantial point we would make in our submission here, and I think I will get Chris Stamford to talk to this a little further, is the focus on supply side in the report. In particular, the focus that's given to what we consider to be quite a key table which is that at 4.2. Maybe, Chris, if you would like to possibly address this.

MR STAMFORD: Yes.

MR HARRIS: We have an alternative proposition to put in front of you.

MR STAMFORD: Yes, thanks, Peter. As requested by the Productivity Commission, we are in the process of updating annexe E to the draft report. As an exercise in doing that we have reworked table 4.2. You will find that in attachment A to the response we provided to you earlier today. I would just like to point out that this particular version of 4.2 shows the picture about capacity as of 30 June. We have taken the liberty of weighting it for market size, and we have also included New Zealand and the United States in the analysis. New Zealand, our major market, and United States, our fourth largest market, were covered in the footnotes but not in the substance of the initial 4.2.

This table shows that even if as the Productivity Commission has done on page 72 of the draft report, you make the assumption that the fifth and sixth freedom capacity has no effect on market access. It shows that as of 30 June in fact there were no OD capacity constraints of note other than for Hong Kong and for Italy covering the top 80 per cent of all traffic operated between Australia and other markets. I also note that of the 18 remaining active ASAs that are covered in this report, they cover less than 12 per cent of the total traffic. I also observe that Zimbabwe, Mauritius, and Argentina don't feature on this table.

The conclusion we would like to draw from this is that you must add the department's comments on fifth and sixth freedom traffic and this particular analysis drawn on capacity available at 30 June before you make an analysis based on the assumption of capacity constraints. Thanks, Peter.

MR WHEELER: Can I just add to that, Richard, in terms of the point which you made earlier on about a need for a discussion on sixth freedom, we can very usefully add to the information that's in this table by dissecting it on a fifth and sixth freedom basis. It's quite instructive when you look at that break-up. So when we get to talk further about this issue, that's where we will focus on the sixth freedom.

PROF SNAPE: Thank you.

MR HARRIS: That's basically the opening comments we thought we would make. The specific comments we would make on a chapter-by-chapter basis if there are particular ones that you would like us to explain further, there are one or two that obviously we feel quite strongly about but I'm sure you will detect that from the nature of the language that surrounds them.

PROF SNAPE: Yes, we did actually.

MR HARRIS: Perhaps one point before we - we're certainly happy to answer any questions you have got but one in particular I would like to draw some attention to is this criticism that has been made in the report of the degree to which we are going to

require, or we do require consumer protection mechanisms for people involved in purchasing seats on charter flights. We're very surprised that the moral hazard argument has not been addressed at all in the sense that the government is particularly licensing these entities to provide services, and that any advertisements that they place in the newspapers, they say approved by the Australian government or approval pending.

We believe that general competition laws are not really sufficient to address that situation given that people are trying to claim in their marketing of their services that the government has in some sense vetted them. Our way of dealing with this is not so much to spend time vetting their viability, although as you will separately note, the IASC does do that for scheduled carriers, but in our case it's to require that people provide some form of consumer protection either by retaining the funds for the possibility of bringing consumers home should an airline collapse, or alternatively requiring mandatory insurance arrangements.

We don't consider that this is a severe cost impediment at all. In fact, we consider it to be a logical and reasonable part of being given the ability to operate in a necessarily constrained market. I think certainly it's quite reasonable to argue that we shouldn't have such constraints should we be in an open market where general competition laws apply, but as long as the government and this department is involved in implicitly designating somebody to be an acceptable carrier, I think we certainly would like to see that remain.

PROF SNAPE: Just focusing on that before on more general questions, I suppose there are other ways of skinning a cat. If we're talking about scheduled services, that is, using capacity that has been obtained, then one thing that we do suggest is that it could be a bond, as in the charter area, and if we've got that in there, if my memory serves me correctly. But also the other way of approach could be simply to insist on a denial of government approval in advertising. That is, if one is worried about them using some sort of apparent government endorsement, then I guess the policy there is to attack that question directly.

MR HARRIS: I do not encourage the people in the international relations branch to scrutinise the newspapers looking for these advertisements, even though that has in history been something that was done in a branch. People would look through for those sorts of things and follow them up where they needed to. The reason for that is it doesn't seem to me to be a terribly productive use of what is quite a limited resource. We would very much rather that people in this area, not so much in the scheduled carrier area but obviously in this point in relation to charters, were required to ensure that consumers were protected. We consider there is quite an exposure here because of the freedom that actually exists between Australia and New Zealand for Australian consumers to be exported. We know that New Zealand takes no interest in this and we feel substantially exposed by it.

PROF SNAPE: I take the point, and we can think about that more. But, speaking about the comments generally, I take it that where you've made no comment on any of our draft recommendations you agree with them?

MR HARRIS: We're certainly quite supportive of the direction in which the commission is going but we're, as you'll appreciate from public comments that have been made to date already, necessarily somewhat cautious in our endorsement of particular recommendations. What we've tried to do is ensure that when the commission comes to its final report there isn't anything that we can't say in there, we weren't given the opportunity to critique or respond to. In other words, we certainly wouldn't be advising the government that a recommendation was unsound because it didn't have this factor having been considered in it, or that factor or whatever. That's been our approach.

I don't think though that we have - or I can actually more positively or more directly say we have eschewed the option of endorsing particular recommendations because we believe that we'll be in a position of having to advise the government on their implementation. That's put us in a somewhat invidious position in relation to our own minister. But, as I think I said at the outset, the thrust and direction of where the commission is going is not something that we're uncomfortable with.

PROF SNAPE: Taking that, of course, it puts us in a difficult position if, having put out a draft report for comment and there are disagreements with particular parts of it on which the department will be advising the minister, they are held back.

MR HARRIS: I don't think we're in that position. I can advise you that that's not the case. I'm not sitting having privately advised against particular recommendations. We're merely seeing ourselves as being in a position of having to advise the government on the implementation of these, and we don't believe that we can, as it were, publicly take a position on them, potentially given that the government may be depending on us to subsequently implement something different.

MR QUINLIVANS: And I don't think we left any gaps in our initial submission or initial evidence to the commission that would leave you in any doubt about our views on the more important recommendations.

PROF SNAPE: Thank you. I wonder if I could turn to a point which is raised on page 3 and again on page 10. A statement in the middle of page 3 is the statement that, "On the mature highly competitive routes to Europe, New Zealand, the US and South-East Asia we favour the least possible restrictions on capacity and routes," and there's a similar statement on page 10. That would then leave me to think that that would mean that you would favour recommendations of bilateral open skies, interpreted in the way that we've interpreted "open skies" - it's an ambiguous concept of course, but the way that we have done it, in other words, our major package of recommendations, a liberalisation of recommendations - on those routes because that would in fact be the least possible restriction on capacity and routes.

MR HARRIS: Obviously I'm not trying to avoid the point that you're making, but a lot rides on what you consider to be possible in these sets of circumstances. When you put together a negotiating strategy you are balancing a range of interests, and that's definitionally what happens when the department goes out with a particular position in informal discussion with interested parties and then goes to the minister. There are at least those informed parties and the minister at minimum who will influence necessarily what the department is then able to take in as a negotiating strategy. But in terms of the proposition that you have put forward on open skies, we clearly are acting under a government policy position which dates from the last election, and that therefore determines what we consider to be right now the least possible restrictions. Obviously if the government policy was to change we would be seeking to implement that policy position.

MRS OWENS: Can you explain why the government has an objection to open skies? I mean, why is it in New Zealand's interest to pursue open skies policies and not in Australia's interest to pursue them? Can you just give us a bit of background?

MR HARRIS: I can only offer you my opinion, and I think probably opinions diverge between even the four of us sitting here at the table, and I guess the New Zealanders are the ones best able to speak on their own behalf. But, for better or for worse, my view is that New Zealand has a very limited negotiating leverage and therefore is in a sense no worse off under open skies than it would be under any strategy, and pretty much that seems to be - again, my limited perspective on what New Zealand has done in international aviation - reflected in their outcomes, that where they can they'll have open skies; where they can't they'll have something else. There are a limited number of open skies opportunities, but they are no worse off in their assessment under that strategy than they would be under any other bilateral strategy.

In my opinion Australia does have more negotiating leverage but still quite limited, as I think we've made clear in our earlier statements. Therefore the question in relation to open skies is, obviously where there is no alternative likely to provide a better form of national advantage then we should go in that direction. That would be my personal opinion, and I think that's what pretty much is the New Zealand view as well. They have very limited opportunities; we have slightly more opportunities.

MRS OWENS: Peter, there are other countries that have entered into open skies agreements. I mean, the obvious one is the United States, which has obviously got huge negotiating clout, and there are other countries that have entered into open skies agreements both with the United States and with New Zealand that are also in the position of having significant negotiating clout, like Singapore.

MR HARRIS: I'd see them as being two ends of the spectrum: you would do it if there was no alternative strategy. No-one could come up with a better way of negotiating, therefore why not have an open market. In the case of the US, as we tried to make clear in our first submission, a substantially different rationale for why they do it: it gives them very much a clear advantage if they have the world's largest

internally-protected aviation market to compete from, plus they have very powerful and well-resourced carriers, because the ownership control restrictions don't really affect them so much, to retain bilateral open skies - or retain all the advantages of bilateralism and at the same time take all the advantages out of open skies.

Bilateralism says to smaller countries, "The ownership and control restrictions, as you've noted, restrict your access to capital. It certainly puts you in the position of having to join our alliances if we want you to." Generally speaking, they're not terribly helpful to smaller countries. The US, the largest market and the protected domestic market available to them, gets a substantial advantage out of having a free but quite bilateral arrangement. I think if you were comparing multilateral open skies, New Zealand, Brunei, other small countries, would be in exactly the same position as they are now: "Why not take advantage of it? We don't have any negotiating clout." But the US, I suspect, would have a substantial amount of lose in such a set of circumstances, because people would be free to fly where they want to fly and they don't have to do it with the cooperation and support of a US carrier and they would have access to commercial funds without the ownership and control restrictions.

PROF SNAPE: Indeed, we do make the point in a sentence which I think we may well want to amplify, and I was going to ask you if you would react to it. You may or may not have noticed the sentence, but it was to the effect that the bilateral open skies agreements which the United States has negotiated - 28 or 29 or whatever it is now - in fact, they get all the advantages, they get all the networking options in the whole system of 29 countries involved, including themselves. No other country has that same networking thing and so they have an incentive in fact - their airlines anyway would have an incentive - to resist a multilateral system because they not only have all that they would get from a multilateral but they've got an extra bit because other people don't have the same advantages as they do.

MR HARRIS: Quite right.

PROF SNAPE: We have that in, as I say. I gather from your reaction you agree with that point, and you may wish to elaborate it a bit more.

MR HARRIS: Multilateralism will be difficult to sell, the more successful the US is at developing all the advantages for it that it can obtain under either system through bilateral systems. I mean, Europe is a very good example here, and the recent strategic efforts I think by Europe to claw back some negotiating advantage with the US support that. The position that European countries are in, having entered into bilateral open skies arrangements with the US but only able to liberalise between each other on the basis of a European market, still means they are quite limited. That's not because the European market is in any sense less commercially attractive; it simply means that to take the ownership and control, which I think we said in our first submission is really the whole heart of this - bilateralism depends on ownership and control for its substance or for the most substantial part of existence - those carriers can't move outside Europe without having someone potentially question are they

really carriers of Germany, for example, on a bilateral basis if they are in fact owned by British interests, to take a particular example.

PROF SNAPE: If one is negotiating ahead of demand, capacity ahead of actual demand, which is the policy that you've been adopting, then I would have thought that to be credible in a negotiating strategy there would have to be a threat that that capacity was going to be binding, that you weren't going to be negotiating ahead of actual demand. I mean, if you're always negotiating ahead of demand it's not binding.

MR WHEELENS: That's one of the things that's made life a little more difficult for us in terms of using the whole pool of assets that come out of this process. It's the leverage that we need to enter particular markets but it's a question of balance at the end of the day. It reflects in part the national interest considerations that are given to the process and keeping capacity in front of demand so that capacity of itself is not restricting growth in the market or the availability of capacity is not restricting growth. It does limit in part, in some of our more important markets, our ability to extract other rights. We've been quite successful at doing that, and I think that the hard work that was put in several years ago to creating the platform that we have today, where life was a lot tougher on capacity issues, has paid dividends and we're reaping the rewards of that today.

MR HARRIS: I think I can probably supplement that by saying it certainly has been a problem, as Tony said, in particular markets, but there is also quite an important perception difference between the big banner of open skies - you're exposed to a ruthless predator from Australia - this is viewed from a foreign country's point of view; a ruthless Australian predator - with no protection from your home government that you've been used to, versus something which says, "Well, yes, there are 10 more 747 units this year and five more next year and five the year after, but at least that's an apparently manageable number."

I don't pretend to argue that that's the sole reason why we can do these things but I believe it's an important contributor. Certainly in a couple of markets where you might well look at the size and capacity added and say, "Well, that's very, very large, surely they would have no problem with open skies," it would be our view that those countries would in fact have a problem with it because of the difficulty of selling it to their home country carrier.

MRS OWENS: I'm still very puzzled about why it's not in the national interest, Australia's national interest. When you think about Australia's national interest as being broader than airline interest, why it's not in Australia's national interest not to have open skies. I am afraid I just don't understand why we aren't going down that track. You said that there was - your negotiating position is based partly on bringing together the views of other departments and so on. Now, there are other departments, and you know which ones they are, that I would have presumed that open skies was a very favourable sort of - it would be favourable to their interests such as tourism. I still can't understand why this is such a problem for Australia. Can you explain it clearly?

MR HARRIS: It very much depends on the individual market. Remember, it comes back to this emphasis on bilateralism. The tourism people would need to speak for themselves, but we know from our own contacts with the States that there are particular interests in tourism that there is in the States, which we would say we are singularly disadvantaged by removing all restrictions. We do like the idea that some carriers are required to serve on a particular route, Darwin and Adelaide; that it is not a Sydney or the bush strategy. We, in the transport area, are not necessarily - - -

PROF SNAPE: That was the first draft of the sentence but we actually changed it.

MR HARRIS: We can certainly understand. It's a very hard thing to sell to people because in my opinion quite a number of parts of the tourism lobby want to have their cake and eat it too. Yes, we would like complete unrestricted capacity but do make sure it goes to fill in the blank, Cairns, Darwin, wherever. You can't do both. There is a natural conflict there. You say to people, "You can go where you like," and the most attractive market in Australia and the one that's easiest to serve is to fly to Sydney and do everything else via a code sharing on Australian and domestic airlines, then you will do that, and we can't make sure that a carrier will then serve Darwin or Adelaide or Cairns or Perth. That's not to say that under an open sky strategy some carriers may choose to fly more to Perth or Darwin or Adelaide.

MRS OWENS: We'll never know, will we?

MR HARRIS: It's a market-by-market basis.

MRS OWENS: But we'll never know.

MR HARRIS: We will if we're offering the ability for people to deregulate routes and therefore choose which points, without necessarily saying, "It's open capacity," and we do that when we go into these discussions. We offer them substantial capacity enhancements on the designated routes. We don't necessarily get 100 per cent agreement to that. I mean, it's very hard for me to expose to you what are confidential discussions but we have gone in to discussions offering next to no restrictions to a particular country which is one where you, I think, might characterise it as being certainly interested in open skies, and found ourselves facing a, "Well, we don't want that. We only want the large capacity increase, thanks very much. We do like the fact that there are restrictions."

PROF SNAPE: They didn't want it, but does that mean they wouldn't knock it back?

MR HARRIS: No. It meant that we were sitting there saying, "Well, if we can't have the whole package then what's the smaller package?" and they were saying, "Just this over here, thanks very much."

PROF SNAPE: Were they knocking back the bigger package or just saying that they weren't interested in parts of it?

MR HARRIS: Well, they, as always, negotiate the position of their perspective, their national interests, and what best serves it. Voracious Australian carriers competing in their third country markets may not be at the top of their list. The alliances that are being formed around Australian carriers put them in an extremely powerful position relative to airlines in the region who are nowhere near as progressive in these areas as Australia is. I think it's equally important to keep open skies in some perspective.

In a community of about 8000 international treaties and arrangements, less than a hundred have been concluded on open skies agreements. The other point, just to pick up Helen's point about, "We'll never know," I think there is a large - in the evidence that we have already provided, every gateway point in Australia has a very large number of foreign airlines that have access to it already - Townsville, Cairns. I mean, there are well over 50 international airlines. The judgments that those airlines take to serve those points are purely commercial. The opportunity exists already for them so it gives us some guidance about the attractiveness of those individual destinations in an open regime.

MRS OWENS: If that's the case, why not go to an open regime? You have got nothing to lose.

MR HARRIS: Well, that opens up the rest of the discussion about strategy and balance of opportunity and where we are in the process. In a continuum, we are at a particular point in that continuum. I think we have all got a fairly clear view of where it will end. It's a question of making the transition and what you sacrifice in the transitional phase.

PROF SNAPE: I guess the point is that something which appears to have no negotiating coin attached to it but may be potentially of some benefit, we may as well give up.

MR WHEELANS: I think just to stay on the first point, there is a very large number of airlines who have the opportunity and who are not taking that opportunity - was simply to make an observation on Helen's original point.

MR HARRIS: I don't think we would disagree that there will be some markets, were we not faced with the restriction that current government policy does impose, where you could say, "Why not give it up?" And that will be a debate that would be had necessarily in developing a negotiating strategy. All we can say to you right now is that debate doesn't occur because we have quite clear policy instructions and we work to what the government says. However, I would not wish to leave the commission with the impression that simply by saying this market viewed from Australia is demonstrably going to be interested in open skies because it has done an agreement with the US is an accurate one.

PROF SNAPE: Right.

MRS OWENS: What if they have done an agreement with New Zealand, like Malaysia or Singapore?

MR HARRIS: They will do what they consider to be in their national advantage and not simply altruistic competitors. They do see this as being singularly a judgment based on the degree to which an Australian carrier could take advantage of this as much as the degree to which they could take advantage of it. It was a salutary lesson to me coming into aviation from an outside perspective to find that substantial countries within our region who have very important airlines, nevertheless view our airlines as being deadly and difficult competitors, and therefore may not wish to see them advantaged by this, regardless of the fact that our airlines may or may not also want to have such a policy option available to them.

PROF SNAPE: I wonder if you would like to react to the policy which the UK announced last week with respect to - that with the exception of Heathrow and Gatwick, that open access should be offered to all our bilateral air service partners as long as UK airlines are also allowed to operate on the same routes. Do you think that that would be a policy that could be attractive to Australia?

MR HARRIS: I could understand why every country would potentially examine those of its points which were secondary markets and say, "Why not free up the restrictions on them?" That is pretty much something that I think the commission has looked at. I would note in the case of the UK, just as other countries would note if we went overseas with this policy option ourselves, they would say, "So what you're suggesting is I get no restrictions on Adelaide to Alice Springs and Darwin. Your carriers therefore are free to fly to as much as they like from them to my primary point."

In other words, it's this exchange of points perception, which I might say Australia doesn't - you know, we don't run this "my best point for your best point" strategy which is an area I think we have identified at a couple of points in the comments that I think were made to the commission rather than the commission's own statements. But nevertheless, that is a standard part of negotiating strategy which we will encounter overseas; that if you offer up a set of points people will say in response to you, "So you're offering me your secondary points, unrestricted access, in return for unrestricted access to my primary point or points, my best markets," and the implication of them saying it is not that they will reject it necessarily but they're saying, "You offered me something valueless and I'm meant to give you something valuable."

This is the heart of the way negotiations are actually conducted, as you would appreciate, to make us look like we're offering something of no value at all, then having to give up something quite significant. So then attached to that will be - so if I am to accept this liberalising strategy from Australia, what can you offer me on

capacity, what can you offer me on Sydney, what can you offer me on - in other words, you must pay me to take this generous offer that you're pretending to put on the table.

PROF SNAPE: You will get the same reception if it was all airports except Sydney?

MR HARRIS: I think that's probably where the negotiators would head if they were going down, in other words if they were reducing the liberalising path, whereas I tend to try and say to the guys, "Try and expand it," rather than them reduce it. Now, we can't necessarily get that accepted. I am not trying to pretend that we're in constant liberalising mode because in some markets obviously that's simply not the case, depending on who we're dealing with.

PROF SNAPE: As I interpret that, you're saying that from our perspective you were trying to quote attractive - that you may not get a good reception abroad.

MR HARRIS: That's the sort of position I think we're in. That doesn't mean to say we're rejecting it. It potentially is quite a valuable way of dealing with this issue. We would, in implementing such an arrangement, want to take close note of what the particular state authorities who are involved in those particular markets thought in the particular market we were all about to offer it. In other words, if I did what the UK has done - well, I think they have done - which is write to everybody and say, "You can just have these points as long as you, you know, give those points access on an unrestricted basis across all your markets," I think particular states might well have something to say to us about whether they want to see themselves sacrificed, as it were, in that sense.

PROF SNAPE: The statement said "as long as the UK airlines are allowed to operate on the same routes", which of course may mean that it was - - -

MR HARRIS: Like for like, yes, it could mean that, but it depends on the degree to which you think that has actually liberalised anything or whether it's just a bit of a charade, and you would rather use it for a liberalising purpose than a charade.

MRS OWENS: But I think somewhere in your submission you say, "We're not really doing like for like. We're not doing it on a one-for-one thing."

MR HARRIS: We're not.

MRS OWENS: I mean, given that we don't go that way anyway, I mean, we could as we suggested in our report, unilaterally just give it away, if it's valueless give it away.

MR HARRIS: Our view, I think I just said, on this in principle, given what I have said about the government requiring us to implement something, that I don't want to therefore reduce our credibility in their eyes by saying, "I think this," but I mean, our

only really serious query in relation to this would be the views of the particular states in the particular market, and we would like to know what those were. As long as we're doing it on a bilateral basis some states will have substantial sensitivities with them being liberalised. You know, the fear might be that, well, Adelaide might lose a service if - if you're offering a free package of Perth, Adelaide, Darwin, Alice Springs, Townsville, Cairns, that Adelaide or Alice Springs or somebody might lose a service to Cairns or Perth. It's that - - -

MRS OWENS: I suppose we will get submissions from the states that will give some views, you know, which we can feed into our final report. I mean, you will get some indication of where the states are sitting on this issue.

MR WHEELER: There will be a couple of markets, certainly in regional Australia, where, as our intelligence would indicate, that the states may well have a view that they have the optimum mix of airlines there at the moment. In a couple of those cases the foreign carriers that serve that particular destination operate to very substantial hubs in South-East Asia. Additional carriers in that market may destabilise the commitment that those hub carriers have made to that destination, so you will give a range of use, I suspect, on whether too much liberalisation in some of those regional markets may in fact come at a cost.

PROF SNAPE: I think that raises a point of which we both have a little bit of difficulty following the argument. It was one in which Chris alluded to before, I think, was when you took it up, and that was on page 3; to do with South America which was used as the illustration. The term was used, "careful not to saturate the market with capacity but to encourage commercial arrangements to evolve." I had a problem with the logic there and wondered how it was that this careful nurturing managed to get routes up or services up which would not have occurred if there'd been a more liberal approach.

MR HARRIS: Classic example of a thin route where, if many carriers are able to enter and depart at will, no carrier may spend the time and effort developing it. The demand base is small, needs to be drawn from potentially all over South America to justify a service between Australia, New Zealand and South America, and therefore only if a carrier or a small number of carriers believe that they can generate and hub all that demand, can they justify the commitment of resources to fly a long haul route like that to and from Australia and potentially beyond.

PROF SNAPE: That leads me to say to think in terms that maybe that leads you to code share on the two and that, so long as it's not being anticompetitive etcetera etcetera, that you -

MR HARRIS: Yes.

PROF SNAPE: But doesn't need nurturing. That just needs - - -

MR HARRIS: Code sharing is often denied by other countries when we approach them.

PROF SNAPE: Yes, but our thrust, as you know very well, has been to go to a sort of liberalisation within the bilateral system and in fact make code sharing pretty liberal and to allow it very much. That doesn't seem to me to be very much nurturing. Nurturing to me tends to mean keeping the competition at bay rather than just assisting or allowing sensible commercial arrangements.

MR WHEELNS: I think it's important to look very carefully at the South American market. It produces about 600 passengers a week, which is nothing in contemporary terms. We have at least six international airlines actively participating in that market - the US carriers, Qantas, Air New Zealand, Lan Chile and Aerolineas. To keep the six of them in in a productive fashion, which has got us to the point, for example, where Qantas will make a commitment to the South American market, as we understand in terms of its direct operating intentions, has not been an easy task. Where we have had concerns about the financial stability of one of the major players on that particular route, it has required a degree of management that we would not normally have put into it.

If you examine the way that we've dealt with South America relative to all of our other markets, it is a quite different approach. But Australia is about to receive the dividend that comes from that care and management, and we would hope that, as we get through this quite tricky stage - and if we can do it in a way that actually grows the market to the point where we can be a little more adventurous, roll on the day.

PROF SNAPE: I'm still having a little problem. I mean, the American airlines - I presume what you mean there is routing it through Los Angeles, which is not - - -

MR WHEELNS: Yes, Las Vegas.

PROF SNAPE: Sorry?

MR WHEELNS: South America is a continent, and when we talk about South America we mean the whole of South America, not just Argentina or Chile or somewhere like that. The frequency and the access to the top half of South America that comes through the US is a far more efficient way of serving that market segment than doing it in a different manner.

PROF SNAPE: Yes, but it's having experience that it's a pretty painful way of servicing the bottom half of Latin America, and I'm sure you've experienced that too.

MR WHEELNS: It's a long way away.

MR HARRIS: This is not meant to be a description of something that is perfect or brilliantly attractive. We're really trying to explain some of the anomalies that you will

have had drawn to your attention without necessarily claiming that they're wonderful. They are in the nature of a bilateral negotiating process the sorts of things that develop when you're dealing with - the characterisation difference we make - mature markets where there's plenty of competition and scope for additional competition and markets where there is a very, very limited scope.

I have some suspicion about code sharing myself. We're sitting here necessarily saying even it is a great liberalising force. Potentially it's quite anticompetitive. Nevertheless, if it's the best way of seeing a service grow because a number of carriers can benefit from accessing and utilising that particular thin route, then it's probably in our national interest. That's the assessment that we've made, because we would like to see a service and we'd like to see it sustainable. We wouldn't like to see services develop and then collapse. That of course necessarily is offensive and, having worked in areas where this is quite relevant, I know its offensive to people who would say, "Of course there should be freedom of entry and exit and that's a risk you take in the market." But, whilst bilateralism limits the potential for any one country to take and aggregate a large number of markets, code sharing and encouragement of joint development is probably the best way round that bilateral break-up, that natural division.

I think that's one of the ideological problems that people have when they look at what we do in international aviation and they say, "By definition, isn't this quite extraordinary intervention with you making judgments on behalf of carriers on what should and shouldn't be provided?" We're saying, "It's not as if we're thrilled or comfortable with this, but it is our way of being realistic and pragmatic in dealing with the nature of bilateral systems." This is how we do it, and it's not as if we're claiming that it's perfect. In our view Australia would be singularly advantaged by a multilateral aviation system. We have doubts about the degree about the degree to which bilateral open skies is viable in all circumstances, and let us make clear our assumptions.

PROF SNAPE: I guess that we're with you through most of that. It is just this nurturing bit that I have the problem with personally and, as you will see, we have accepted the bilateral constrains and we have very much operated within those within our recommendations and have no problems with that. We, I might say, have surprised a few people by taking that line. Some have probably been pleasantly surprised; others have just been surprised.

MRS OWENS: And some shocked.

PROF SNAPE: Yes. But it's that bit about this nurturing that I have problems with, I guess.

MR WHEELENS: Can I just add one extra point to it. I mean, if you look at the capacity that has been agreed for one carrier - let's pick Aerolineas - Aerolineas's capacity, agreed under our treaty arrangements with Argentina, would enable

Aerolinas to carry the entire Australia-South American market, with capacity left over.

PROF SNAPE: Of course, that's the existing demand.

MRS OWENS: That's existing, yes.

PROF SNAPE: You see, this is something I think we have a little bit of problem with from time to time. What we measure is existing demand. Now, the service across to South America has been so bad in terms of the personal cost of hours etcetera of getting there that there may have been quite a lot of potential demand suppressed. We don't know what the potential demand is.

MR WHEELER: I think that's right. I agree in part with that. I think the opportunity that has been provided to Aerolinas is also available to Qantas and Air New Zealand and Lan Chile and the US carriers. They have all chosen to make commercial judgments about their entry to the market. Our view is that those commercial judgments are actually quite sound, based on the maturity of the Australia-South American market, in terms of tourism and trade. They are still very embryonic markets. The judgments that the airlines have taken are no different to the commercial judgments that many other Australian firms have taken about their entry into that market.

MRS OWENS: So all the nurturing in the world is not going to make any difference to commercial judgments if that's the case, but can I come back to New Zealand for a minute in relation to South America. I think obviously New Zealand has got a different approach to South America which obviously is not based on the nurturing sort of approach that we have. They are entering into open skies agreements. They have just announced one with Chile, and I think there are negotiations with Peru. Now, you might say that these are all markets where they're not flying and it doesn't mean a lot because they're not active markets, but they are doing it, as I understand it, because it's part of an overall strategy that they have got to negotiate open skies arrangements with APEC countries.

They are doing that on the understanding that the Bogor declaration defines air services as being one of the services that would be covered for liberalisation by the year 2010. So they're working under that sort of understanding, under that sort of umbrella. I spoke to the New Zealanders last week when I was there and they said that they have managed to convince the United States people that that is a valid approach, that air services are covered under this declaration. Why aren't we adopting the same sort of strategy? Is this your understanding?

MR HARRIS: I guess I'm a pragmatist when it comes to the Bogor declaration and its implications. We will wait and see what there is that comes out of it. I know that there are - and I know this from having heard the relevant countries round the table, including New Zealand, take quite markedly different views on this issue. In our own experience the reason for our pragmatism in relation to freeing up services is our own

quite minor, relatively speaking, initiative to try and free up freight within APEC where we got absolutely zero from other countries for something that is no great threat from Australian carriers, and freight generation in the APEC region is quite substantial.

Certainly other countries are far more likely to benefit from it than us. Look, the classic example of something to test the waters with in APEC has still been - well, we battle on but we're not any more relying on APEC implementing this in the short-term at least.

MRS OWENS: But don't we have to start somewhere?

MR HARRIS: Well, we are.

MRS OWENS: I mean, we're saying it's too hard.

MR HARRIS: No, I am describing that we are continuing to battle on with and yet for something as minor as that we can't seem to get support. New Zealand, if they wish to liberalise based on a perception of where the Bogor declaration will take them, is entirely up to it. I think I suggested earlier why they're probably doing that. There isn't very much in a bilateral negotiation sense that they lose by doing that.

MRS OWENS: But potentially they will - I mean, they are closer to South America than us and they are not trying to nurture that potential market. I would have assumed that that market for them could, if anything, be even more valuable than it is to us because they're a halfway house to South America and the potential demand in terms of freight and passengers could be enormous.

MR HARRIS: They don't, it seems to me, have the market to support any demand-based strategy of that kind.

MRS OWENS: But I said as a stopping-off point.

MR HARRIS: That's true, but then they're nurturing a market on behalf of our demand-based strategy. In other words - - -

MRS OWENS: Not necessarily us - from Asia.

MR HARRIS: Well, us or Asia or anyone beyond that.

MRS OWENS: Yes.

MR HARRIS: Well, there's no reason for them to do that if other countries are doing it. They can quite happily free-ride. They can say, "Yes, feel free. Come any time you like through New Zealand, whenever you like, because we'll be happy just to get the landing charges, on your way to Australia, Asia or anybody else." This is the perception I was trying to get across earlier. They don't have to run a negotiating

strategy because as far as they're concerned they can take advantage of anything that comes via there and they should make it as easy as possible for people to come via there. I can see that as being in New Zealand's national advantage. That is their strategy here. I don't believe that they are negotiating on an altruistic basis either. They are negotiating on a basis that says, "We are best advantaged by allowing anybody to come via New Zealand to somewhere else." We're not negotiating the same way.

PROF SNAPE: I wonder if you could elaborate just a little bit more on what you meant by the demand side of the equation. This, I think, Chris, is where you were speaking before. I didn't quite grasp what was meant by the demand side of the equation. I thought I understood part of it but my colleagues told me I didn't understand it, so maybe if you could- - -

MR HARRIS: It certainly goes from the basic point that supply is not enough. In other words, you can claim as much supply as you like and that's not a liberalising strategy if no-one is prepared to use it, so what we're suggesting is if we are looking to address a problem, some problem in market access here, or some problem in satisfying tourism demand or something like that, we're better off identifying the demand that we're meant to be satisfying, or at least as well off identifying that, as we are simply saying, "Well, let's take away the supply constraint and see what happens," which I think is - that's the simplistic view of open skies, that you just take away a supply constraint and of course all this suppressed demand will emerge."

In our view, particularly in the markets where there is quite a mature level of competition and many alternatives, particularly when you take into account sixth freedom carriers, what we're saying is that the increase in demand shows up very easily and very rapidly and the capacity ahead of demand strategy can enable you to identify that and supply capacity in advance. Where it's more difficult to do capacity ahead of demand is where demand is very low and quite difficult to identify. So the connection we're making here is really one with the bilateral strategies, with the mature market versus the immature or fragile market.

It's not meant to be a - how can I put it - it's not a major threshold failing in anything that the commission has put forward but it simply says, "Please don't expect, based on our experience in bilateral aviation," and I emphasise the "bilateral" in that, that simply providing unlimited capacity will resolve all the problems that submitters to the inquiry have suggested - - -

PROF SNAPE: Okay, if that is it then that's fairly easy.

MR HARRIS: It's the pushing on a piece of string argument.

PROF SNAPE: I thought it was more subtle.

MR HARRIS: No, it's as straightforward as that. It was meant to be linked from the strategy side to the supply side focus.

PROF SNAPE: When it came out in heavy print I thought, "This is something absolutely crucial and very subtle."

MR HARRIS: No. That was an accident.

MR WHEELS: Crucial but not subtle.

MR HARRIS: It's probably more of an accident of my hitting the wrong keys on the word-processor.

PROF SNAPE: Okay. I note then in the next paragraph when you talk about a useful discussion and the future role of GATTs, I think that seems to endorse what we recommended on GATTs, that it might be appropriate, but it's going to be a long time off, but let's start off by trying to get a working party on it to try and do something.

MR HARRIS: In our initial submission we certainly made clear, I hope, our strong support for the fact that multilateralism necessarily will advantage Australia in our view and I think I have had occasion to say that publicly since that time.

PROF SNAPE: You certainly did. It's a question of how one would start it off. So we were - - -

MR HARRIS: The working group idea is the best, and in fact from our perspective, people who make the argument, "Oh, yes, that multilateralism is a nice but quite naive concept," I think taking Ms Owen's point from earlier, if you don't have a crack at it you will never get there.

PROF SNAPE: Yes.

MR HARRIS: And 2000 is when the review is up, so if Australia is not doing something prior to 2000 we certainly have no-one to blame but ourselves.

MR WHEELS: Getting it started in GATTs is going to be the difficult thing because there will be very strong opposition to it. They're quite powerful players.

MRS OWENS: Especially the US, as you said before.

MR WHEELS: I think particularly the US.

MR HARRIS: Exposure level is very hard for them to argue. They have taken quite a high moral ground position in relation to open skies, and I think we have suggested it's not necessarily high moral ground, it's national advantage. They will have to find some way of addressing that should there be enough interest from other

countries. It's a problematic issue, I'm sure, though I'm not sure how many other countries would be prepared to do this now, but if we don't start we'll never get it.

PROF SNAPE: The ones to go and say it would be the EU.

MR STAMFORD: And the EU may well provide difficulties in getting them on side in the same way that the US does, particularly if their internal liberalisation process gets them to the point where they can start considering themselves as a monolithic negotiator in bilaterals.

PROF SNAPE: Yes.

MR HARRIS: In that case we would be faced with the same difficulty in the EU as we will with the US when it comes to GATTs.

MR WHEELNS: The actions of individual states in the EU suggest that coming together as a coherent group is going to be difficult for them.

MR HARRIS: Nevertheless, this is where we were with agriculture, with substantial subsidisers in the US and in Europe, and I think it's the moral exposure argument that's at least as important here.

PROF SNAPE: Helen, how are you going with your list?

MRS OWENS: While we're talking about open skies and so on, there was reference on page 7 of your submission in relation to the Asian economic downturn and the impact that that may have for liberalisation. I think we probably interpreted that as possibly a way of opening up countries to become more flexible about liberalisation. You're actually saying something a bit different and I thought that was an interesting perspective that you had. You think they might actually close up a bit.

MR HARRIS: Well, Tony has the actual on-the-ground experience and can make some comments. My version of this is pretty much that historically when countries enter into adverse circumstances, calls for protection increase, not decrease, and I think we see that laid out daily in the newspapers. I did think this was quite a naive view myself.

MR QUINLIVAN: It's probably most starkly illustrated by Korea where the whole economy seems to have become very introspective and almost as a matter of government policy since then.

PROF SNAPE: Yes.

MR QUINLIVAN: People have stopped travelling and there's a very conscious effort not to - - -

PROF SNAPE: There's certainly that, but I mean, here we're talking about international transport which they want to have and their financial difficulties, and airlines are expensive things to subsidise.

MR WHEELNS: I think it's instructive if you look at the financial circumstances of the number of the major Asian airlines at the moment.

PROF SNAPE: Yes, I see. That's the point I was going on to.

MR WHEELNS: I think that that in a number of important - certainly in my experiences in a number of important markets that will bring very conservative responses from governments.

PROF SNAPE: What will it do to in some cases to the ownership question?

MR WHEELNS: I think there are some very important initiatives that governments and their airlines in the region should take. If they were to follow Australia's example, I mean, the reforms that have occurred in airline ownership and structures and everything in Australia over the last decade, have been particularly beneficial in terms of our perspective of them, but it's not necessarily the view that governments and airlines around the region will take. There certainly is scope, enormous scope, for privatisation of government-owned airlines, and things like that in the region, but whether they will take that step or not and how quickly they will take it will depend on the individual judgments that they will make, but a number of them are not rushing at it.

PROF SNAPE: No. I was wondering whether you had seen any signs that they may be moving in that direction, as of course Argentina did in similar circumstances, very similar circumstances.

MR WHEELNS: It will be mixed. There will be a mixed response to it and the pace that they're prepared to do it, and I don't want to talk about individual countries here, but the pace that they are prepared to go at it will vary.

MR HARRIS: Privatisation can in fact be quite antagonistic to the interests of new competitors as well. If we go and sell an asset, even in Australia, there is a substantial debate about the degree to which we should sell it prior to introducing competition versus introducing competition after the event.

PROF SNAPE: Yes.

MR HARRIS: I am not sure therefore in all the circumstances that privatisation necessarily is any kind of cure here, but what it will probably do on a longer haul view is put into the market carriers who are far more dependent on their ability to turn a dollar in the market rather than extract one from the government coffers. I think that therefore, taking a long haul view, there will be some benefits out of that.

PROF SNAPE: Yes.

PROF SNAPE: At page 9 towards the bottom we were talking about hard rights, putting them on the table, and it said a country - and this was in fact referring to the WTO processes:

In a country seeking to maximise its competitive advantage overall may wish to reduce access to Australia's competent and competitive airlines in return for reduced tariffs on something with peripheral interests to it but central to ours.

I found it hard to think of anything under the GATT or WTO where in fact in the process of negotiation there was a step back from liberalisation in this matter.

MR HARRIS: Well, I'm not a trade expert but I worked in trade department for some time. Certainly in my time these additional impediments were placed upon Australian exports, and frankly this has occurred since then in particular markets. I'm sure you can get some details from trade if you wanted them but I can think of some classics in South America and some in Canada; that impediments have been provided to Australian exports, and Australia has the choice of taking a panel dispute process or going away and negotiating the removal of those, and we tend to do, in my experience, but again subject to what the trade people in Foreign Affairs and Trade would say - we tend to try and do both. We would rattle the cage about a protest but we will go and negotiate bilaterally.

In such a set of circumstances somebody says, "We're prepared to remove the restrictions on your beef exports or on your alumina," or something else like that, "but gee whiz, we would really like you to do something about this aviation problem we've got." I can see us being parlayed. The point I was trying to make here is not that this will of course happen. It's that the principle is established by linking aviation with other commodities, that of course they're tradeable, and in fact we are broadening the negotiating mix that then has to be taken into account, and that potentially a less liberal aviation outcome in return for a more liberal beef outcome might actually be on the table, whereas right now it is not on the table.

These things do occur in some of the negotiations that Tony does. People say, "Well, we think you should be talking to your trade authorities on other matters," and we say, "It's not in our remit."

PROF SNAPE: Yes. Of course, what one would hope rather more is that sort of cross-sector trade-offs could be done as they were in the WTO negotiations for example and the Uruguay round negotiations. Just switching the topic slightly, it's very difficult to see any movement on US Maritime until something is brought as a counter-force within the United States and that's cross-sectoral negotiations.

MR HARRIS: Our former minister in fact raised that very issue when he was in the US, just seeking to link different elements of the transport portfolios, as he put it.

PROF SNAPE: I see.

MR HARRIS: In fact, I think you have helped me make my case here because he was looking at something that was obviously consistent with government aviation policy as well as government shipping policy.

MRS OWENS: Can I ask, on that page when you're talking about negotiations - and I think you point out quite fairly that there's a sectoral nature of air service negotiations and it's a universal phenomenon, and I think we take that point. I suppose the question arises as to how you form your negotiating position and the consultation mechanisms that we have in place in Australia. I mean, have we got the best process to bring into your thinking when you're going out to negotiate all the interest groups that we have here in Australia, or have you got any suggestions as to whether and how that process could be improved.

MR HARRIS: We certainly don't have the best process for involving people at this point. The process of consultation has grown up over quite a long period and different parties have been added, as it were, as they emerged on the scene or as they expressed an interest. I think we noted previously that there is this quite difficult position that we find ourselves in where informally we will hear from tourism authorities but we won't hear formally from them; we hear through the relevant Commonwealth department, and I think it's not a question of criticism. That's just again one of those accidents of timing the process, the same with the airport operators, I think.

We certainly need to improve the process. The commission has put forward some quite sensible and helpful comments in that area. One additional thing that I don't know - I can't actually remember if it was in your report or not - but one certain thing that we would like to consider as well is this transparency of outcomes question, and the degree to which for serious and complex negotiations we might actually have a wash-up meeting, and for - - -

MRS OWENS: This is for feedback?

MR HARRIS: Yes.

MRS OWENS: Yes.

MR HARRIS: And for less serious ones, all those who committed would get a written response from the department saying, "This is what happened and this is why," so that we don't therefore involve a meeting in Canberra for every set of negotiations we conduct but we would do ones for the more substantial outcomes. There are probably better things that we can do in this area. I think it's probably partially responsible for some of the criticisms that have been made based on the negotiating strategies of five or 10 years ago. The fact is, we don't sell ourselves publicly as having changed policy perhaps as transparently as we ought. It's one of the things we were hoping the commission could identify and assist us with, but obviously we have

to do our own work in this area too. The exposure level of how we negotiate is probably really not that good.

MRS OWENS: Do we involve the central agencies at any stage in the process? Do you have an IDC like, the committee in New Zealand?

MR HARRIS: No.

MRS OWENS: Is there an equivalent sort of process? No.

MR QUINLIVAN: Well, Foreign Affairs are represented on the negotiating group.

MR HARRIS: Foreign Affairs are on every group.

MRS OWENS: Yes, but I'm thinking of the central agencies like Treasury and PMs.

MR QUINLIVAN: If they have a view they are always at liberty to make it known to us, but the fact is they don't have a view in most cases.

MRS OWENS: Maybe that's because they don't get involved in the process. I mean, it's a chicken and egg.

MR QUINLIVAN: They have got priorities, I suppose, and - - -

MRS OWENS: If we were going to negotiate with a very important bilateral partner like the UK or the US, would that negotiating position go right up through to cabinet or would it just go as far as your minister?

MR HARRIS: No, the standard process is the minister has portfolio responsibility for these things. I can certainly recall exchanges of correspondence on negotiating strategies, and not always negatively derived, if you know what I mean. No, I can't recall any going to cabinet.

MR QUINLIVAN: Some might well be run past the Prime Minister's office.

MR HARRIS: New Zealand is an exception. New Zealand, because of - well, it's our largest market for a start but also because of the substantial politics that's gone with single aviation market and beyond rights and issues like that, it certainly has been a cabinet level issue. But again, having worked in Prime Minister and Cabinet for a long time, I mean, a department like that does tend to take an involvement wholly on something that would be a major strategic change in policy. I can't actually - I mean, I can see an IDC becoming rather something that you had to have, rather than something where you necessarily got much by the way of productive input.

MRS OWENS: Yes.

MR HARRIS: That's me based on my experience of 20 years rather than necessarily saying it's a bad idea. I personally wouldn't like to see an IDC imposed upon us. I would rather see some requirement for transparent explanation of what we're doing and perhaps some rebalancing in the roles of who actually forms parts of the delegations. That's not to expand the size of the delegations but it's more to simply say, "Well - -"

MRS OWENS: Change the mix.

MR HARRIS: "- - - must all policy positions for example developed by the department be subject to debate by the couple of parties who contribute to the input," because it does tend rather to make them lowest common denominator positions. So we would probably examine that issue as well.

PROF SNAPE: Just following the transparency up a little bit more to the agreements themselves - and you will see that we have got some draft recommendations in there about the transparency of them, and pointing out that all parts of the agreements and arrangements - for example, the United States are public, whereas significant parts of them are not public in Australia, and that we in our draft recommendations have got that it's only when the other party requires confidentiality, not requests - we said requires - that that should remain confidential. Do you have any problems with making them much more transparent than they are at the moment?

MR QUINLIVAN: You're really largely in the hands of the other party because we don't have any particular reason to have them confidential, but there are some parties we negotiate with who have strong views about it. The US is probably in a position to tell those parties that they have a public policy.

PROF SNAPE: Yes.

MR QUINLIVAN: We are much less in that position to tell those bilateral partners.

PROF SNAPE: That's why we put the second part of the sentence on it actually.

MR QUINLIVAN: No, I understand that, but that's semantic difference which might not be seen by them as a substantive one.

PROF SNAPE: No, it was meant to be substantive.

MR QUINLIVAN: I think it's a real point you're making but I'm not sure that we're in a position to influence that very much.

MR WHEELENS: Can I add to that by saying that in reality there is very little in those arrangements that are not disclosed to our stakeholders.

PROF SNAPE: Yes.

MR WHEELNS: I would say that much.

MRS OWENS: In reality, yes.

PROF SNAPE: In reality. I mean, even some of our staff a bit of difficulty. I mean, tended to get the response when they asked, they were asked, "Why?"

MR HARRIS: I think we were asked this earlier and I haven't done that many negotiations myself but certainly negotiated with one party, was firmly insistent on confidentiality, and for reasons related to the nature of their government; I mean, the nature of their political system.

PROF SNAPE: Yes.

MR HARRIS: That they tend to keep all government documents confidential. We were not going to sacrifice rather a liberal outcome with that particular country on the altar of, "Gee whiz, we think we had better make this transparent." We would rather have the outcome of the transparency, if it comes down to that. I don't think we have any problem at all with what you're recommending.

MRS OWENS: I think you mentioned New Zealand a minute ago and the single aviation market. I think we made a suggestion, and I think this is one of the things you didn't really comment on in your submission in relation to maybe taking it a bit further than it is already - but I think there is a question about the operation of a single aviation market as it is at the moment and the limitation on fifth freedoms. Is there any potential for a change in policy on that in the near future?

MR HARRIS: I thought we had commented but perhaps we didn't. Certainly in the draft - - -

MRS OWENS: I might have missed it. I read this last night when I was getting tired so - - -

MR HARRIS: No, no, and apologies again for that. In relation to the comment that the Department of Industry, Science and Tourism put on New Zealand's beyond rights expansion and the claim that we had denied these on the basis that they were more valuable to New Zealand carriers - - -

MRS OWENS: Yes, you have made that point, yes.

MR HARRIS: In the comment there I thought we had addressed the fact. Perhaps we took it out for brevity's sake but - - -

MRS OWENS: Can you tell me which page it was?

MR HARRIS: I'm on page 12. The nature of this is that the matters in relation to the single aviation market were certainly cabinet level discussion. There was a very substantial exchange as you would expect, and I think as was made public at the time between all the relevant ministers, to their equivalents in New Zealand. The matter was determined not at all on the basis of, "We won't give these to New Zealand because they're valuable to them." In fact, I think that's quite an arguable proposition in itself. There may be something in the relative value but it's still quite arguable.

The query was entirely one of the degree to which, in the circumstances of liberalisation that we were going through, whether necessarily Australia maximised its advantage by doing a between and beyond agreement with New Zealand or a between agreement. By that I mean are we having open arrangements between Australia and New Zealand or between and beyond. That question, as I say, certainly went to higher levels of government than the transport folio.

MRS OWENS: Again I don't understand why it wouldn't be to our advantage to open this up further.

MR WHEELNS: Just before Peter answers that, can I say that New Zealand has never fully exercised the rights that are currently available to it.

MRS OWENS: That's not really the point, is it? I mean, I think it's a point of - they may not have fully exercised it, and neither may we, but there is the potential in the future for them to be able to want - they need to be able to plan on the basis of, you know, knowing where they're going.

PROF SNAPE: Daily schedules, for example, which mean they may or may not have been able to do through the restriction.

MR WHEELNS: And in time those rights are almost certainly going to be available to them.

MRS OWENS: What does "in time" mean? Is it next week or next month or next year?

MR WHEELNS: How long is the string?

MR HARRIS: When the authorities that I referred to earlier have a particular view. I mean, what I would guess I am uncomfortable with here is the perception that's continuously made, and for good reason. I mean, we're here to take the criticism that comes from running aviation, but the bottom line is these factors, and particularly the factors and matters in relation to New Zealand, are far broader than the transport portfolio. The beyond rights issue was certainly dealt with on that basis. That was the nature of the comment we were making in response to suggestions made by Industry, Science and Tourism here. We have suggested that you could certainly obtain a view on that from Foreign Affairs and Trade. I am not saying that they are the higher authorities by any means.

Also in relation to what's not in it, as it were, for us to simply hand this over right now, the context in which the single aviation market liberalisation was taking place was also a negotiation or there was substantial negotiation going on between some interested carriers in the market. The degree to which those carriers might wish to jointly serve markets or more effectively rationalise services between them is certainly relevant to this consideration. It's not the sole factor but it was a factor that was relevant to the transport portfolio interest in what, as I said earlier, and I emphasise again, was dealt with on a much wider basis than simply what the transport portfolio thought about these issues.

MRS OWENS: Did you look at our suggestions in relation to going further? I suppose we can't go too far at the moment on fifth freedoms. You're probably not going to want to go further. We talked about having Australasian carriers and joint negotiations and doing things jointly. Do you think that that's pie in the sky?

MR HARRIS: New Zealand to us has certainly expressed less than enthusiastic responses in the past on the idea of negotiating jointly with Australia. Their perception, I suspect, would be that we would be lead in their saddlebags. They would be the greater liberalisers and we would of course be the - - -

MRS OWENS: And would we?

MR HARRIS: - - - appalling dead hand from Australia. Not a perception we agree with but nevertheless I'm sure that would probably be theirs.

MR QUINLIVAN: But we would be if we perceived it to be in the national interests.

MR HARRIS: And that's the difficulty here. Whatever you do in bilateral negotiations, the national interest will vary, and it will be quite difficult. I suspect this could in fact make the process of coming to an agreed position for the sake of starting talks quite difficult. Then Lord alone knows what would happen in the midst of talks if we got something we were happy with and they weren't happy with it and the breakdown in - it seemed to me to be potentially exposed to the risk that you would get by the need for, not just a joint agreement on what you went into the talks with, but joint agreement on what you came out with. Quite a stopper in the sense of - - -

PROF SNAPE: Scandinavians have trouble with it?

MR WHEELENS: I haven't done any negotiations with Scandinavia so - - -

PROF SNAPE: No, I meant SAS, in negotiating with - - -

MR HARRIS: I'm not familiar - - -

MR WHEELNS: The Scandinavian system is to allocate a part of the world to one of the three governments who then negotiates on behalf of the group.

PROF SNAPE: I see.

MR WHEELNS: But the product of that negotiation is three separate treaty arrangements.

PROF SNAPE: Is that a pattern that could be done in Australasia?

MR WHEELNS: We actually have spoken to New Zealand privately at length about this particular issue, not so much recently, but in the preliminaries to the single aviation market discussions several years ago. I think Peter has put it quite politely that there was a degree of resistance to that outcome. I think that's probably understating it.

PROF SNAPE: Yes.

MRS OWENS: What about our bilateral partners, if we were to go down this route, would they have problems with something called an Australasian carrier?

MR WHEELNS: I think my instinct is that the quantum that we would get out of that process is probably less than Australia and New Zealand negotiating separately because of the increased size of the threat.

MRS OWENS: There would be a threat. Japan and other partners would see that this is - wonder what we're doing.

MR WHEELNS: Within ASEAN and elsewhere, yes.

PROF SNAPE: And yet New Zealand has very little negotiating power.

MR HARRIS: Well, for them therefore it's a question of, "It doesn't matter whether it's bilateral or non-lateral, we'll free up with anybody," so in a sense that if we're part of the arrangement and we're not prepared to do that, will that slow them down?

MRS OWENS: So an open skies policy at our end would have to be an obvious pre-requisite if we were ever to go down this track. Is that what you're saying?

MR HARRIS: I think multilateral or pluralateral reform of the kind that the commission has looked at is probably a much greater contributor than bilateral open skies. As I said, it's an option that obviously the commission would wish to consider, but I mean, I can certainly see more demonstrable and clearer benefit from considering pluralateral or multilateral arrangements than I can seeing bilateral arrangements as a contributor to the New Zealand option or frankly almost anything else.

MRS OWENS: But if we go pluralateral and say with the club sort of approach, as we suggested in our report, and I think your original submission mentioned that too, I mean, you have got to go into that with a stance, you know, a liberalisation stance.

MR HARRIS: It's a question of whether we can develop the equivalent of a European market here. The Europeans have decided that that seems to be of value to them. I can't see that Australia and a significant enough collection of relevant states in this part of the world couldn't also come to the same conclusion. But Australia and New Zealand on their own - I think Tony is probably quite right - if you simply measure it in terms of capacity, presumably New Zealand will have unlimited capacity with anyone who is prepared to accept it. We will negotiate chunks of capacity ahead of demand and eventually end up with something collectively which is larger in the totality of capacity, and as we noted earlier, we're not obsessed with capacity as being the sole solution here, but nevertheless measured that way, then potentially you would get just Australia and New Zealand on their own.

If you start to put together a collection of substantial aviation demand and supply-oriented nations, ie, people who are large sources of tourists, people who are large recipients of tourists, people with substantial aviation carriers, if they're not one or the other of the two former categories, you can potentially, I would have thought, make a case for substantial generation of internal benefits within that group as per, as an example, Europe.

MRS OWENS: I suppose at our end their question is where would we start. I mean, which countries would we potentially get something of benefit from. I think we suggested in the report that, you know, perhaps a good place to start would be some of those countries that have already entered into open skies agreements perhaps with New Zealand and that comes down to countries like Singapore and Malaysia, but then as I understand it there would be very little chance of getting Singapore and Malaysia to talk to each other about it. I mean, it's a question of how do you get such a thing going?

MR WHEELER: I guess by continuing to encourage liberalisation and liberalising our own agreements there will be a point where it will fall over of its own volition.

MR HARRIS: There is also potentially, I think, the prospect that if a set of countries do look in the GATTs context at multilateral aviation reform and fail, will highlight the degree to which those countries - let's say, the North American block and the European block which are capable of cooperating on a pluralateral basis, and also probably capable of dominating the international aviation market. The focus therefore of countries who aren't part of those blocks may well then turn towards, "Well, if we can't do it multilaterally can we match them?"

PROF SNAPE: Yes.

MR HARRIS: We're talking, you know, real big "what if" and long-term, but if you don't plan on the basis of considering these possibilities, then you do condemn

yourself to potential redundancy when other parties decide to move ahead and you're left out of the equation. So certainly these are the sorts of things that should be given serious consideration, it would be our view.

PROF SNAPE: Thank you on that. On page 10 you have got a point about the Singapore Airlines being relatively efficient compared with Australian carriers based on capacity operated between Australia and Singapore. I think that there might have been a bit of misunderstanding there but you might like to elaborate. We say that it wasn't. But what we think we're making that judgment about was not on the used capacity. We were in fact taking from other data, for example, the study by Oum and Yu which is the table which is in the report, where they in fact evaluate the efficiencies of a whole lot of airlines and find that Singapore is one of the most efficient, and that Qantas was a bit further down than that.

That's what our statement there was based upon. Then we were making in that context a comparison between Japan-Australia route, where the comparison is the other way, that Qantas is the relatively more efficient carrier, and comparing the capacities, the shares of the capacity used by Australia and Japan airlines on that route, with that with the Singapore airline. That's what we were trying to do. Now, we may not have explained it properly. Obviously it didn't communicate properly, unless I misunderstood what you're saying.

MR HARRIS: No, I think perhaps there has just been a misconnection.

PROF SNAPE: Yes. On page 14 there's a very interesting point there which I think I suspect is a very complex point; tax usually is. It's the point that you pick up on page 106. In fact, you're referring us to the appropriate tax authorities on it. It's tax exemptions for international carriage. Could you elaborate on the point a little bit more so we have now to go to the tax authorities on?

MR WHEELS: There are a number of exemptions in the treaties on fuel excise and excise and spare parts and the like. It's just simply a question of just flagging the point that if we're looking at the question of the role that foreign carriers may play in domestic markets, there is an additional cost or potential additional cost that they are not currently subject to. It is simply flagging that point; that if they operate in a domestic sense they are subject to the excise on fuels and the other things that are exempted in the treaties. Those items are laid out in the draft ASA that you have got.

PROF SNAPE: Yes. But that doesn't apply to own stopover traffic for example.

MR WHEELS: No, it doesn't, because that's in the course of an international journey part of the - - -

PROF SNAPE: So Air New Zealand then, if it decided to do cabotage in Australia under its own name, would be disadvantaged vis-a-vis doing it code sharing on Ansett.

MR WHEELS: Yes.

MR HARRIS: No, Ansett pays those excise.

MR WHEELS: That's right, Ansett does pay that. Ansett would pay that, that's right, yes.

PROF SNAPE: No. They would be on a par rather than getting - - -

MR HARRIS: That's right, yes.

PROF SNAPE: Okay. And so the international carriers doing freight within Australia would be on a par with their domestic freight carriers.

MR HARRIS: Well, they would probably still be better off because part of the journey would still be in the international sector. South African Airways, for example, operating Perth, Sydney, for that part of its business that was through international traffic, it would take the exemptions. For that part that was domestic they may be subject to the imposition.

PROF SNAPE: Which would put them on a par with the domestic carriers from Perth to Sydney, because if they were carrying it South Africa, Perth, Sydney, well, that's international freight anyway.

MR HARRIS: I think probably the only point that's being made here is that the apparent GATT gap potentially between rates may be narrowed by some application of tax. I'm not sure that we're perfectly capable of commenting on this either. It's just that - - -

MR WHEELS: We just wanted to flag the freight possibility.

PROF SNAPE: No, thanks for doing that. But as you just described it, it would in fact, using a popular jargon, prevent an unlevel playing field that would in fact make it at level with the domestic carriers.

MR WHEELS: Yes, that's correct.

PROF SNAPE: In that sense makes it more attractive as a recommendation.

MR HARRIS: It was just a question of the size of the gap that someone might have identified. If somebody said, "Well, you know, these guys are low cost carriers we would let them in." They may be higher cost carriers once they're domestic."

PROF SNAPE: It wasn't really that anyone had identified that. It was providing an additional service which was the basic thrust of the ratification. I must say on the same page further down, I found it a bit difficult to find that there was no gap in the

substitution arrangements between - substitution elasticities, if you like, between Perth and Adelaide and between Perth and Los Angeles.

MR HARRIS: I think probably the point we're just trying to make here is that it's not a question of simply assuming that if somebody can't serve one with Australia we might serve another or vice versa, that if you give everybody every point in Australia they will all be attractively served. If they are attractive they will be served as long as the ability to serve them exists. If they're not attractive opening up the ability to do so through capacity increases or whatever, won't see them served.

PROF SNAPE: I take that point but I don't think I would go quite as far as the sentence as written there.

MR WHEELNS: We do have practical examples of it. I mean, on a number of occasions where we have attempted to promote a regional gateway, and this was a point that was discussed earlier on, in exchange for a primary port in the other country. This particular point has been made quite forcibly to us, that if we don't get a primary destination in Australia we simply won't come to Australia.

PROF SNAPE: Okay, yes.

MR WHEELNS: That's the essence of that point.

PROF SNAPE: I take that point. Right, we did the consumer protection business early on really. I think I had a problem with the point on page 23 which is referring to our page 189. It's the second paragraph of your comment there:

It's possible that across the majority of Australian ASAs, open skies could well be a barrier to increasing fifth freedom rights.

Now, what I am trying to think of is, what are we comparing it with. We're comparing it with a situation with which we don't have open skies, and that sentence would seem to say that if we had open skies agreements rather than what we have got at the moment, we would be less likely to have fifth freedoms.

MR WHEELNS: In some cases we would. It depends on how third countries react to a bilateral. We may well have an open skies agreement with one country, in ASEAN for example, and find quite strong resistance on the rest of us into granting Australia fifth freedom rights that were not available because the two countries in ASEAN did not have the same liberal agreement.

PROF SNAPE: Are we in a worse situation than at the moment? That is really what I'm still trying to grapple with.

MR HARRIS: Not necessarily a worse situation. It's just that- - -

PROF SNAPE: Yes, that's what I thought that was saying there.

MR HARRIS: No. I think what we're trying to say is it's one of those - we say it is possible though, and I guess we're saying it's one of those factors where hypothetically if open skies is an option that we're examining to put forward in a particular market, what we will go and do is assess beforehand what their likely response might be and their likely response might well be coloured substantially by the fact that - well, sorry, another market might well be substantially coloured by the fact that we have an open skies agreement with a third party that they don't. So we might gain the benefits.

Take a triangulation example, if you assume there is a very substantial market based around access between three countries, countries 1 and 2 have open skies, country 1 then goes off to 3 and says, "Give me open skies," country 3 says, "I don't think I can get the same arrangement," I'm actually going to be ruining my own access and my own role in this triangulated market.

MR WHEELSENS: I think time is a very important factor in assessing this. We would be, I think, in a much stronger position if we continued to liberalise across the board. To the point where we can truthfully say to both of our partners, "Well, we have really got the bulk of it in place already, what's the problem with the next step?" And we are surprisingly close in a number of our agreements to that situation. But I mean, my advice would be that we are better off building to that rather than creating a situation where a genuine threat exists in the short-term to the interests of the third country.

PROF SNAPE: Yes, we do in our recommendations, speak about the importance of sequencing - or at least I think not explicitly in the recommendation as it happens, it's in the text around the recommendations and it's possibly something we should put in the final recommendation because we were aware of that sequencing problem as you - - -

MR WHEELSENS: Sequencing is critical to the - - -

MR HARRIS: This is a factor that goes to the question of, were open skies to be introduced as an option available for negotiations? I think the commission might have used the term "like-minded countries" or something like that.

PROF SNAPE: I think that sounds like it.

MR HARRIS: Then you're in this sort of game is all we're saying, when in the sense we would have to assess or we would run such an option, what the likely response is, moreover, what does it do for other strategies of countries who won't participate in it.

PROF SNAPE: Yes.

MR HARRIS: And by definition are relevant to that market.

PROF SNAPE: Helen, where are you going?

MRS OWENS: I was going to pop back to airports for a minute. I wanted to just clarify something. It's just basically my ignorance about airports. I just wanted to understand what the difference is between designated aviation parking and general aviation parking. If you don't want to answer that we can find out.

MR HARRIS: Which one are we on?

MRS OWENS: On page 17 we're talking about different parking charges.

PROF SNAPE: It's the \$11 question.

MRS OWENS: There's the \$11 question. You tell us that we're incorrect on the \$11. You say that that only applies to general aviation parking, and that really for designated aviation parking it's \$350 a day. I didn't understand the difference. So it's purely ignorance on my part.

MR HARRIS: I'm pretty sure I could get it right but I will have to do this with confirmation, or seek confirmation. There are two possibilities for parking charges. One, you charge for parking on the basis that you don't actually want anyone to hang around very long in your airport because it's taking up valuable space.

MRS OWENS: That would be your designated parking.

MR HARRIS: Yes. And in the case of general aviation, general aviation parking, there's a very large lot where lots of light planes are potentially parked now. I didn't read this at all.

MR QUINLIVAN: I think it's a traffic management strategy on the part of the airport to ensure that aircraft that are planning to be around for quite a long time are in the least intrusive or the least trafficked areas, and there is a real problem with aircraft parking even in passenger gateways effectively. I think this was a pricing strategy to encourage them to park their aircraft in the right place if, as Peter says, they're planning to be there for an extended period. I think that's what he's getting at.

MR HARRIS: So GA parking being light aircraft or the equivalent of small operators but designated aviation parking areas being, I think, "Get your plane off the gate, and if you're going to have to keep it here we'll have to tow it over to this part of the airport, and by the way it's not \$11 a day any more, it's quite a big amount."

MRS OWENS: We just thought 11 was such a bargain and we thought it would be cheaper to go and park your car on the tarmac.

MR HARRIS: I thought you read our comments in the Senate where we said the same thing.

MRS OWENS: Did you?

MR WHEELS: I suspect that's quite - - -

MRS OWENS: No. What did you say, sorry?

PROF SNAPE: It was an appendix to the Sydney Airport submission that when they were giving evidence at the hearing or participating in the hearing, I just happened to be flipping through this and I had seen this \$11 earlier and thought it was carparking. I suddenly realised in the middle of the hearing that it was a plane parking for \$11. It just tickled my fancy.

MR HARRIS: Anyone who has parked a car at Sydney Airport longer than 3 hours knows how expensive it is.

PROF SNAPE: Exactly. You don't mention in your comments our regional package which I suppose I interpret that lack of comment in the context of the remarks you made at the beginning.

MR HARRIS: I think as I said earlier, the key thing you would want to consider in introducing such packages is the views of the regions themselves.

PROF SNAPE: Yes.

MR HARRIS: Were we to do such a thing I think that's about all that I can possibly suggest, that the commission might want to comment on. I can't recall. Perhaps you already have done that anyway but we would want to, in implementing such a thing, ensure that - if we could do it unilaterally I think there would have to be unilateral support, or at least not significant opposition. If we were to do it on a case-by-case basis I think that's probably even less of a problem.

PROF SNAPE: Okay.

MRS OWENS: Can I come back to airports now?

PROF SNAPE: I'm sorry, Helen, yes.

MRS OWENS: The other question I have on airports, and again I might have misunderstood what you have said, on page 18 you have stated that the peak period landing and take-off charges on all aircraft will be removed from 1 October 1998.

MR HARRIS: Yes.

MRS OWENS: Then on the next page you say:

It's possible for airport lessees to put in place a price differential between peak and off peak movements.

How can you take it off but still retain that possibility?

MR HARRIS: One's in relation to Sydney and the other is in relation to options that are available to - - -

MRS OWENS: To the others.

MR HARRIS: - - - all airports. Well, potentially they're available in Sydney as well.

MR WHEELS: In Sydney in the future, yes.

MRS OWENS: So it is still possible then for the other airports, and possibly for Sydney, to have peak charges.

MR HARRIS: Sydney has got a 1-year pricing determination and the numbers that we provided to you here were drawn from that.

PROF SNAPE: That's for 1 year?

MR HARRIS: 1-year pricing determination. That's all the ACCC was prepared to allow them.

MRS OWENS: Okay. I didn't understand that. I thought it was sort of a general decision that was going to go forever.

MR HARRIS: No.

MRS OWENS: What's your views on peak period landing charges? Has the department got a view on this?

MR HARRIS: The department is of course strongly supportive of its minister's support for removal of the peak period surcharge.

MRS OWENS: But isn't it a bit like electricity and other areas where, you know, peak load pricing over the years has been shown to be quite an effective mechanism for controlling demand at certain periods of the day.

MR HARRIS: It depends precisely on that. Whether you believe that the price in the peak is a price either at the level that applies here or level which you are reasonably capable of applying which will in fact reallocate demand, or whether in fact there is such an inelasticity here that people are prepared to pay for accessing the

peak, such a high amount of money and pass it on to their customers who potentially are relatively insensitive to this as well, given that they also want to arrive in a peak because they're either business or they're regional traffic or whatever they are; that in fact the price is akin to a tax and not to an allocation mechanism at all. I mean, I think there is quite a fair and reasonable debate to be had about the degree to which peak period charging doesn't really succeed in reallocating demand.

I can see that a minimum charge on the other hand, particularly where you don't have passengers to spread it over, does have a substantial effect in discouraging people from using one particular airport as long as there is an alternative airport available. So the classic being at Sydney, if you didn't have a minimum charge, and only per-tonne charge, of course people would be quite happy to lend small private planes with zero passengers in them if they are able to do so. A minimum charge does discourage that, whilst not being of sufficient level to be akin to a tax on passengers who have a willingness to pay two, three, four, five, 10 times even that amount of money.

PROF SNAPE: So there's elasticity with respect to driving them away to another airport.

MR HARRIS: Yes.

PROF SNAPE: But little elasticity with respect to driving them to another time at the same airport.

MR HARRIS: Well, it depends particularly on passenger load, as I say. If I have a light plane it will cost me \$100 to land at Sydney as a minimum, if I can get in versus \$7 or \$8 to land at Bankstown and I am reasonably indifferent. Indeed, the parking charge is cheaper at Bankstown; don't want to land there. If I have a passenger load, they want access to the inner city airport. They don't want to fight the traffic from Bankstown into the city, and they're certainly prepared to pay, given that they're paying 200 and up per head to be there: \$10, \$20, \$30 on top of that per head which adds up to quite a substantial per landing charge for even the smallest passenger load, nine or 10 passengers.

If I'm prepared to do that, then I'll do that. I think that's the difference. I'm not suggesting that the elasticity is quite as you have suggested. I think I am suggesting that the impact is shiftable in one set of circumstances and not in the other. The impact is on me as the pilot if I'm a light aircraft landing at Sydney Airport and the impact is in fact on the passenger if I'm a passenger carrier.

PROF SNAPE: Yes. I guess the other argument is even if the demand is not elastic, and you have got a capacity, and as you say, it's more like a tax because there's no shift in demand, nevertheless that generates revenue with which you can expand the airport.

MR HARRIS: That's an interesting option.

MR QUINLIVAN: Other than Sydney, all these airports are subject to a price cap
so - - -

PROF SNAPE: For the time being.

MR QUINLIVAN: Yes.

MRS OWENS: Or you could build a new airport in Canberra.

PROF SNAPE: Yes, but I mean that again - you're just taking it beyond the sensitive question of Sydney Airport per se - is one of the arguments for the peak load pricing. Once the peak is a continuous peak, if you like, and it's the dam you see as you're approaching your capacity, it's all peak, and your charges go up, so you can build another dam.

MR HARRIS: Yes, sure.

PROF SNAPE: I mean, that's the rationale.

MR HARRIS: I understand that. I think in our view the capping arrangements which apply at Sydney Airport will do the same job allocating demand regardless of whether there's a peak period charge or not. You need to find therefore a better rationalisation for a peak period charge than simply it can reallocate demand. I think that the difference between a peak period charge and the cap is that the peak period charge has, if it's set at a single level rather than a per passenger level, much less impact on a larger aircraft than a smaller aircraft, and therefore if it has any impact at all, it's an impact to shift smaller aircraft out of the peak. There are some, I'm sure, who would speak positively in support of that and some who wouldn't.

PROF SNAPE: Yes. I guess it depends how the peak load charging is put on too that could have the same effect that it does in fact have a greater - and would expect it to have a greater effect from the economic point of view; less efficient users; that is, the small aircraft.

MR HARRIS: Yes.

MRS OWENS: But of course you could have differential peak pricing for the small and the large aircraft. I mean, you can fine-tune peak load prices.

MR HARRIS: I suspect the more though that you go down that path, the more it is akin to a tax. It's just a per head charge. In practice, what I was trying to say is if you believe there is an allocation effect to be had from peak period charging, it probably comes from being quite a high level and apply as a single charge per aircraft, and therefore is designed really to remove small aircraft from the peak rather than simply to allocate demand amongst the user with the highest preparedness to pay. It is therefore the focus that you have got in mind here, you might wish to consider. I

mean, as I say, we believe that the principal function of the \$250 charge that was there is now pretty much taken up by a combination of the minimum charge and the slot system.

PROF SNAPE: Yes. I guess it was because we wondered about whether the peak loading could go far enough, that we also went into a market, discussed the market or slots as well.

MR HARRIS: Yes.

PROF SNAPE: If your peak loading did it all, then there would be no need for the slot market, so we were exploring that as well.

MR HARRIS: We will, as I think we told the commission earlier - there is no bar on the trading slot to bar that between original carriers and other carriers.

PROF SNAPE: Yes, including the payment of money?

MR HARRIS: There's no government-induced impediment to the exchange of this for any value. However, it will have to be registered as a slot swap, which means particularly it will be between carrier and carrier, and one of the commission's interests potentially I assume is that speculators can play a role in this market, and by definition, if it's a slot swap it's going to be quite difficult to speculate on and play a role with.

PROF SNAPE: I think the position on this could be that if there is severely constrained capacity excess demand for slots, a slot market will develop. The basic question is whether it's above the table or under the table.

MR HARRIS: Yes.

PROF SNAPE: So it's not a choice between a market and no market. It's a choice in the type of market and so I think the position that we are moving to here is to say, "If it's going to be a market let's make it as an official market as it can be." But obviously we're a bit constrained in discussing Sydney Airport too much. It's not a very wise thing to do, I think.

MR QUINLIVAN: Especially for us.

MR HARRIS: The commission feels constrained then.

PROF SNAPE: We like the whole of our report to be read and not just one section of it, and to be thrown out on the basis of that section. Helen, any more on airports?

MRS OWENS: No more on airports.

PROF SNAPE: The objectives of the IASC issue which are at the bottom of page 15, it's our page 127, you said the amendment is unlikely to simplify the task of the IASC. Well, what we're trying to get is so they didn't have to go through a whole lot of different hoops. We were trying to encapsulate the objective in one simple thing. Once you start elaborating it as it was, as it is, you risk, as I think there is a risk, and an actuality more than a risk, that some of the subsidiary things can work at odds with the primary one rather than to reinforce it. And so what we are trying to get is one simple statement. That is, that there should be greater competition and economic efficiency. We have no problem that even if Ansett were a less efficient carrier than Qantas, it might in a technical manner or if they're not making the same profits, nevertheless their entry would still contribute to an efficient market. It's the efficient market that would be in fact relevant there.

MR HARRIS: I guess we were making the comment here more to illustrate that I think you can make quite a simple statement and then subsequently quite reasonable arguments can be mounted as to the fact that that statement is ambiguous. So the question of when we deal with greater competition in the economic efficiency, you just made the comparison that you were talking about with efficient markets. I think our example there is saying, "Are we talking about efficient carriers?" What therefore happens is that either by having a simple objective and then subsequent elaboration as a result of the experience of particular cases, a body of interpretation evolves, or alternatively you have a policy statement which probably has the same problems attached to it. It becomes complex and attempts to respond to particular cases.

I don't think either stands up as being a universally attractive option. I think we're trying to say that the same problems emerge regardless of whether you start out with the simple policy position and then develop - -

PROF SNAPE: Case history.

MR HARRIS: - - - the interpretation by case history, or whether you do what we have done with the policy statement. I think the policy statement, although I wasn't involved with setting up the AOC - but my understanding is that the policy statement process was designed to make very transparent, "Who was making the judgments here about what each of these things was interpreted as being?" That is, was the minister who was capable of providing the interpretations through to policy statements?" So we're not saying that we have got it right or that you have got it wrong. We're saying regardless, you're going to get this complexity.

PROF SNAPE: Yes, thanks.

MRS OWENS: I suppose it raises the issue of a more general policy, aviation policy, and we referred in the report to the fact that we don't have one single overarching policy a la New Zealand. Sorry to keep on harping about New Zealand - I'll try to stop it. We thought we might take out all reference to New Zealand in the final report.

PROF SNAPE: Country X.

MRS OWENS: Country X, yes.

MRS OWENS: Because I don't think it helps our case at all, whatever that is.

MR WHEELER: That's very perceptive of you.

MRS OWENS: I suppose the issue is, is it possible for Australia to develop a single policy which sets out what our strategy is and why, as country X has done, and if we're not going to go down that path, why don't we have a policy?

MR HARRIS: I think previous governments have put forward aviation policy statements at a time of significant change. This government came in with a policy position encapsulated in its election platform, and I think as we said to the commission earlier, our former minister made what he considered to be the keynote speech which set out, and was publicised as such - set out what our aviation policy and approaches would be. Nevertheless, I think the commission has quite correctly identified that there isn't such a single statement. Probably using a bit of benefit of hindsight here, certainly once the commission's report is considered we will by definition have a statement of policy.

MRS OWENS: And, what, the response to the report will become it?

MR HARRIS: Yes. But that's not to claim that there isn't a gap here because there is a gap.

MRS OWENS: I mean, it may overcome some of the problems we have had and others out there in the community have had about issues like open skies. It's a clear statement, you know, that we are pushing along the liberalisation track, and this is our clear objective and so on. I think that might help to sort of counterbalance some of those concerns and criticisms. I think it could only serve to help you.

MR HARRIS: It will probably still in my opinion be more influential for the commission to identify in its report that this policy is being pursued. The fact that we say it or our minister says it, or frankly that even the government says it, doesn't necessarily do as much as if the commission finds this way. We certainly believe we are implementing a relatively liberal policy, and we're certainly seeking the capacity out of demand where we can get it. Nevertheless, the fact is I don't think people have accepted that and it shows up in some of the comments in the submissions where there's still a perception that we're negotiating this point for that point.

MRS OWENS: Yes.

MR HARRIS: Obviously everybody considers those factors in a negotiation but as far as we're concerned, it's the overall outcome that matters and the fact that we get capacity and they get points or, you know, whatever, doesn't really matter. That's just

identifying where the benefits actually lie. It's not a question of us negotiating on that basis, but I mean, I was surprised to see that people still believed that negotiations were conducted that way.

PROF SNAPE: Yes. It wasn't our understanding that it was but perhaps we conveyed the wrong impression.

MR HARRIS: No, no. I think it's more the quotes.

MRS OWENS: It's the quotes without the context.

MR HARRIS: Yes. It was that that struck us. We didn't go through every submission and some that were quoted were quite clearly suggesting, or maybe I read them out of context, I don't know - but the perception of the quote on its own sort of left that impression with me and we don't work that way. In fact, it wouldn't be practically possible for us to pursue something like capacity over demand on that basis, given the people that we're negotiating with, a lot of them aren't really interested in capacity enhancement. We have to offer them something else, some other inducement - points access, routes, whatever we can think of; code sharing.

MRS OWENS: You talk about - right up the front - we have just come full circle but you talk about Australia on page 2 as being a leader in liberalisation and economic reform in this sector. I wonder, is this something that it's acknowledged among our bilateral partners, that we are a leader, or is this some hyperbole?

MR HARRIS: No.

MR WHEELANS: Given the level of resistance that we have got, I mean, the level of resistance that we have in getting these liberalised agreements in place probably helps us understand that a bit better.

MR HARRIS: The word "leader" is ours. No-one would acknowledge that anyone else is a leader - in a negotiating context here. We wouldn't acknowledge that the US is a leader either or country X for that matter. What we are trying to claim here is that we're ahead of the main bunch in how people handle these issues.

MRS OWENS: So it's all relative.

MR HARRIS: We find ourselves more often than not being the party who is considered to be breaching the long-held concepts of how you negotiate bilaterals or generally allowing too much - what's the great phrase from the Chicago Convention - not "unnatural competition", but something like that anyway, allowing too much of this form of - - -

PROF SNAPE: Wasteful competition?

MR HARRIS: Wasteful competition, yes, allowing too much of that. That's not true against, in a relative comparison, with every country, but it is true with a substantial majority of countries we deal with. This is the perception problem I think that in Australia, as I said, I think in an earlier comment, viewed as, "The international aviation market should be like any other market. Why isn't it?" "Oh, well, it must be the fault of these people who like negotiating bilaterally." It's simplistic and inaccurate. Viewed from the international aviation context where it's taken as a given that of course you're negotiating bilaterally, we're viewed as people who, you know, might be almost too simplistic, in our belief, in exposure to competition.

MR QUINLIVAN: Certainly, just to broaden that perspective a bit, other countries are looking closely at what we're doing with airports and they're aware of the plans the ministers espoused for air services and the introduction of competition into that area. I think what we're - particularly on airports, but because the air services work is at a formative stage - what we're doing is regarded as novel in a number of other countries.

MRS OWENS: I mean, there are things we haven't done. We haven't got fifth freedoms, looked for freedoms with New Zealand. We don't have open skies policies. We haven't opened up our regional airports. So, I mean, when you talk about being a leader, what you're saying is we're up there with the best of them but - -

MR WHEELER: No, we're in front. We have had a series of negotiations in Europe, for example, where we are clearly in front of the game so far as European bilateral policy is concerned. We are in front of the game with most of our Asian bilateral partners in terms of the initiatives that we are bringing to the table and the degree of resistance that we're getting to a number of those initiatives.

MR HARRIS: As an example, we take for granted the fact that we have got multiple designation. It was a policy taken some time ago. We pursued it. It's in virtually all of the agreements. Tony had negotiations with a couple of European countries where we didn't have it in the past 12 months; met considerable resistance. We take this for granted but it's not taken for granted by most other bilateral parties. This is not to justify - we're not trying to say, "Therefore, give us a big pat on the back here." We're just trying to say as a collective there is much more liberalisation in what we do viewed in the bilateral context than we believe came across in considerable parts of the supporting analysis in the report.

That doesn't change the nature of the direction the commission is going in terms of its recommendations. It's not trying to provide that, "Therefore you should change your view on anything in particular," but from our perspective one of the great benefits that came out of the idea of having an Industry Commission or Productivity Commission review of this was that you might identify just what we're saying here; that there is in fact more liberalisation than might meet the eye. Obviously there's more that can be done and then the debate is about what the "more" is.

PROF SNAPE: Yes. I understand that point.

MRS OWENS: I think you have missed your plane.

MR WHEELANS: No, we have booked on a later one.

MRS OWENS: No, you said it was 3.30.

MR QUINLIVAN: We have changed it but we will need to go shortly.

MR HARRIS: It's probably at risk again.

PROF SNAPE: I am reaching the end of my - Helen?

MRS OWENS: Yes.

PROF SNAPE: In that case are there any - I think you did make a sort of concluding statement just a moment or two ago, but do you wish to add anything, Peter, and others?

MR HARRIS: I think I have said all I need to say.

MR WHEELANS: I'm right.

PROF SNAPE: In that case I thank you all very much for coming and being forthcoming in those comments which have helped us very much. As I say, also for the additional information that you have given us in the comments that you gave to us which are very helpful. Also we, I think, understand the point of view that you're making rather better. So we will thank you very much and adjourn, I think the right word is, adjourn the hearings until next Tuesday morning at 9 am, when we have got some airlines who are going to be coming on Tuesday and Wednesday.

MRS OWENS: And airports.

PROF SNAPE: And airports. I think we have got fairly full days on both of those days. Of course, we have got others as well. We adjourn until 9 o'clock on Tuesday morning. Thank you very much.

AT 3.48 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 28 JULY 1998

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