Australian Government
Department of Infrastructure, Regional Development and Cities

Productivity Commission Inquiry into the Economic Regulation of Airports

Submission

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Foreword

The Department of Infrastructure, Regional Development and Cities (the department) welcomes the Productivity Commission's (the Commission) 2018 Inquiry into the Economic Regulation of Airports. The characteristics of airports[1], and the aviation sector more broadly, suggest periodic reviews to test economic regulatory settings are important. The Commission is ideally placed to undertake these reviews.

Periodic inquiries are also an opportunity for the aviation sector and its stakeholders to consider the impact of global trends and the industry's strong growth, which has been ahead of population growth.

In this submission, the department provides contextual, statistical and historical information to assist the Commission in its deliberations. The department also makes some preliminary reflections on the effectiveness of existing regulatory settings. However, the purpose of the Commission's review is to gather more information and test current market settings.
The department will provide a more definitive opinion in the light of the Commission's draft report and associated additional information.

1. Executive summary

Australia's aviation sector plays a critical role in supporting the nation's economic and social wellbeing. Through the movement of goods and people domestically and internationally, Australia's aviation network added $15.9 billion to the national economy in 2017.[2] Furthermore, the domestic and international air freight task represents 21% of Australia's total international trade value.[3]

Notably, 2017 marked the 20th anniversary of the commencement of Australia's airport privatisation process. The successes of privatisation have underpinned one of the most liberal aviation markets in the world, with passenger movements trebling since 1992. Since privatisation, federally leased airports have delivered significant capital investment to meet this strong passenger growth, with significant further aviation infrastructure investment planned or underway.

Over the next decade, the Australian airport network is expected to deliver infrastructure development, which should meet the capacity needs of the following decades. Proposed developments are the largest since privatisation, with the new runway at Brisbane Airport, runways proposed at Melbourne and Perth airports, and the Australian Government's development of the Western Sydney Airport.

While the aviation market has enjoyed considerable success, especially in the past couple of years, recent airport service negotiations have proven challenging. This is testing the existing economic regulation framework's reliance on commercially negotiated agreements, as airports and airlines negotiate funding for long-term aviation infrastructure projects.

Australia's airports and their airline customers crucially balance the quantum of infrastructure costs with the costs for air travel, while keeping in mind these costs are primarily passed on to travellers. While the focus of this inquiry is economic regulation and pricings between airports and airlines,

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[1] Unless otherwise indicated, references to 'airports' in this submission relate to the 21 operational federally leased airports, as defined by the Airports Act 1996.
[2] Australian Industry Standards Ltd, *Aviation Industry 2018 Key Findings Discussion Paper* (February 2018) <http://www.australianindustrystandards.org.au/wp-content/uploads/2018/02/Aviation-Key-Findings-Paper2018V4Web.pdf>.
[3] Department of Infrastructure, Regional Development and Cities, *Inquiry into National Freight and Supply Chain Priorities Supporting Paper No. 1 Air Freight* (March 2018) <https://infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/supporting-papers/files/Supporting_Paper_No1_Air_freight.pdf>.

land transport, and service delivery, it is ultimately the end user of these services, i.e. the travelling public, that is impacted. It is therefore the public and the broader economy that are the primary drivers for, and beneficiaries of, an effective system of airport economic regulation in Australia.

It is acknowledged there are considerable differences in the circumstances of airports with respect to their monopoly characteristics. These characteristics are more present for some airports, and especially in the area of domestic aeronautical services. Moreover, different airlines also have more countervailing market power than others. In short, and not surprisingly, it is a diverse and complex market.

The department's preliminary view is that the case for changing the current 'light-handed' economic regulation approach established under provisions of the Airports Act 1996 (the Act) has not yet emerged. However, the purpose of the Commission's inquiry is to test that case and the department will form a final view in the light of findings and new evidence.

It is worth noting that airports and airlines continue to ultimately come to terms, airports are delivering infrastructure to meet demand, quality of service standards appear adequate, and airlines continue to experience steady and sustainable growth. Nevertheless, this in and of itself does not mean better outcomes could not be achieved through changes to the regulatory framework.

The department notes there have been calls for a legislated 'negotiate-arbitrate' model. As with any commercial arrangement, commercial arbitration processes are an option available to all parties in the event of an unresolved dispute. Furthermore, access declarations continue to provide options for airport customers in the event of failed negotiations with airport operators. Access declarations do have the advantage of being applied to an individual airport where specific circumstances require such an approach, rather than a general model which in some cases might not be needed.[4]

The department has identified some changes which under the existing arrangements could lead to improved outcomes. In particular, the current Australian Competition and Consumer Commission (ACCC) annual Airport Monitoring Scheme, established under the Act, could better support the intended outcomes of the framework by providing more detailed analysis of data obtained to inform whether monopoly powers are being inappropriately applied. This information may assist airlines, government and travellers to better understand the effectiveness of the regulatory regime.

The quality of service monitoring scheme may also provide better clarity on quality of service standards if the rating scale were to be more informative, if analysis included all airport terminals (both those operated by the airport and the airlines), and if the reports provided comparisons for terminals within a specific airport, as well as across other airports.

Since the 2011 Inquiry, all four major airports and five second-tier airports have released and implemented new iterations of their Master Plans. A feature change to Master Plans since the last inquiry has been the implementation of amendments to the Act in 2010, which introduced ground transport plans as a key component of Master Plans. This has encouraged and supported airport/state government collaboration on ground transport access to, and around, airports.

The department continues to be supportive of the Sydney Airport regional access scheme and acknowledges its importance in ensuring regional communities in New South Wales (NSW) maintain access to essential services and the state's capital. While rectification of minor

[4] While changes were recently made to the threshold criteria under Part IIIA of the Competition and Consumer Act 2010, it is noted the recent legislative changes have not yet been tested in application.

unintended consequences are proposed for consideration in this inquiry, it is also noted Western Sydney Airport will assist to enhance aviation capacity in the Sydney basin.

The provision of jet fuel at Australian airports is largely a commercial matter between fuel providers and airlines. However, airports play a limited but crucial role. Airports are responsible for ensuring effective land use planning and adequate access for investment in jet fuel infrastructure on airport, to support growth and competition.

In recent years, there has been at least one jet fuel interruption event that has materially affected the aviation network and impacted the travelling public. Events such as the disruptions at Melbourne Airport in late 2016 highlight a potential need for government involvement during times of fuel shortage, outside of enacting provisions under the Liquid Fuel Emergency Act 1984.
The department considers there may be merit in exploring whether future on-airport jet fuel infrastructure needs should be required to be foreshadowed in airport Master Plans.

2. Background and regulatory context

The department contributes to the implementation of the Australian Government's aviation policy framework in collaboration with various other government entities and industry partners.
The overarching policy objective is to help the aviation industry grow in an environment that is safe, secure, competitive, and adequately meets the needs of its users and the needs of the community more broadly. The department acknowledges the importance of aviation to the tourism industry, international trade and the broader economy.

Through the Commission’s periodic reviews of the economic regulation of federally leased airports in 2001-02, 2006-07 and 2011-12, the department made submissions in the context of a maturing and growing aviation environment.

2001-02 Inquiry

In 2001, the department (then Department of Transport and Regional Services) submitted to the Commission the views of its experience with the administration of the price oversight arrangements at that time, which included price capping and price notification. The department suggested the regulatory approach adopted, including price capping, was not working as intended and an alternative approach was required to achieve efficient outcomes for air travel.

There was little evidence at the time to support an argument that any of the major airport operators had abused any market power. There was also little evidence to suggest this was because of the existence of the aeronautical price caps. The department noted there was growing evidence airlines had a degree of countervailing power which, together with various market forces, would be sufficient to warrant a shift in approach to any future regulation to reduce the significant economic distortions being created under the regulatory regime at that time. It was not clear airport operators had an incentive to abuse any power since it was in the interests of airports to grow airline services and maximise passenger numbers to generate business growth.

It was suggested a higher level view be taken in the regulation of prices for airport services. The department’s preferred model was to encourage a market outcome with commercially negotiated agreements which could reinforce prices and services monitoring.

2006-07 Inquiry

In its 2006 submission, the department advised the Commission the objectives for price regulation, as stated in the then Australian Government's Pricing Policy Paper released prior to the first airport sales in 1997, remained relevant.[5]

The department considered the move away from price capping in favour of the revised regulatory pricing regime at the time had delivered benefits for air transport in Australia, particularly with regard to the level of aeronautical infrastructure development undertaken to keep pace with increasing demand. Airports had invested in new or significant upgrades to airport terminals and increased airside capacity to provide for more and larger aircraft. This development was facilitated by effective commercial negotiations between the major airport operators and their airline customers.

The department also advised the Commission it considered the airport regulatory pricing regime had been a successful model in most respects and should continue. The price monitoring components (i.e. the financial reporting requirements of the Airports Act 1996 and the data reporting requirements of the then Direction 27 made under the then Trade Practices Act 1974) provided an important control to avoid abuse of market power.

2011-12 Inquiry

In the 2011 submission, the department (then Department of Infrastructure and Transport) again noted it was yet to see convincing evidence the price monitoring approach was ineffective in terms of pricing and quality of service outcomes. The view was that a move away from the current approach, based on commercial negotiations and supported by the access provisions of Part IIIA of the Competition and Consumer Act 2010 (the CCA), could introduce much greater regulatory uncertainty and dampen investment at airports. At the time, the department noted while investment had kept pace with the demands of steady growth over the prior decade, the further forecast growth would raise demands to a new level of investment for significant infrastructure across the major airports.

This foreshadowed additional runway and terminal developments, which were to raise new challenges for commercial negotiations given the anticipated need for significant finance. In light of this, in its response to the Commission's findings, the department supported the current review taking place in 2018.

To date

It has been evident the privatisation of airports has provided the opportunity for a responsive and individually tailored approach to investment in aviation infrastructure. This has been necessary to meet increasing passenger numbers and evolving market characteristics, such as the strong emergence of low cost carriers and changing aircraft types. In the lead up to privatisation, the stated rationale was to improve the efficiency of airport investment and operations in the interests of users and the general community, and to facilitate innovative management. In support of this rationale, the Australian Government nominated a number of ongoing objectives for the leasing of its airports which amongst others included:

- The pricing policy adopted by each airport is supportive of investments necessary to serve the interests of users and consistent with the interests of the Commonwealth and the development of the region.

[5] Department of Transport and Regional Development, *Pricing Oversight Guidelines* (1996).

- Each airport lessee company acts to promote the economic development of its airport in a way that is responsive to the interests of users, the environment and the region in which the airport is located.

The results have seen private airport operators bringing levels of aviation and non-aviation investment not able to have been achieved by government ownership.

Regulatory context

Federally leased airports[6] are regulated through the Airports Act 1996 (the Act) and associated regulations. The Act establishes a framework for a broad range of matters including airport leases, ownership of airport lessee companies (airport operators), land use planning, building controls, environmental management, quality of service monitoring, protection of airspace and demand management. Federally leased airports must also comply with the Civil Aviation Act 1998 and a range of other legislation related to the environment, safety and security.

The Act requires airport operators to prepare a Master Plan every five years. Master Plans outline the 20-year strategic vision for the airport site that includes future land uses, types of permitted development and environmental impacts, amongst others. The Act also requires airport operators to develop Major Development Plans (MDPs) for major developments on the airport site. Both Master Plans and MDPs require consultation with the community and with other government authorities. In combination, these plans contribute to considered development and infrastructure planning to inform delivery of infrastructure investment.

Airports are also subject to the CCA. This legislation has a focus on anti-competitive behaviour. Where airport operators and users (such as airlines) are not able to reach commercial agreement on the commercial terms and conditions for use of, and price paid for, airport facilities or services, users may seek to rely on Part IIIA of the CCA for access to these facilities. The department believes such action should only be seen as a last resort, and reaching an agreed outcome through commercial negotiation remains optimum.

The aircraft and passenger-related services and facilities (as defined by regulation 7.02 of the Airports Regulations 1997) at Sydney, Melbourne, Brisbane and Perth airports, are subject to monitoring by the ACCC. The ACCC's annual monitoring of airport pricing behaviour and quality of services is conducted in accordance with Part VIIA of the CCA.

In conjunction with the overarching legislation, Australia's federally leased airports must also meet specific requirements of their lease with the Commonwealth. The most relevant of which, in the context of this inquiry, is that at the four major airports the lessee must:

> 'Develop the airport site at its own cost and expense, consistent with a Major International Airport having regard to:
>
> - the actual and anticipated future growth in, and pattern of, traffic demand for the airport site;
> - the quality standards reasonably expected of such an airport in Australia; and
> - good business practice.'

[6] Adelaide, Alice Springs, Archerfield, Bankstown, Brisbane, Camden, Canberra, Darwin, Essendon Fields, Gold Coast, Hobart, Jandakot, Launceston, Melbourne, Moorabbin, Mt Isa, Parafield, Perth, Sydney, Tennant Creek, Townsville, Western Sydney Airport.

Non-federally leased airports

The Australian Government does not have a direct role in the day-to-day operation, maintenance or development of all Australian aerodromes. State and local government bodies, and other organisations which own and operate airports set their own pricing regimes subject to the governance arrangements under relevant state legislation, and compliance with the CCA administered by the ACCC.

Aviation security

Security is an issue of ongoing importance across the aviation sector. Since the 2011 Inquiry, the Aviation and Maritime Security Division (formerly the Office of Transport Security), who carries primary policy and regulatory responsibility in this area, was transferred by machinery of government changes from the department to the newly formed Department of Home Affairs. The department continues to collaborate with respective government agencies on security issues, ensuring the potential impact of increasing costs in the aviation industry are taken into account. However, specific information relating to security aspects of Australia's aviation sector and the broader matter of border control should be directed to the Department of Home Affairs.

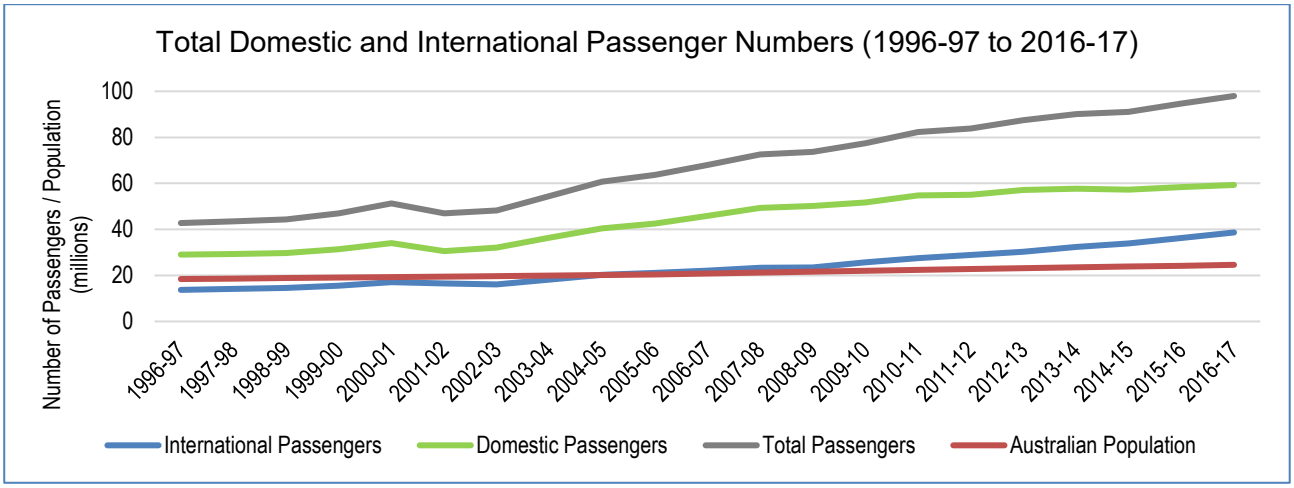
3. Industry trends

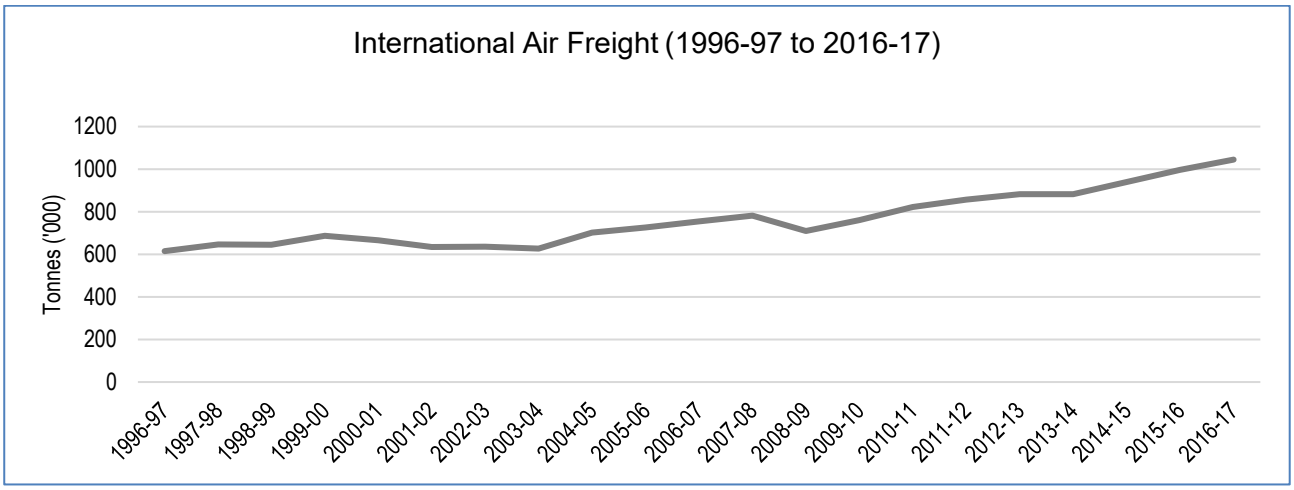
Australia's aviation market

Strong growth in demand for aviation services has been an enduring trend in the Australian economy. The Bureau of Infrastructure, Transport and Regional Economics (BITRE) estimates aircraft movements have increased 62.3% over the past 30 years. Since privatisation of Australian airports commenced in 1997, total international passenger numbers at all Australian airports has grown from approximately 13.7 million to 38.7 million in 2017.[7] Domestically, the total number of passengers has increased from 29.0 million in 1997 to 59.3 million in 2017.[8] This represents an increase of 180% and 104% respectively, which has far exceeded the Australian population growth, which increased by 34% between 1997 and 2017.[9]

Over the same period, freight on international flights has increased by around 400 million tonnes to over 1 billion tonnes (an increase of 62%).[10]

[7] Bureau of Infrastructure, Transport and Regional Economics, *Yearbook 2017 Australian Infrastructure Statistics* (December 2017) <https://bitre.gov.au/publications/2017/files/yearbook_2017.pdf>.
[8] Bureau of Infrastructure, Transport and Regional Economics, above n 7.
[9] Australian Bureau of Statistics, *31101.0 - Australian Demographic Statistics, Dec 2017* (June 2018) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3101.0Dec%202017?OpenDocument#Time>.
[10] Bureau of Infrastructure, Transport and Regional Economics, above n 7.





Source: Bureau of Infrastructure, Transport and Regional Economics[11] and Australian Bureau of Statistics[12].

The Australian aviation market has become significantly more liberalised since privatisation. In 1997, Australia had bilateral air services arrangements with 48 economies[13], in 2011 with 75 economies, and in 2018 with 107 economies. In addition to the new arrangements since 2011, Australia has negotiated 29 revised arrangements. Some negotiations have resulted in improved code sharing opportunities, affording greater flexibility for Australian airlines, travellers and businesses. Other negotiations have resulted in significant increases in capacity entitlements for services to and from Australia's airports.

Australia's international aviation policy is one of the most liberal in the world. In all markets, the Australian Government seeks to ensure available commercial entitlements (most notably, capacity) remain ahead of demand, enabling industry growth and evolution. Liberalising international air services arrangements allows market forces to operate and airlines to respond to supply and demand in a competitive environment. In this regard, Australia has ample capacity available under almost all our existing bilateral air services arrangements (including unrestricted access with some economies). Most arrangements also provide unrestricted international access to smaller airports. The option for airlines to operate into smaller airports applies competitive pressure on the four major airports to attract and retain international air services.

[11] Bureau of Infrastructure, Transport and Regional Economics, above n 7.
[12] Australian Bureau of Statistics, above n 9.
[13] Countries and regions and territories, such as Hong Kong Special Administrative Region of the People's Republic of China, which can negotiate bilateral air services for their territories.

Liberalisation of the United Arab Emirates (UAE) market

The UAE has been a key aviation market for Australia, with a rapid increase in capacity available under the arrangements agreed between 1995 to 2016.

Under the 1995 arrangements, airlines of Australia were allowed to operate three services a week between points in Australia and Dubai; and airlines of the UAE were allowed to operate three frequencies a week between Dubai and Melbourne. Under the 2016 arrangements, capacity allowance has increased to 168 frequencies a week (total number of services between major gateways in Australia and major gateways in the UAE with an additional number of services if operated via or beyond a point other than the major four airports). In addition, airlines of either country can operate an unlimited number of services to and from all airports other than Sydney, Melbourne, Brisbane and Perth.

The total number of passengers transported annually between Australia and the UAE from 1999 to 2017 on flights operated by Australian and the UAE airlines increased from 95,695 to 3,661,656.[14]

Having started services initially to Melbourne alone, airlines of the UAE now also operate to Sydney, Brisbane, Perth and Adelaide.

Domestically, Australia has one of the most liberal aviation markets in the world and the Organisation of Economic Co-operation and Development (OECD) ranks Australia's Air Transport Sector the second least restrictive among OECD member countries (behind Chile).[15] For example, in contrast to most major aviation markets including the United States, Australian Government policy allows for 'investment cabotage' which creates potential for increased competition in the domestic market.[16]

Growth forecast and future trends

Rapid growth in the aviation sector is predicted to continue, with global air traffic anticipated to double over the next 20 years.[17] At Australia's four largest airports, annual passenger numbers are forecast to increase by approximately 85% over the next 15-20 years, from approximately 113 million passengers to 210 million passengers.[18] Factors driving growth include increased consumer spending, growing middle classes in emerging markets and evolving airline business models.[19]

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[14] Departmental administrative records.
[15] Organisation of Economic Co-operation and Development, *STRI Sector Brief: Air transport services* (December 2017) <http://www.oecd.org/tad/services-trade/STRI_air_transport_services.pdf>.
[16] Aviation cabotage is the transport of domestic passengers (or cargo) by a foreign airline. Investment cabotage means a foreign airline or investor is able to establish an Australian-based subsidiary to operate domestic air services. Providing the subsidiary meets the requirements of the Foreign Investment Review Board and all applicable Australian regulations governing the operation of domestic flights, it can be 100% foreign owned, and can enjoy unrestricted access to the domestic aviation market.
[17] Airbus, *Airbus Global Market Forecast 2018-2037* (2018) <https://www.airbus.com/aircraft/market/global-market-forecast.html>.
[18] Derived from the following sources:
Sydney Airport Corporation Limited, *Sydney Airport Preliminary Draft Master Plan 2039* (2018) <https://www.masterplan2039.com.au/masterplan2039?gclid=EAIaIQobChMIhIyO4uiO3QIV2QQqCh2NzAUdEAAYASAAEgLx3_D_BwE>.
Australia Pacific Airports (Melbourne) Pty Ltd, *Melbourne Airport Master Plan 2018 Preliminary Draft* (2018) <https://www.melbourneairport.com.au/Corporate/Planning-projects/Master-plan>.
Brisbane Airport Corporation Pty Ltd, *Brisbane Airport Master Plan 2014* (2014) <https://bne.com.au/corporate/projects/airport-master-plan/2014-airport-master-plan>.
Perth Airport Pty Ltd, *Perth Airport Master Plan 2014* (2014) <https://www.perthairport.com.au/Home/corporate/planning-and-projects/master-plan>.
[19] Boeing, *Current Market Outlook 2017-2036* (2017) <http://www.boeing.com/resources/boeingdotcom/commercial/market/current-market-outlook-2017/assets/downloads/cmo-2018-2-22.pdf>.

Aviation growth is expected to continue to grow at a faster rate than Australia's population growth.[20]

International air freight is also predicted to continue to grow, with forecasts of an increase of 700 million tonnes, to reach a total of 1.7 billion tonnes by 2030.[21] Factors driving freight growth include passenger growth (the majority of air freight is carried in passenger aircraft), continued economic growth, greater export opportunities for niche Australian high value/time sensitive goods in expanding Asian markets, and the changing nature of consumer behaviours (e.g. growing demand for fast delivery of imported goods and e-commerce purchases).

The growth in movements and foreign aviation markets has increased competition and diversified customer models. As result, there has been a shift in the way air services are delivered. Changes have arisen due to pressures from changing demand patterns (such as in the resources sector), strong growth in the Asia-Pacific region and continued advances in technology. Also, due to pressures on airline financial performance, and as airline business models have continued to evolve over the last ten years, there has been an increase in the number of low cost carriers and a decrease in full service carriers.[22] The successes of the evolution of airline financial performance are evidenced by the recent announcements of Australia's two major airlines. Qantas recently reported a record profit of $1.6 billion before tax (up 14%) for 2017/18.[23] The Virgin Australia Group recently announced an underlying profit before tax of $109 million for 2017/18, its strongest in ten years (Virgin recorded a statutory loss after tax of $653 million for 2017/18 however has reported this was largely the result of a major one off non-cash accounting adjustment).[24]

The outlook for the international market includes continued competition between Australian airlines and foreign carriers. This competition is beneficial for the travelling public and creates pressure for improved airport infrastructure and services, and new and specific demands for airports. As airlines expand international operations to airports outside of the capital cities (e.g. Newcastle, Avalon and the Sunshine Coast), the major airports face further competition from the increased options available to airlines and passengers. Additionally, among the four major airports, there is a degree of substitution available for international operations, stemming from the flexibility airlines have to decide which Australian airports to operate into; this also creates competition between the airports. Forecast growth brings with it a diversified and expanding customer base with varied requirements and expectations.

Meanwhile, the requirements and expectations of different airline business models create a further layer of complexity for airport service agreement negotiations and infrastructure planning.
As trends emerge, new pressures will be placed on both airports and airlines to continue to adapt. Strong growth will require continued improvements to ensure efficiency and productivity in the sector, to deliver products and services to meet passenger expectations and ensure continued positive contributions to the economy.

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[20] Australian Bureau of Statistics, *3222.0 - Population Projections, Australia, 2012 (base) to 2101* (2013) <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/3222.0main+features52012%20(base)%20to%202101>.
[21] K Hamal, *International air freight movements through Australian airports to 2030* (2011) Australasian Transport Research Forum Incorporated, <http://atrf.info/papers/2011/index.aspx>.
[22] Airbus, above n 17.
[23] Qantas Airways Limited, *Qantas Group Reports Record Full Year Profit* (23 August 2018) <https://www.qantasnewsroom.com.au/media-releases/qantas-group-reports-record-full-year-profit/>.
[24] Virgin Australia Holdings Limited, *Release - FY18 Financial Results* (29 August 2018) <www.asx.com.au/asxpdf/20180829/pdf/43xssb8j3zyy6x.pdf>.

Western Sydney Airport

The 2012 *Joint Study on aviation capacity in the Sydney region* (Joint Study) identified growing capacity constraints in the Sydney basin. The Joint Study found Sydney Airport will be unable to meet the increasing demand in the Sydney basin, and without significant additional aviation capacity, the domestic airline sector would become increasingly constrained and new services from international markets could not be accommodated.[25]

As part of the sale of Sydney Airport in 2002, the purchaser (Southern Cross Airports Corporation (SCAC)) was given the right of first refusal to develop and operate a second major airport in the Sydney region. After considering the offer, SCAC declined that opportunity. This meant the Australian Government had the choice to either offer the project to another private company or build and operate the airport itself on terms not more advantageous than those offered to SCAC.

On 2 May 2017, the Australian Government announced it would create a government-owned company, WSA Co Ltd, to build the airport. Through this arrangement, the Australian Government is providing the equity for construction of the greenfield airport. WSA Co was established on 7 August 2017 and became the leaseholder for the site in May 2018.

The Western Sydney Airport (WSA) provides a once-in-a-generation opportunity to design, build and operate a world-class airport that creates new jobs and economic growth. The first stage of development is intended to establish the airport with a single 3,700 metre runway, a terminal and other support facilities to provide an initial capacity of 10 million passengers per year. Upon opening, the airport will offer regional, domestic, international and air freight services with Jetstar, Qantas and Virgin having publically expressed an intention to fly out of WSA. Further development will be staged in line with demand to include a larger terminal and potentially support commercial facilities. As demand approaches 37 million passengers per year (anticipated to be around 2050), a second, parallel runway is expected to be required. WSA is expected to be capable of handling approximately 82 million passengers a year by around 2063.[26]

The 2016 *Western Sydney Airport Plan* forecasts initial capacity will include 220,000 tonnes of annual freight throughput and 7,000 dedicated freight air traffic movements, accounting for 11% of total air traffic movements.

The airport will introduce further competition to the aviation market and assist as a natural influencer of competitive pricing. The Australian Government is preserving its options with respect to future ownership and governance arrangements.

The impact of technology

In a globalised world, airports increasingly connect people and businesses to opportunities domestically and internationally. The digital economy is developing rapidly and is changing the way Australians live, work and do business.

Arguably, a measure of success for an airport could now include the ability to adapt and anticipate change. Airports need to provide a balance between reliance on known technological advances in areas like air traffic control, avionics and security, and the possibility of innovations enabling new ways of operating an airport such as through the use of biometrics. However, airport planning is expected to look beyond the timeframe for which the industry can comfortably predict requirements. For example, while the technological aspects of passenger facilitation and security

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[25] Department of Infrastructure, Regional Development and Cities, *Western Sydney Airport Plan* (2016) <http://westernsydneyairport.gov.au/files/Western_Sydney_Airport_Plan.pdf>.
[26] Department of Infrastructure, Regional Development and Cities, above n 25.

are developing quickly, airport physical infrastructure investments are longer term, and can be expected to last for up to 50 years.

Airports are increasingly embracing social media and online services to provide timely and improved customer services. Tools such as online parking reservation and payments, real time departure information and other services demonstrate airports' recognition of passengers as their direct customers. Most major airports continue to invest in their passenger experience options in line with international trends.

As a service industry, airports and airlines have been increasingly subject to technological advances of online, publicly accessible, rating and review platforms. These communication channels provide airport operators with feedback on various aspects of airport services. Indeed, research suggests a high degree of correlation exists between scores from Google reviews and results of the Airports Council International Airport Service Quality (ACI ASQ) Survey (at least for the top 100 airports internationally included in a recent study).[27]

These natural, non-regulatory factors provide differing layers of pressure on airports to ensure adequate quality of service, as airport operators are now more than ever subject to instant scrutiny by travelling customers.

Environmental and social trends

Increased social and environmental conscience is now more than ever expected of airports and airlines by the public and government. In recent times, a number of airports have made significant investments in solar energy and other forms of renewable energy. For example, Darwin Airport's solar project is forecast to meet up to 100% of the airport's peak energy demand in the middle of the day and to generate 25% of the airport's overall energy needs. Additionally, Brisbane Airport has recently launched Australia's largest electric bus fleet which will reduce airport carbon emissions by 250 tonnes a year.

Investment in environmental sustainability at airports extends to non-aeronautical developments. For example, in 2015 a building at Canberra Airport's Brindabella Business Park was the first 5 Star Green Star rated building in Australia, saving 450 tonnes of carbon dioxide emissions annually. Continued investments in managing carbon emissions have resulted in four Australian airports (Adelaide, Brisbane, Parafield and Sydney) achieving a Level 3 (Optimisation) Airport Carbon Accreditation certification from the Airports Council International. The department expects these forms of investment will continue and airports will increasingly factor the effects of climate change into planning.

Since 2009, the department has encouraged airlines and airport operators to develop, implement and publish Disability Access Facilitation Plans (DAFPs). DAFPs, intend to address disability access for as much of a traveller's journey as possible, from making a reservation through to arriving at the intended destination. Consequently, airports and airlines have made capital investments, allocated resources and implemented procedures to make services accessible for passengers with a disability. For example, Perth Airport provides a range of facilities in their terminals including televisions with closed captions, hearing aid loops, a counter hearing system, accessible drinking fountains and tactile paving.

[27] K Lee and C Yu, 'Assessment of airport service quality: A complementary approach to measure perceived service quality based on Google reviews' (2018) 71 *Journal of Air Transport Management* 28-44.

4. Investment in aeronautical infrastructure

Airport operators committed to undertake a total of $700 million capital expenditure over the first ten years of the airport leases (commencing from 1997-98). All airports met this within the specified timeframe, and in some cases well before the ten year period elapsed. Sydney Airport, which was privatised in June 2002, was not leased with an infrastructure undertaking, as it had been subject to considerable investment in aeronautical facilities, terminals and freight facilities in the lead up to the 2000 Olympic Games.

The department's submission to the 2011 Inquiry detailed that some $2 billion in capital works projects, most directly related to aeronautical activity, had been completed since 2006 by all federally leased airports, or were at the time under construction at nine of the federally leased airports.

Investment planning

To continue to meet the growing demand for aeronautical services and facilities, since 2010-11 the nine largest federally leased airports have invested over $6.5 billion in aeronautical capital projects and forecast a further $5.3 billion of aeronautical capital expenditure by the end of 2020-21.[28] Included in these figures and projections are major step-change investments such as the new runway at Brisbane Airport, proposed runways at Melbourne and Perth airports and significant terminal expansions at Perth and Adelaide airports. The Australian Government has also contributed $38 million to the extension of the runway at Hobart Airport and, although not a federally leased airport, has granted Sunshine Coast Airport a $181 million loan for construction of a new runway, apron expansion and related infrastructure. This is on top of the $5.3 billion being invested in the first stage of WSA by the Australian Government.

Data from 2015-16 shows total assets and capital expenditure per passenger at the four major Australian airports is on par with comparable airports internationally. Details are provided at Attachment A.

Efficient airport investment must be timely. As an example, Perth Airport's first Master Plan following privatisation forecast their dual runway system (main runway with a cross runway with less usage) having movements increase from 62,800 per annum in 1998 to 149,500 in 2018.[29] With higher than expected growth, 151,335 movements occurred at Perth Airport in 2013 at the height of the resources boom.[30] While the total number of movements has decreased from the 2013 peak, Perth Airport's current movement forecasts are 172,000 per annum by 2025 and 241,000 per annum by 2045.[31] In order to address this growth and meet the future needs of airlines, Perth Airport proposes to construct a new parallel runway. The runway is expected to provide capacity required to meet the projected movement increases and is part of a $2.5 billion investment program over the next decade.

Decisions by airlines to introduce new aircraft types, such as the Airbus A380 and more recently the Boeing 787 Dreamliner, create technical requirements for infrastructure planning such as pavement strength and aerobridge specifications. Dialogue between airports and airlines regarding fleet planning is important to forecast infrastructure needs.

Given the nature of the large investments underway or planned by many airports and changes in aircraft fleets, it is reasonable to suggest the current and recent airport services negotiations with

[28] Departmental administrative records.
[29] Perth Airport Pty Ltd, *Perth International Airport Master Plan and Environment Strategy* (1999).
[30] Perth Airport Pty Ltd, *New Runway Project Preliminary Draft Major Development Plan* (May 2018) <https://www.perthairport.com.au/Home/corporate/planning-and-projects/projects/new-runway-project/section-downloads>.
[31] Perth Airport Pty Ltd, above n 30.

the airlines have been (and are) the most challenging to date. As such, once funding agreements for these step-change developments have been settled, a period of simpler commercial negotiations is foreseeable, whereby the newly created capacity can be utilised.

Financing investment

In line with the Australian Government's privatisation objectives, airports have expanded income streams through non-aviation developments as a means of diversifying their income. This supports periods of fluctuations in passenger numbers as well as downturns across the industry. Diversifying income streams has been particularly important for smaller federally leased airports where the scale of regular public transport operations is small and/or where airlines reallocate their aircraft to alternative routes.

The Australian Government has previously taken measures to facilitate ongoing access to foreign and domestic finance for airport investment and to encourage equitable financing terms for airports in line with freehold companies. In March 2011, the Australian Government decided to extend and/or offer new tripartite deeds to the end of the current 50 year leases. A tripartite deed (TD) is an agreement between the Commonwealth, an airport and its secured financiers. The TD sets out a process to provide for financier step-in to cure breaches of the airport lease and avoid termination of the lease. If the airport lease is terminated, the TD provides a mechanism for the airport lease to be either sold or valued and for the secured moneys[32] owed to the financiers to be paid out of the sale proceeds or valuation amount.

While some large airports may have been more able to secure finance without extended TDs, due to the leasehold nature of the arrangements with the Commonwealth, for smaller airports, the TDs were considered a critical element to secure funding, including for refinancing existing debt. TDs are an important, if not critical, element for airports in securing international finance and appear to have facilitated airports accessing more finance in absolute terms and being able to spread maturities across a greater time period.[33]

Spreading maturities[34] is particularly important for airport operators due to the high proportion of long-term, fixed assets held. Compared to airlines, airport assets are far less liquid. This reality brings differing perspectives to airport service agreement negotiations where the long-term planning horizon of airports is balanced against the shorter-term requirements of aircraft operators. A comparison of the liquidity ratios of Australian airports and international comparator airports is included in Attachment A. The liquidity ratios chart at Attachment A shows that Australian airports are generally on par with comparable international airports.

Even with diversified income streams and the benefits afforded to airports through TDs, financing is a complex matter with terms and conditions such as risk management, timing of development and funding and repayment timeframes just a few of the matters to be considered.

[32] Secured moneys are debts with surety for the loan provided by an asset.
[33] Department of the Prime Minister and Cabinet, *Airport Tripartite Deeds – Post Implementation Review* (2015) <https://ris.pmc.gov.au/2015/12/16/airport-tripartite-deeds>.
[34] Maturity date refers to the final payment date of a loan.

Airport pricing and risks

The cost basis for airports includes a large proportion of fixed costs which the airport lessee companies must pay regardless of their turnover.[35] This is a common trait of infrastructure markets and is factored into pricing agreements.

Airlines also face certain fixed costs such as aircraft lease, parking and landing charges which remain static irrespective of the number of passengers on board.

On balance, airlines have greater flexibility in managing assets, such as by redeploying aircraft should particular markets underperform. They can also substitute low cost carrier subsidiary services in place of full service carriers.

Airlines are a direct beneficiary of on-airport investments and continued airport viability. Airlines have shared in rewards resulting from airport investments providing greater capacity, expedited provision of services, technological enhancements and greater amenity. However, airlines do have greater exposure to volatility in travel markets and operational costs such as for jet fuel.

The department has been of the view that while prices for airport services have increased since privatisation, they have been balanced through negotiation with the airlines and reflect the significant investment in aviation infrastructure as outlined earlier. Whether this remains the case will be tested by the Commission's inquiry.

The department notes, increases in direct pass-through costs, such as for security services are an important factor in the increased prices.

Financial metrics related to airport performance and finance are included at Attachment A.

5. Commercial negotiations and market influences

Airport services agreements

The department continues to hold the view that pricing arrangements for aeronautical services and facilities offered by airports are best managed through commercial negotiation.

The department acknowledges in a regulatory environment where prices are determined by the industry, as a result of market influences and through commercial negotiation, airports and airlines logically approach these negotiations seeking to protect their own business interests.

For example, an airport may seek to ensure infrastructure development anticipates, and is ahead of, forecast growth, with sufficient investment to attract new airline customers and become a preferable destination over competing airports. Conversely, in order to minimise airport related costs, airlines, especially those with established significant market share, may be interested in ensuring investment at airports is delayed or carried out only when there is no other alternative. This practice limits the opportunity for increased competition from other airlines and therefore protects the market share of in-situ airlines.

These naturally opposing business interests lead to negotiated results for pricing, scale, scope and timing of airport investment. This inherently supports infrastructure investment at airports remaining efficient and effective, not too far ahead of anticipated necessity, and appropriate for airline customers and the travelling public, i.e. it prevents 'gold plating'. As a result, and unlike in many

[35] Cost basis refers to the cost of providing the airport and its essential ancillary services, including the cost of capital and depreciation of assets, as well as the costs of maintenance, operation, management and administration.

other sectors, investment in aviation infrastructure has been increasingly linked with peak demand, with little or no excess capacity for growth.

Due to the small number of airline operators at domestic airports, their significant countervailing power can create potential for delay of developments to the detriment of all airport users. For example, Queensland media outlets have reported protracted negotiations with airlines at Townsville Airport have delayed the commencement of the proposed redevelopment of the Townsville Airport Terminal.

At the international airports however, where there are many more airline customers, negotiations and funding can be balanced and supported by the needs of many stakeholders. As an example the proposed third runway at Melbourne Airport demonstrates a constructive approach to achieving project scope and pricing.

Melbourne Airport third runway progress

The proposed third runway at Melbourne Airport is a major national infrastructure project which has been foreshadowed since the early 1990s. The project was first consulted on in detail with airlines in the lead up to the 2013 Melbourne Airport Master Plan. Since then, the airport has maintained regular engagement with airlines across a broad range of issues, including funding models, operations and costs. In 2016, the airport commenced detailed engagement with the formation of an Aviation Advisory Group (AAG) comprising major domestic airlines, airline representative bodies and government agencies. AAG meetings have been held as required but peaked at monthly intervals between mid-2016 and January 2017, specifically to assess major proposals, agree final scope and progress preliminary airspace design. AAGs continue in 2018 to discuss construction methodology and project phasing.

It is reported airline engagement has heavily influenced the project scope and preliminary airspace design. Negotiated changes from the 2013 Master Plan have removed approximately $250 million in construction costs. The scope agreed to date takes into account how airlines can best utilise a parallel runway system. Melbourne Airport's engagement with airlines has resulted in runway lengths, widths, taxiways and navigational aids being revised, demonstrating commercial collaboration and the influence of airline stakeholders to ensure major projects are adequate and cost-conscious.

While it is to be expected that across the board there will be challenges due to different commercial interests of stakeholders throughout the process, commercial negotiations and agreements are critical to ensuring infrastructure investment is delivered prudently and to continue to support economic growth in a way that is sustainable and conscious of prices for the travelling public.

The current regulatory settings support the International Civil Aviation Organization's (ICAO) four key principles in pricing negotiations: non-discrimination, cost-relatedness, transparency and consultation.[36]

In recent times, airports have sought to implement innovative strategies to achieve airport services agreements. One recent example (although its success was limited) is Perth Airport, where the airport implemented a dedicated online portal for airlines to access relevant data. This was intended to provide a consistent approach to negotiations and demonstrate equity between customers. Other approaches have included specifically decoupling major infrastructure projects from services agreements, as has been the case with Melbourne Airport's third runway project.

[36] International Civil Aviation Organization, *Doc 9082 ICAO's Policies on Charges for Airports and Air Navigation Services* (2012) <https://www.icao.int/publications/Documents/9082_9ed_en.pdf>.

Airports and airlines have also been known to agree to embed quality of service drivers and key performance indicators into their agreements (e.g. new gates and provision of additional customer facilities) which will positively impact passenger amenity and thus quality of service ratings.

The four major airports and five second-tier airports have a combined total of nearly 170 current agreements with customer airlines. Across the board, this accounts for almost 90% of airline agreements, with the remaining 10% currently under negotiation. However, aside from one airport which commenced negotiations in late 2017 and has a number of outstanding international airline agreements, it is reported only one airline group does not have a current agreement with a number of airports.[37]

Airlines often operate using outdated terms, conditions and prices from their previous agreements while new ones are negotiated. Historically, negotiations have taken between three months and three years to reach agreement.[38]

While the department agrees Australian airports have a degree of market power, the primary concern is to ensure the airports do not abuse those powers, ultimately leading to negative impacts on the travelling public. Countervailing power held by airlines is seen to be a natural limiter of such behaviour and is underpinned by choice of destination amongst other factors as discussed below.

Airline choice of destination

The number of international airlines operating into Australia has risen from 54 in 2000, to 63 in 2017.[39] For international services, the primary countervailing power of airlines stems from choice of destination as there is some degree of substitution available between airports, including whether airlines choose to fly to Australia at all.

Domestically, the countervailing power stemming from choice of destination differs depending on the size of the airport. At the smaller end of the scale, airlines hold higher countervailing power as the ability of airports to attract and retain services can be limited by their market size. Smaller domestic airports are more dependent on reaching agreements as the alternative could be a loss of services altogether.

In comparison, the threat of loss of services is quite limited for the major airports as these act as national hubs with many customers. At the four major airports, the large number of international airlines may also reduce the negotiating power of the domestic carriers because these airports are not as highly reliant on domestic services.

Changes to competition legislation

The department continues to support agreements between airports and airlines being reached through commercial negotiations and considers escalation to legislative intervention should only be seen as a last resort. It is noted commercial arbitration is an option available to parties.
The department's preliminary view is that the approach of commercial negotiations, with the safety net available through the National Access Regime provisions established under Part IIIA of the CCA, remains appropriate.

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[37] Departmental administrative records.
[38] Departmental administrative records.
[39] Bureau of Infrastructure, Transport and Regional Economics, *International Airline Activity 2017* (2017) <https://bitre.gov.au/publications/ongoing/files/International_airline_activity_CY2017.pdf>.
Bureau of Infrastructure, Transport and Regional Economics, *International Airline Activity 2000* (2000) <https://bitre.gov.au/publications/ongoing/files/International_airline_activity_CY00_Y.pdf>.

Since the 2011 Inquiry, amendments to Part IIIA have changed the threshold for achieving declaration, and the effect of the changes, while anticipated, are yet to be tested. It has been argued the amendments revert the threshold to that originally intended by the legislation.

The scheme operates not as a pricing regime, but as a mechanism to address market distortions in certain circumstances. It remains a remedy for addressing instances of monopoly pricing which have competitive distortionary effects and reduce welfare.

Since 2011, there have been only two applications for declaration of airport related services under Part IIIA of the CCA, neither of which resulted in government intervention (one was not declared, the other was withdrawn).

Landside access agreements

The landside transport environment has changed significantly over recent years, both in terms of the demand for access and a shift in mode share between transport options.

Demand for landside access has increased with growth in passenger numbers and increasing numbers of people working in airport precincts. For example, over the last five years, vehicles accessing Sydney Airport during peak periods increased by more than 50% and 25% at Terminal 1 and Terminal 2/Terminal 3 respectively.[40] Demand for landside access is projected to continue to grow at all Australian airports as passenger numbers continue to increase. At Melbourne Airport, vehicle trips are projected to almost double by 2038.[41] (Note: ground transport planning is discussed later in this submission).

Trends in mode share at the major airports show an increase in the amount of people using public transport and rideshare services, along with a decrease in the percentage of travel undertaken via private vehicle. These trends are projected to continue with rail developments at various stages of planning and development for both Perth and Melbourne airports. Adelaide Airport is supportive of a proposal for light rail to the airport and planning for WSA includes preservation of a corridor for rail access.

To accommodate changes in mode share and to meet increased demand, airports have made considerable investments in amenities and infrastructure. They seek to recover these costs from landside transport users.

Airports charge landside transport providers an access fee as outlined in their respective commercial agreements. Some airports have advised the department they have over 1,000 agreements in place, covering charter companies, rideshare and limousine operators, taxis and bus operators. The charges outlined in these agreements contribute to airports' capital investments in landside infrastructure and ongoing operational and maintenance costs. In recent years, examples of landside investment by airports includes new, free and sheltered pick-up and drop-off areas, amenities such as kitchens and prayer rooms in taxi holding areas, roadside flight information display boards, wayfinding signage and CCTV. Operational costs include expenses such as kerbside passenger marshalling, towing of illegally parked vehicles and taxi concierge and facilitation. Operational costs can amount to over $1 million annually for even second-tier airports.[42]

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[40] Sydney Airport Corporation Limited, *Sydney Airport Preliminary Draft Master Plan 2039* (2018) <https://www.masterplan2039.com.au/masterplan2039?gclid=EAIaIQobChMIhIyO4uiO3QIV2QQqCh2NzAUdEAAYASAAEgLx3_D_BwE>.
[41] Australia Pacific Airports (Melbourne) Pty Ltd, *Melbourne Airport Master Plan 2018 Preliminary Draft* (2018) <https://www.melbourneairport.com.au/getmedia/a1f2ed03-7be9-4ea7-8f7b-82941c885a7a/Melbourne-Airport-Master-Plan-2018-Preliminary-Draft.pdf.aspx?ext=.pdf>.
[42] Departmental administrative records.

In its 2011 Inquiry, the Commission reported access fees for ground transport operators did not appear to be excessive.

Car parking

Competition between transport modes and the availability of off-airport car parks act to constrain the ability of airports to set uncompetitive rates as this is counterproductive to their commercial interests. It is also important to note land used at airports to provide car parking is generally otherwise highly valuable commercial land which could alternatively be used for other revenue generating businesses. Therefore, the opportunity costs associated with maintaining car parks must be considered.

The ACCC reports there are currently 15 independent car parks operating around Melbourne Airport, eight around Brisbane Airport, five around Sydney Airport and four around Perth Airport.[43] This dilutes the market power airports have on the provision of car parking.

Varied product offerings at airport carparks, such as discounts for booking online and different prices depending on the distance of the carpark to the terminal, indicate airports are operating in a competitive environment. Melbourne Airport recently responded to market conditions by reducing terminal car parking costs by up to 20%.[44]

As airport carparks are generally heavily occupied, this could support a view of the consumers considering prices acceptable. Also, as the number of transport options increases and new rail links are developed, competition from mode share is expected to grow.

6. Price and quality of service monitoring

The ongoing broad objective of price monitoring is to assist competitive processes by allowing airport customers and the community to scrutinise prices and market outcomes. This assists airlines and ground transport providers to negotiate effectively with airports, and allows government to determine if further investigation into an airport's pricing behaviour is required.

Monitoring protects the Commonwealth's assets in the long-term and is an incentive for airport operators to maintain an appropriate level of service, particularly if results are directly comparable across years and with other airports. Many airports see benefit in conducting monitoring beyond what is required by legislation and actively employ a range of surveys, interviews and other tools to gather data on their quality of service.

The department suggests the Commission consider whether there are sufficient market factors and other influencing factors that, along with the existing 'light-handed' regulatory approach, ensure prices remain competitive and affordable to the end user.

ACCC monitoring

Results as currently presented from price and quality of service monitoring do not give a clear understanding of the potential for market failure or misuse of market power by airport operators. Detailed assessment in the monitoring report of whether market power is being, or close to being, abused through pricing and services at airports would provide stakeholders and government clear

[43] Australian Competition and Consumer Commission, *Airport Monitoring Report 2016-17* (April 2018) <https://www.accc.gov.au/system/files/Airport%20Monitoring%20Report%202016-17.pdf>.
[44] Australia Pacific Airports (Melbourne) Pty Ltd, *Melbourne Airport announces parking price drop from 1 March* (1 March 2018) <https://www.melbourneairport.com.au/Corporate/News/Melbourne-Airport-announces-parking-price-drop-fro>.

information about the presence of effective competition across the range of consumer services provided by the monitored airports.

The department supports the Commission considering options for enhancing the monitoring regime, within the existing framework of the current arrangements. Improvements to the monitoring regime, such as enhanced forensic analysis of the results, could provide government and the public greater comfort users are not being disadvantaged by airport behaviour, while also providing greater disincentive for airports to misuse power. A more descriptive rating system (currently airports are rated on a scale of 1-5) could also provide a more useful description of the results attained by the monitored airports.

Objective indicators of quality

Under current arrangements, assessment of aeronautical services is heavily reliant on the results of surveys contributed to by airlines. Given the relatively small statistical base from which data can be gathered, particularly for domestic operations, and the commercial motivators of airlines undertaking these surveys, there is benefit in considering other, more objective, indicators which could balance the results.

In that context, and in view of the fact there has been no clear evidence of market failure reported through the existing surveys, there may be grounds for consideration of measuring the quality, efficiency and productivity of services and facilities provided to airlines via enhanced key performance indicators (KPIs) regarding aircraft-related services and facilities. Economic regulators in both the United Kingdom and New Zealand adopt this approach.

Additionally, industry bodies, such as the International Air Transport Association and the Airports Council International, have developed a range of transparent, objective measures of quality of service and other indicators relevant to monitoring airports. Consideration of adopting similar measures would contribute to the identification of whether market power is being abused and whether airports are being managed effectively as nationally significant transport infrastructure. Giving regard to such measures may provide increased transparency and introduce results which can be benchmarked against other airports.

Economic indicators

Currently there are no measures of economic activity that cover all aspects of aviation activity in Australia. Such measures would be a benefit to aviation policy and economic regulation.

ICAO is currently developing international standards for economic statistics. These new aviation standards, expected to be finalised in 2019, will closely align with international standards for economic accounting statistics, differing only in that they will provide a focus on civil aviation.

Domestic terminal leases

At Melbourne, Brisbane and Perth airports, long-term leases for specific use of domestic terminals are in place.[45] Under these arrangements, gate lounges, boarding and other facilities are operated by an airline rather than the airport operator. However, this operational distinction is not apparent to the traveller. The quality of service at these terminals is not monitored under the current price and quality of service regime and therefore creates an inaccurate picture of the whole-of-site price and quality of service level.

[45] Similar arrangements were made at other airports, although the majority of these leases have now lapsed.

The department considers the monitoring arrangements should more fully capture the passenger experience across all areas of airports. To more accurately capture passenger experience, the Commission may wish to consider whether the passenger-related (and, where applicable, aircraft-related) services provided from terminals subject to Domestic Terminal Leases (DTLs) should be covered by the monitoring regime. In doing so, the benefits of providing a basis for comparison between terminals within a specific airport, as well as amongst the other airports, could be contemplated.

In making these comments, it is noted DTLs with the airlines are scheduled to conclude in the near future. Negotiations for arrangements beyond the expiry of current DTLs are not yet resolved for all airports.

Second-tier reporting

Monitoring and reporting of prices and quality of service by second-tier airports (Adelaide, Canberra, Darwin, Gold Coast and Hobart) is not presently regulated but is monitored by the department and referred to in the annual lease review process. Nevertheless, the current arrangement provides stakeholders a degree of transparency and accords with the Australian Government's oversight of leases to ensure airports are meeting the expected quality standards. The approach, distinct from the monitoring conducted by the ACCC, is a mechanism that bears costs and produces information relative to the size of the airports involved.

The department supports continuation of a second-tier arrangement for price and quality of service monitoring. However, it recognises the current approach may benefit from evolution. Reviews of adherence with the voluntary arrangements suggests consideration of a more consistent and transparent approach, which could enable comparison across the airports, may enhance the value of monitoring.

The cost of compliance for airport operators is a particularly important consideration in the event any recommendations for change to the current arrangements are proposed. For this reason, regard should be given to the monitoring, assessment and analysis approaches already used by the second-tier airports.

Airport operators use various methodologies to gauge customer satisfaction. Four of the five second-tier airports participate in the Airports Council International Airport Service Quality (ACI ASQ) Survey, with the remaining airport operator using their own independent passenger survey. Some of the airports utilising the ACI ASQ Survey do so in combination with their own surveys. Adoption of a standard methodology similar to what already exists would provide reporting in a more consistent manner across all second-tier airports and achieve comparability at relatively little cost for either industry or government.

The Commission is encouraged to consider the benefits of standardising practices, while having regard to current practices and to approaches that would continue to be self- or industry-administered.

7. Ground transport planning

The Australian Government seeks to ensure airport planning is integrated with the off-airport transport system. Integration is important to support our cities' broader productivity and ensure unnecessary social and economic impacts are avoided as our cities and population grow.

Demand for landside access will also increase with the growth of air freight operations, the productivity of which will be reliant on efficient linkages between transport modes, particularly

between air and road networks. Efficient access to major capital city airports for road freight vehicles must be balanced with access for passengers and other vehicles.

Consultative approach

States, territories and local governments have responsibility for land use and transport planning around airports, while the airport operators are responsible for planning on airport land. To integrate airports successfully into the broader transport network, coordination with all levels of government is essential. The legislated requirement for airports to include ground transport plans in Master Plans, and for airport operators to formally engage with local and state entities responsible for land use and planning in the preparation of these plans and MDPs, recognises the criticality of the linkages between these interests.

Most government authorities appreciate the important economic contribution made by airports and actively engage with the airports to achieve benefits for the whole community. Airport operators have also demonstrated the usefulness of consultative approaches to achieve benefits for the communities in which they are located. For example, Sydney Airport and the Australian and NSW governments have committed to a five-year program of complementary ground access upgrades to improve traffic flows for motorists, provide better access for public and active transport users, and make it easier for everyone to travel to and from the airport. As another example, in 2014, the Victorian Government recommended a new intersection to link a proposed Costco development at Moorabbin Airport to the nearest main road, thereby preventing traffic congestion on existing smaller roads near the boundary of the airport site. Moorabbin Airport agreed with this recommendation and worked with the Victorian Government on the planning and implementation of a new signalised intersection.

Engagement with government authorities is demonstrably valued by airports. One notable engagement approach, common to all capital city airports, is Planning Coordination Forums (PCFs). PCFs bring together airports and senior local, state and federal government authorities responsible for town planning, transport and infrastructure investment.

In 2015, following a recommendation made by the Commission in its 2011 Inquiry, the department commissioned an independent review of federally leased airports' consultative arrangements. The efficacy of PCFs and Community Aviation Consultation Groups (CACGs)[46] established by airport operators was assessed. The review found:

- The forums are generally well regarded by stakeholders, with most stakeholders agreeing PCFs and CACGs meet their stated objectives.
- Most stakeholders consider PCFs and CACGs are effectively chaired and adequately supported by airports.
- Most airport representatives were able to cite a number of positive outcomes achieved by their PCFs and CACGs.

Provision of adequate public transport requires frequent review and agreement between relevant stakeholders, as demand for public transport for passengers and employees increases. Some airports have advised of difficulties in attaining support from state and/or territory governments to introduce, maintain or increase public transport services, particularly public bus services to meet the needs of airport workers.

[46] CACGs facilitate constructive and open discussion of airport development and operation, and their impacts on nearby communities. Membership of most CACGs is by invitation and generally consists of representatives from the airport, federal, state and local governments, Airservices Australia, and local communities. Some CACGs, however, include public meeting components, which any member of the community is welcome to attend.

Integrated ground transport

Airport operators have supported ground transport integration not only through effective consultation, but also by agreeing to land being excised from their leases, by way of transfers or easements, for road and rail projects. For example, land has been made available at Essendon Fields Airport for the widening of the Tullamarine Freeway, and a land transfer is planned at Archerfield Airport for the widening of Boundary Road. Gateway projects have commenced at Sydney and Perth airports. Additionally, negotiations are currently underway for the upgrade of the intersection providing primary access to Hobart Airport from the Tasman Highway.

Ground transport integration has been pursued beyond road vehicle access. By way of example, the Forrestfield-Airport rail link is being constructed underneath Perth Airport, and in addition to the Airtrain, Brisbane Airport provides 15kms of bike paths connecting with off-airport infrastructure, as well as end of journey facilities for users of active transport. For passengers and employees opting to use their vehicles, the major airports provide free shuttle bus services between terminals and the on-airport carparks.

In planning for the future, Gold Coast, Canberra and Melbourne airports have preserved on-airport land for potential future rail corridors. Specifically, in its 2014 Master Plan, Canberra Airport makes provision for future high-speed rail and light rail alignments converging on the airport terminal. Similarly, Melbourne Airport's 2013 Master Plan designates an access point for a rail link to the airport.

While the varying interests and legislative frameworks in which each party operates make for complex negotiations, there are numerous examples of effective outcomes being achieved. Airports have demonstrated they are willing to collaborate with federal, state, territory and local governments to address ground transport issues, in and around airports, as they recognise the mutual benefits.

8. Sydney Airport regional access regime

The Commission's issues paper accurately reflects arrangements under the Australian Government's Sydney Airport regional access regime. Regional access provisions ensure access to Sydney Airport for regional airlines supporting communities within NSW. This is achieved by quarantining certain slot series[47] used to provide regional services (known as 'permanent regional service series'). If regional slots were not quarantined, this could leave regional communities in NSW with limited access to the state capital and compromise their ability to access essential services, conduct business or connect with family and friends.

To support continued access to Sydney Airport, price notifications for aeronautical services and facilities provided by Sydney Airport to regional air services are made public under Part VIIA of the CCA. A Treasurer's declaration for price increases to aeronautical services and facilities for regional services (including capping any price increases) also supports regional access.

While Sydney Airport is subject to capacity constraints, the opening of WSA, expected in 2026, will provide significant additional aviation capacity to the Sydney basin and support further access options for regional communities.

[47] A slot is a permission to land or take off. A slot series is five or more slots at the same time or, if that is not possible, approximately the same time, on the same day of consecutive weeks within one slot scheduling season (approximately six months).

At this time, the department notes there are no plans to amend regional aircraft access arrangements to Sydney Airport. Additionally, any changes to the scheme would require legislative amendment and ideally bipartisan support to achieve certainty.

The department has received representations identifying possible unintended consequences of the price notification regime whereby commercially and competitively sensitive information is required to be published despite an intention (by parties to an agreement) for terms to remain confidential. It has been argued this adversely affects competition.

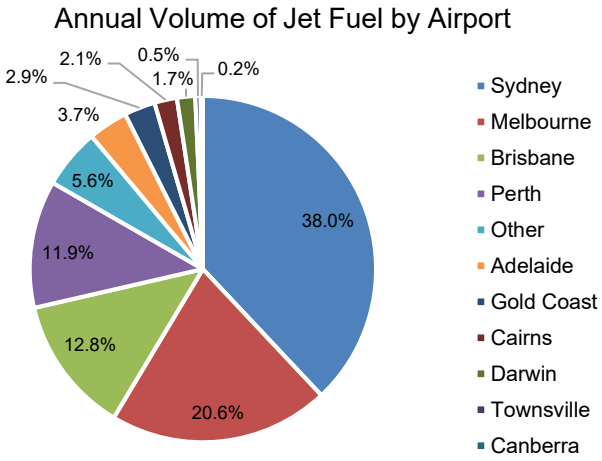
The department welcomes the Commission's consideration of the merits of excluding confidential commercial agreements (where agreed by the parties) from the price notification regime. In particular, where this would create a greater incentive for parties to reach mutually agreed contractual outcomes, and further support competition in the market.

9. Aviation fuel supply

The reliable and adequate provision of jet fuel at federally leased airports is a critical element of the nation's aviation framework. However, it is not regulated under the Act as jet fuel supply contracts are commercially established between fuel providers and user airlines on an 'as needed' basis.

Airports facilitate access for fuel suppliers on the airport site through land leasing arrangements and negotiate these terms separately from airline negotiations. Historically, the Federal Airports Corporation entered into long-term lease and licence arrangements with Joint User Hydrant Installations (JUHI) at all major capital city airports. JUHIs are typically unincorporated joint ventures made up of fuel suppliers with equity shares in the venture. The vast majority of pipeline infrastructure is owned by the various JUHI operators at airports, with a small number of exceptions such as Canberra Airport who funded and owns its jet fuel infrastructure.

Australia's jet fuel usage is split at approximately 50% between international and domestic demand. Airlines using Sydney Airport consume approximately 38% of Australia's total demand for jet fuel. The two largest airports (Sydney and Melbourne) represent approximately 60% of the total national demand and 70% of international demand. Australia's top ten airports represent 94% of the total national jet fuel demand.



Source: Department administrative records.

Relative price

By way of background into jet fuel costs in Australia, in aviation the term 'local differential' is used to compare the relative jet fuel price competitiveness of international airports. It comprises sea freight and local costs but excludes trading hub price, taxes and excise. Seaboard airports therefore tend to have the lowest jet fuel differential, whereas inland airports, which are supplied from seaboard terminals, have higher differentials due to extra costs associated with constructing longer pipelines and trucking fuels.

Local differentials for Australian airports are typically higher than at other major international airports around the world. This is largely due to Australia's geographic location being further away from trading hubs like Singapore, and therefore including larger sea freight transportation costs. Australian airports also do not have similar economies of scale due to the generally lower consumption of fuel in the market.

Delivery and storage

Sydney, Melbourne, Brisbane and Perth airports receive at least a proportion of their jet fuel supply via pipelines from off-airport refineries and/or storage facilities. Adelaide, Gold Coast and Canberra airports receive their jet fuel supply by road. Pipelines are not used where the volume required does not justify pipeline investment.[48]

An important component of aviation jet fuel supply arrangements is the airport's ability to hold and store adequate amounts of fuel to mitigate supply disruptions and meet daily demand.

The international industry recommended minimum storage is for the capacity to meet consumption needs of three days.[49] For the large part, Australian airports meet this, with the exception of Melbourne and Brisbane airports. However, it is noted both Melbourne and Brisbane are currently undertaking infrastructure investments to increase jet fuel storage on airport.

Policy and escalation for disruption events

The policy of federal, state and territory governments is, where possible, to allow industry to manage fuel supply disruptions without government intervention. This approach seeks to reflect the petroleum industry's historic ability to ensure a stable, secure supply of petroleum products to meet Australia's requirements.

During a shortage, industry manages fuel rationing through bulk allocation. Under this process, bulk fuel customers such as airlines are each allocated a proportion (typically a percentage) of their contracted fuel supply.

In the event the supply shortage escalates to an emergency where government intervention is required, this is achieved through various emergency response legislation. Australia's state and territory governments have constitutional responsibility for planning and coordinating the response to fuel shortages within their territorial boundaries, and have legislation and response plans in place to manage such emergencies.

Where an actual or likely major fuel shortage has national implications, the Australian Government can, after consulting with the petroleum industry and the states and territories, respond by

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[48] Department of Infrastructure, Regional Development and Cities, *Western Sydney Airport Aviation Fuel Supply Corridor Options Report* (2017) <http://westernsydneyairport.gov.au/files/Fuel_Supply_Corridor_Options_Report_Feb2018.pdf>.
[49] International Air Transportation Association, *IATA Guidance on Airport Fuel Storage Capacity* (2008) <https://www.iata.org/policy/Documents/guidance-fuel-storage-may08.pdf>.

declaring a national liquid fuel emergency and exercising powers under the Liquid Fuel Emergency Act 1984 (LFE Act) to provide for a coordinated national response.

The form of the Australian Government's response will depend on the nature, severity and expected duration of the supply disruption. However, the various state and territory emergency legislation and the LFE Act are not intended to be used to manage minor or intermittent supply shortages. They are only intended to be used where the disruption or its consequences are beyond the capacity of the industry to manage the situation without support. In this regard, the LFE Act has never been activated since it came into force in 1984.

The National Oil Supplies Emergency Committee (NOSEC) advises the Australian Government's Energy Council on issues relating to emergency supply of crude oil and petroleum products. NOSEC comprises officials from the Commonwealth, state and territory governments and the petroleum industry.

In the lead up to, and during an emergency, NOSEC convenes and provides the main executive channel through which the Commonwealth, state and territory governments formulate a response.

Monitoring and reporting

The Department of the Environment and Energy (DoEE) monitors the jet fuel supply situation at eight Australian and three regional international airports through the National Operating Committee on Jet Fuel Supply Assurance (NOC), a voluntary industry-led body. The NOC was formed in 2004 following a major jet fuel supply disruption event at Sydney Airport in 2003 which saw flight cancellations and delays.

The NOC includes one representative from each of the four major jet fuel supply companies in Australia namely: BP Australia Pty Ltd, Caltex Australia Petroleum Pty Ltd, ExxonMobil Australia Pty Ltd, and Viva Australia Pty Ltd. Qantas is a member for Sydney Airport only (as a self-supplier).

The NOC convenes every month to discuss forward maintenance and planned outages affecting JUHI supply at NOC airports. The NOC Chair develops a weekly high-level traffic light report reflecting supply robustness, but this is not done in consultation with the airports. Notably, DoEE is an observer only and has no decision making or influencing role, and airport operators are not part of the NOC.

In the event of a fuel supply shortage, relevant NOC representatives notify and brief relevant NOSEC representatives about the situation and any industry response. The NOSEC representative in turn provides advice to DoEE and the relevant state or territory government as required. The NOC's traffic light system does not differentiate between planned interruptions and unexpected issues.

Disruption event impacts

Disruptions to jet fuel supply triggering an application of bulk allocations (although uncommon) can affect the travelling public, be costly for the airline industry, and have reputational impacts for airports and airlines.

If disruption events occur at major airports, these can have disproportionate impacts on domestic versus international operations. While domestic airlines may be able to carry more fuel and refill across other airports during the course of the day (given the general nature for domestic aircraft to make numerous trips), international long-haul aircraft are less able to do this due to distances travelled and substantially larger amounts of fuel required for a single trip.

The impacts of significant shortage events (even those localised to a single airport) for some international aircraft could be an inability to operate. Even where an option to obtain fuel from another airport is possible, the additional costs are reported to be significantly higher where there is no existing fuel contract.

Melbourne Airport jet fuel disruption event

In late 2016, a disruption at Melbourne Airport resulting from contaminated/unusable fuel, coupled with insufficient contingency storage resulted in JUHI operators implementing bulk allocations (rationing) lasting up to three days. While the event is seen as a rarity, fuel allocations were as low as 50% of contracted amounts.

The department is of the view there is insufficient guidance or procedure (including through the NOC), as to how aviation jet fuel should be bulk allocated in events such as the shortages experienced in Melbourne in late 2016. For example, where an interruption event occurs, consideration should be given to the differing impacts on domestic/international services when deciding how bulk allocations should be attributed. Allocation decisions should be underpinned by the overall impacts to the travelling public and the economy in the first instance.

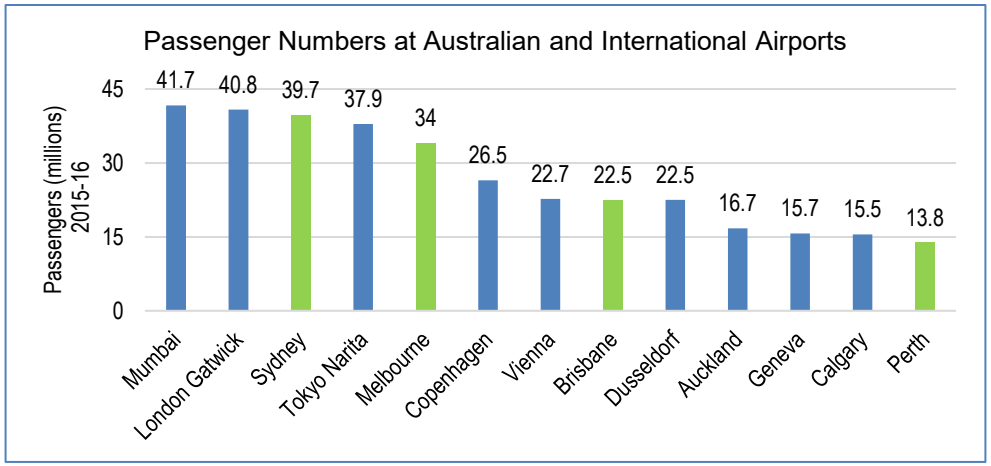
The department would welcome the Commission exploring whether additional policy (whether established by government or industry) is required to support jet fuel bulk allocation arrangements. Better categorisation under the NOC's traffic light system to differentiate between planned and unplanned interruptions should also be considered. This notes perceptional impacts of implementing what might be seen as alarming red or black lights by the aviation industry.

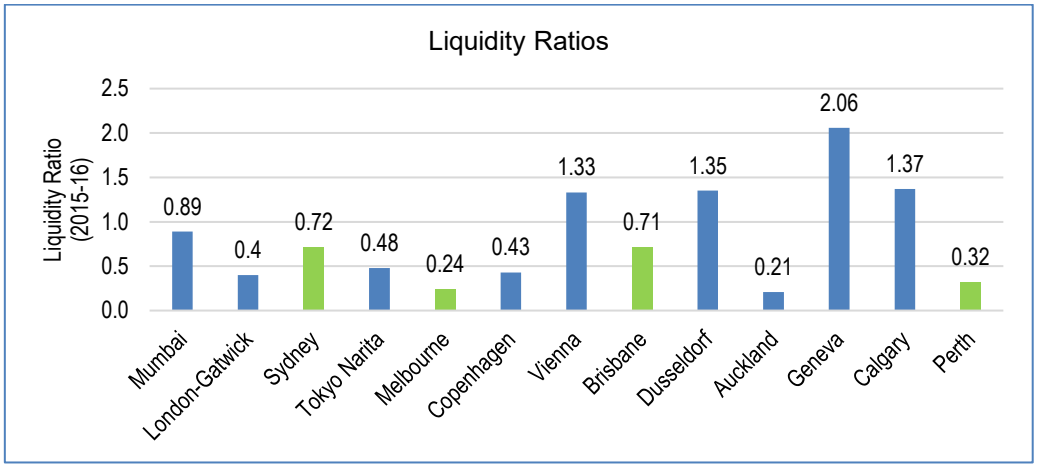
The department also suggests there may be merit in exploring whether investment clarity and competition of jet fuel supply could be supported by requiring jet fuel arrangements to be foreshadowed by airport operators as part of airport master planning processes.

The Commission may also wish to consider whether existing or anticipated capacity constraints of jet fuel infrastructure at airports could inhibit new airline entrants from accessing fuel supply contracts, or contracts with reasonable terms.

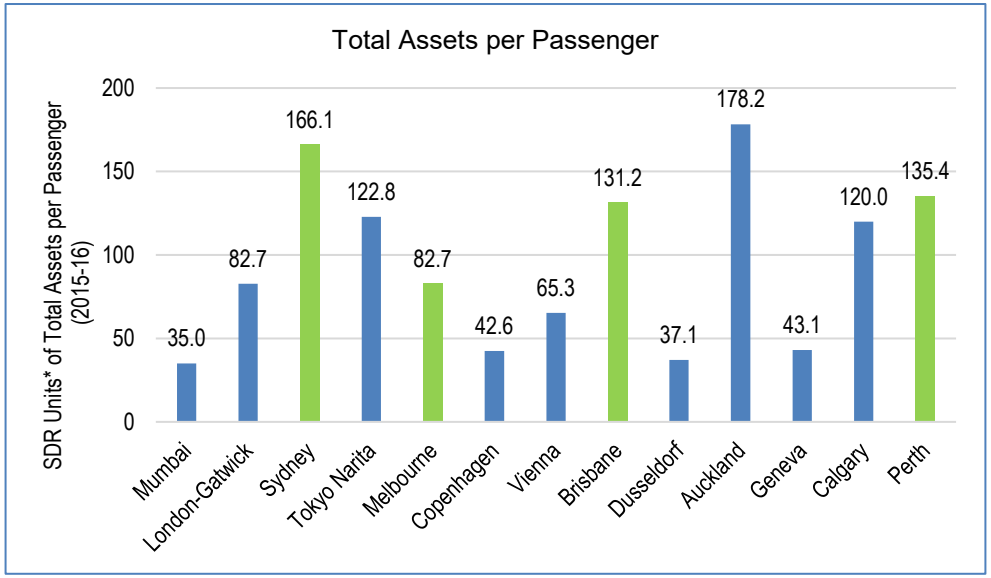
Attachment A – Airport performance measures

Source: Leigh Fisher, *2017 Airport Performance Indicators* (August 2017).

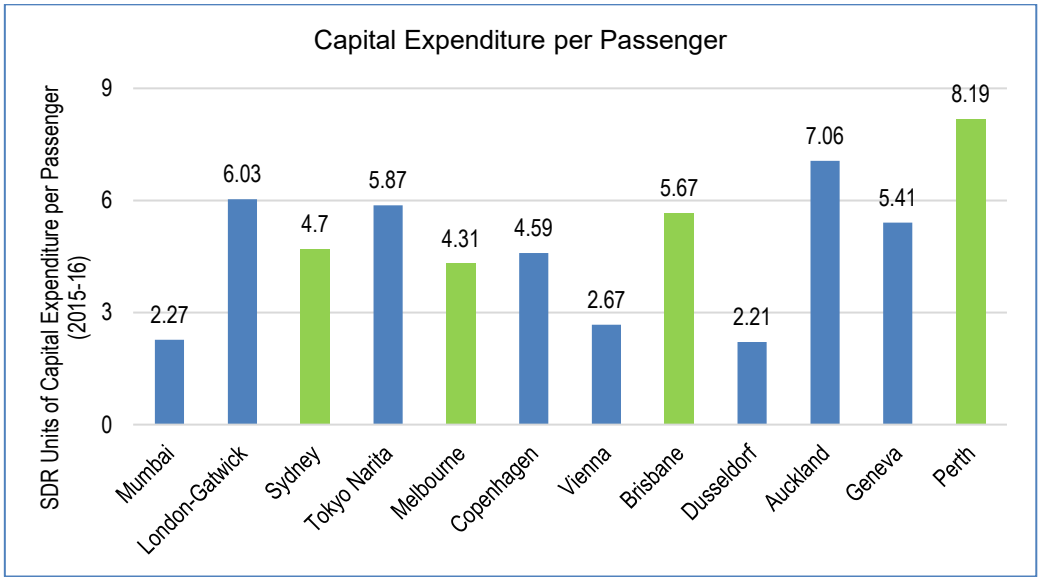




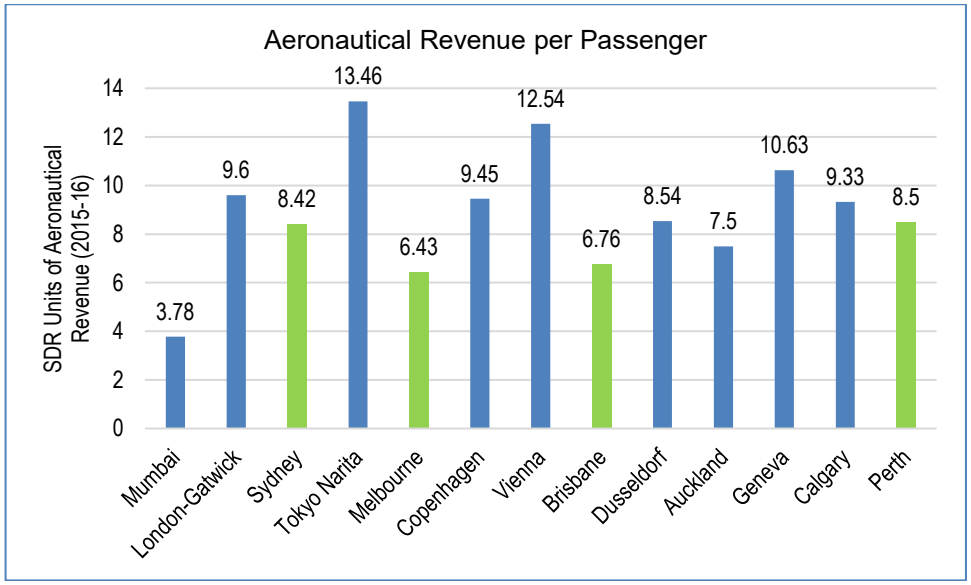
Liquidity Ratio calculated as current assets by current liabilities.

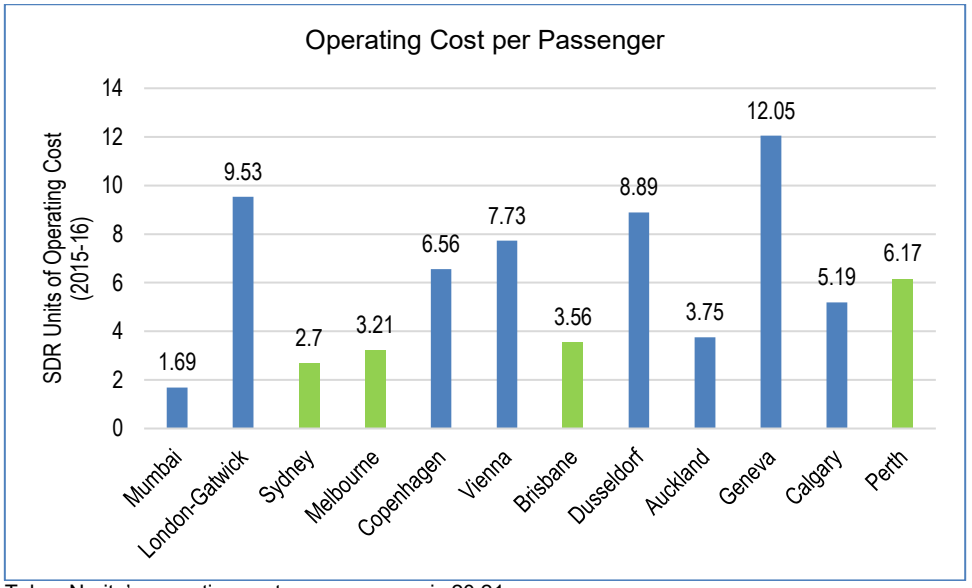


*Special Drawing Right (SDR). SDR's convert local currencies to a single unit of currency for comparative purposes

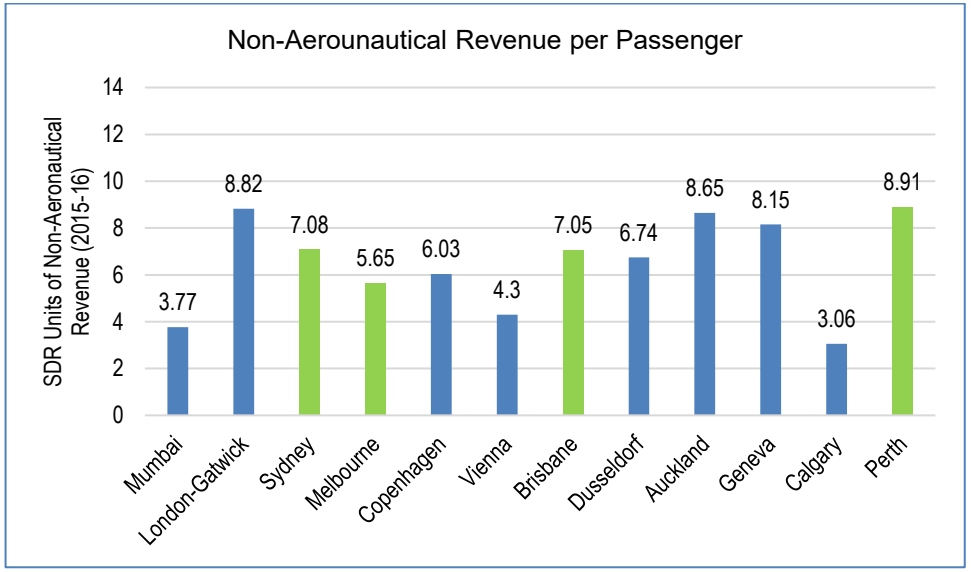


Calgary's capital expenditure per passenger is 17.83.

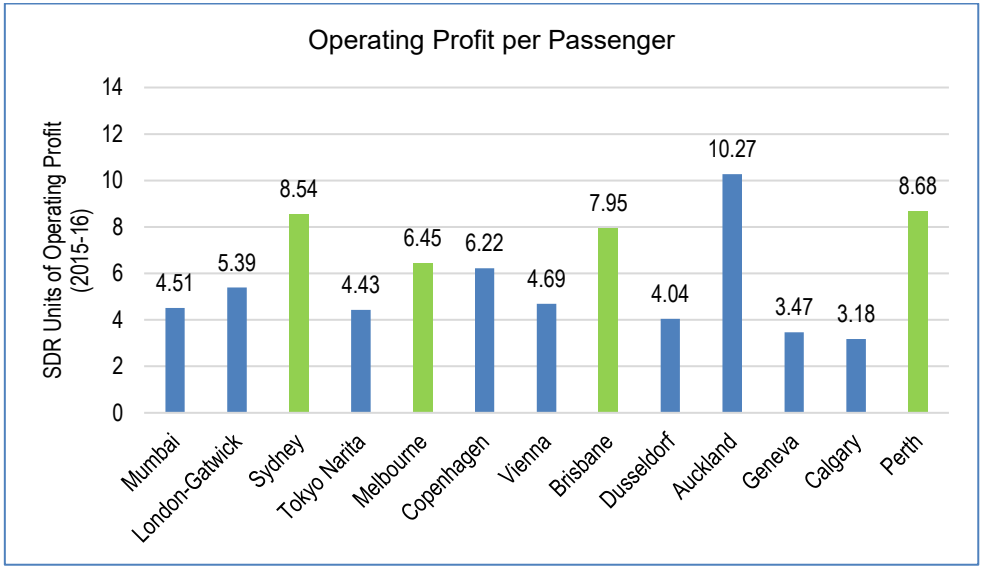




Tokyo Narita's operating cost per passenger is 20.21.



Tokyo Narita's non-aeronautical revenue per passenger is 17.27.



Operating profit per passenger is calculated as the difference between total operating revenues and total operating expenditure as a percentage of total operating revenues.