



Australian Government
Productivity Commission

Economic Regulation of Airport Services

Productivity Commission
Issues Paper

January 2011

The Issues Paper

The Commission has released this issues paper to assist individuals and organisations to prepare submissions to the inquiry. It sets out:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information, and
- how to make a submission.

Participants should not feel restricted to comment only on matters raised in the issues paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

Key inquiry dates

Receipt of terms of reference	15 December 2010
Due date for submissions	8 April 2011
Release of draft report	August 2011
Draft report public hearings	September/October 2011
Final report to Government	December 2011

Submissions can be made:

By email:	airport-regulation@pc.gov.au	By fax:	02 6240 3377
By post:	Economic Regulation of Airport Services Productivity Commission GPO Box 1428 CANBERRA CITY ACT 2601		

Contacts

Administrative matters:	Christine Underwood	02 6240 3262
Other matters:	Adam Sheppard	02 6240 3294
Freecall number for regional areas:		1800 020 083

Website	www.pc.gov.au
----------------	---

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au) or by contacting Media and Publications on (03) 9653 2244 or email: maps@pc.gov.au

Terms of reference

Productivity commission inquiry – economic regulation of airport services

Productivity Commission Act 1998

I, BILL SHORTEN, Assistant Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby refer the current economic regulation arrangements for airport services to the Commission for inquiry and report within twelve months of receipt of this reference.

Background

In 2006, the Productivity Commission conducted a review of the regulatory arrangements for pricing airport services. The review examined the price monitoring regime that had replaced the price capping regime in 2002. The review found that the price-monitoring regime had delivered important benefits, and recommended that the existing arrangements continue.

The Australian Competition and Consumer Commission (ACCC) has continued to prepare Airport Monitoring Reports for public release on an annual basis. In 2008, the Government directed the ACCC to formally monitor prices, costs and profits relating to car parking at Australia's five major airports.

In the 2009 National Aviation Policy White Paper, the Government announced that it would continue with the existing regime including the price and quality of service monitoring conducted by the ACCC with a review to be conducted by the Productivity Commission in 2012. The Government reserved the right to conduct the review earlier. In addition, the Government announced that a second tier self-administered price and quality of service monitoring regime would be introduced for Canberra, Darwin, Gold Coast and Hobart airports. Other airports will also be encouraged to adopt web-based reporting of customer satisfaction measures and outcomes. The airports in the second tier scheme are expected to commence reporting in this financial year.

The purpose of this inquiry is to examine the effectiveness and efficiency of the current economic regulation and quality of service monitoring regime for airports and whether new arrangements are needed. It is also to make recommendations in

relation to the requirement for future regulation and monitoring of services and the scope and appropriate mechanism for the provision of greater transparency and accountability in airport infrastructure provision and services.

Scope of Inquiry

1. The Commission is to report on the appropriate economic regulation of airport services, including the effectiveness of the price and quality of service monitoring, in achieving the following objectives:
 - promoting the economically efficient and timely operation, use of and investment in airports and related industries;
 - minimising unnecessary compliance costs; and
 - facilitating commercially negotiated outcomes in airport operations.
2. The inquiry is to focus on the provision of passenger transport services at and surrounding main passenger airports operating in Australia's major cities.
3. The Commission is to examine:
 - aeronautical services and facilities provided by airport operators;
 - passenger-related aeronautical services and facilities provided by major airline tenants; and
 - the provision and quality of land transport facilities providing access to the airports.
4. In undertaking its assessment, the Commission is to examine the economy wide costs and benefits and distributional impacts of the regime. As far as practical, the Commission should seek to quantify and provide evidence for these costs and benefits. It should also seek to provide international comparisons of the performance of the airport operators.
5. The Commission should consider:
 - whether the existing regime is effective in appropriately deterring potential abuses of market power by airport operators;
 - whether the existing range of remedies is effective in dealing with potential and suspected abuses of market power;
 - the effectiveness of the monitoring regime conducted by the ACCC, including the methodology used and the adequacy of the information collected;
 - whether the current regime impacts on the ability of airports to price, operate and invest in airport infrastructure in an efficient and timely manner;

-
- whether the coverage of the current regime is appropriate;
 - any improvements or enhancements that could be made to the existing regime;
 - the appropriate future role of the regime;
 - the adequacy and arrangements for the control of planning, operation and service quality monitoring of land transport access to major airports; and
 - whether existing arrangements for the planning and operation of land transport linkages to the airports are effective.
6. To the extent applicable, the Commission is to have regard to the ACCC's Airport Monitoring Reports. This includes the matters raised by the ACCC in these reports such as:
- the quality of service at major Australian airports;
 - land side access to airport terminals such as car parking and its alternatives, and the cost and quality of car parking facilities; and
 - the extent to which monitored airports can act strategically to raise costs of on-airport car parking by controlling the conditions of landside access to terminal facilities.
7. The regulatory price cap and price notification regime for regional air services into and out of Sydney Airport (Declaration 92 under section 95X and Direction 32 under section 95ZH of the *Trade Practices Act 1974*) is not within the scope of this inquiry.
8. The second tier self-administered price and quality of service monitoring regime is not within the scope of this inquiry.

Process

9. The Commission is to undertake an appropriate public consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.
10. The Government will consider the Commission's recommendations, and the Government's response will be announced as soon as possible after the receipt of the Commission's report. The Government will release the Commission's report.

BILL SHORTEN
Assistant Treasurer

15 December 2010

Contents

1	About the inquiry	1
	<i>Background to the economic regulation of airport services</i>	
	<i>What has the Commission been asked to do?</i>	
	<i>How you can contribute to this inquiry</i>	
2	The Australian airport sector	3
	<i>Australian airports</i>	
	<i>Airport facilities and services</i>	
3	The economic regulatory regime	6
	<i>Price monitoring</i>	
	<i>Car park price monitoring</i>	
	<i>Service quality monitoring</i>	
	<i>Access arrangements</i>	
4	Future arrangements	16
	<i>Is a further period of price monitoring needed?</i>	
	<i>Market power</i>	
	<i>Deterrent and remedies</i>	
5	Airport planning regulations and transport	20
	<i>Airport planning regulation</i>	
	<i>Transport linkages to airports</i>	
	References	23
Attachment A	How to make a submission	24

1 About the inquiry

Background to the economic regulation of airport services

In 1997, the Australian Government commenced the privatisation of airports then operated by the Federal Airports Corporation (FAC). This process, involving the sale of long term leases (50 years with the option to renew for a further 49 years), concluded with the sale of Sydney airport in 2003. There are 21 federally leased airports on Commonwealth land that are governed by the *Airports Act 1996*.

The Government recognised that some major airports had significant market power which they could potentially use to raise prices for their services above those that would prevail in a more contestable market. Accordingly, the privatisation of the capital city (and some regional) airports from 1997 was accompanied by price regulation — comprising price notification, price monitoring, price caps and special provisions for new investment — and also quality of service monitoring to ensure airport assets were not ‘run down’ at the expense of service standards.

A 2002 Productivity Commission inquiry into the price regulation of airport services determined that the market power problem being addressed did not warrant such heavy-handed regulation. The Commission concluded that the risks and potential costs of strict price controls were compounded by the severe information problems confronting the regulator, such that there was a significant risk of regulatory failure — leading to distorted production decisions and, in particular, a ‘chilling’ of airport investment decisions.

In line with the recommendations of that inquiry, price caps and price notification of aeronautical services were replaced by light-handed regulation. Between 2002 and 2007, regulation was largely limited to the price and quality monitoring of aeronautical services at Sydney, Melbourne, Brisbane, Perth, Adelaide, Canberra and Darwin airports. The exception to this was (and still is) the price notification arrangements for regional air services using Sydney airport.

A Commission review in 2006 concluded that light-handed regulation had delivered important benefits and that the regime should continue with some changes, including the excision of Canberra and Darwin airports from coverage. Accordingly, since 2007 price and quality monitoring of aeronautical services has applied to five airports: Sydney, Melbourne, Brisbane, Perth and Adelaide. In 2008, the Government expanded the range of services monitored at these airports to include car parking.

In the 2009 National Aviation Policy White Paper, the Government confirmed that the price and service quality monitoring would continue and announced a new, second tier self-administered price and service quality monitoring regime for Canberra, Darwin, Gold Coast and Hobart airports. Other airports, including those not regulated under the *Airports Act 1996* (such as Cairns), are encouraged to adopt web-based reporting of customer satisfaction measures and outcomes.

In March 2010, the Australian Competition and Consumer Commission (ACCC) released the 2008-09 *Airport Monitoring Report*. It expressed concerns about monopoly pricing for car parking and also observed that Sydney airport had increased profits at the expense of the quality of services:

... Sydney Airport has increased profits by permitting quality of aeronautical services to fall below that which could be expected in a competitive environment ... from 2002-03 to 2008-09, the quality of Sydney Airport's international terminal was rated by airlines at below satisfactory on average. Although Sydney Airport has recently commenced significant capital works at the terminal, it seems that the timing of this investment might have been inefficiently delayed by the airport and, in the meantime, there has been inadequate maintenance (ACCC 2010, p. viii).

In light of this report, the Government announced that it would bring forward the scheduled review of the economic regulation of airports:

We had announced previously ... that the Productivity Commission would do a review in 2012. As a result of this ACCC report, I have asked the Productivity Commission to bring that forward to as soon as possible (Albanese 2010, p. 1).

What has the Commission been asked to do?

Against this backdrop, the Commission is to report within 12 months on the effectiveness of current economic regulation in:

- promoting the economically efficient operation and investment in airports and related industries
- facilitating commercially negotiated outcomes in airport operations
- minimising unnecessary compliance costs.

In particular, the Commission will examine:

- aeronautical services and facilities provided by airport operators
- passenger-related aeronautical services and facilities provided by major airline tenants
- land transport facilities providing access to the airports.

The Commission will, among other matters, need to balance the ability of airports to price, operate and invest in infrastructure in an efficient and timely manner with the effectiveness of remedies to deal with potential abuses of market power.

Notably, this inquiry differs from the previous Commission reviews in that it will also focus on the provision of passenger transport services at and surrounding main passenger airports operating in Australia's major cities.

The key focus of the inquiry is on services and facilities provided by the monitored airports (Sydney, Melbourne, Brisbane, Perth and Adelaide). Nevertheless, other airports come within the scope of this inquiry when assessing whether the coverage of the current regime is appropriate.

The Terms of Reference specify the following as outside the scope of the inquiry:

- the regulatory price cap and price notification regime for regional air services into and out of Sydney airport
- the second tier self-administered price and quality of service monitoring regime.

The full Terms of Reference are set out at the front of this paper.

How you can contribute to this inquiry

The Commission encourages submissions on any issues relevant to the inquiry's Terms of Reference. To guide participants in preparing their submissions, this issues paper provides background material and information on some of the issues the Commission has identified. (*This paper includes a number of questions denoted in italics like this.*) However, you do not have to answer all of the questions posed in this paper, or draft your submissions as literal answers to the questions, or limit your comments to the issues mentioned.

Attachment A provides further information on how to make a submission.

2 The Australian airport sector

Australia's aviation sector has undergone significant change over the past decade. Passenger demand has increased substantially and this is projected to continue. The domestic airline sector has restructured, with traditional established domestic carriers exiting the industry and new competitors emerging, including significant growth in the services offered by low-cost carriers. There has been additional growth in the number of international airlines servicing a growing array of routes

and schedules. There has been substantial investment at major Australian airports, which face new competition from secondary airports in Australian cities, and also compete for international routes against airports in overseas locations.

Australian airports

Nationally, there are over 2000 airports and airfields of which 200 or so receive regular public transport services and 21 are federally leased (PC 2002).

Australian airports can be categorised into four broad groups:

- the five monitored airports (Sydney, Melbourne, Brisbane, Perth and Adelaide)
- other major city airports (Canberra, Darwin, Gold Coast, Hobart and Cairns)
- major regional airports (such as Launceston, Dubbo and Albury)
- smaller regional community airports.

The monitored airports are the five largest. In 2009-10, they collectively catered for more than 96 million passenger movements (75 per cent of total passenger movements) and around 750 000 aircraft movements or 60 per cent of total aircraft movements (Department of Infrastructure and Transport 2010).

The next five largest airports are Canberra, Darwin, Gold Coast, Hobart and Cairns — which, with the exception of Cairns (which is not federally leased) comprise the Government's second tier self-administered regime. These airports catered for 15 per cent of total passenger movements in 2009-10. Nevertheless, they play a significant role in their region as tourist destinations (Gold Coast and Cairns) or as regional gateways.

Over the last decade, total passenger movements through the five price monitored airports increased in every year, except 2001-02, with an annual average growth of 6.6 per cent. Passenger growth also has been particularly strong at the Gold Coast airport, growing at an annual average rate of 10.5 per cent over the five years to 2009-10. In contrast, total passenger movements have declined at Cairns airport since 2006-07 (Department of Infrastructure and Transport 2010).

Reflecting the breadth of Australia's regional areas, there are numerous smaller regional community airports (and aerodromes) across the country. These airports may service smaller regional airlines, as well as offer charter flight services connecting to larger regional cities or capital cities. Additionally, such community airports may operate flight school facilities, facilitate the provision of aviation-based medical services, or enable fly-in/fly-out arrangements for local

employers (such as for the mining sector). These airports can be a significant link between rural communities and the rest of Australia.

Airport facilities and services

The facilities under the control of airports are typically described as ‘airside’ or ‘landside’. Airside facilities include runways, taxiways and aprons, airfield lighting and aircraft parking bays. Landside facilities include passenger terminals, perimeter roads, car parks, and taxi, bus and rail points. These facilities provide a range of services. The services and facilities that are regulated under the monitoring regime are listed in box 1. Other services and facilities — for example, retail outlets, hotels, corporate parks and factory outlets — are classified as non-aeronautical.

Airport operators provide relatively few services themselves, but rather maintain facilities that are used by airlines and government agencies such as Airservices Australia and the Australian Customs and Border Protection Service.

Airlines also provide services and facilities under domestic terminal leases (DTLs), which pre-dated the sale of the airport leases. Qantas, for example, operates its own terminals at Melbourne, Sydney and Perth airports and the majority of Brisbane airport’s domestic terminal is operated by Qantas and Virgin Blue. Adelaide is the only monitored airport not to have a DTL arrangement (table 1). Under DTLs, airlines operate their terminals independently of the airports and have discretion over the quality of services and facilities offered. Reflecting this, Qantas has recently invested more than \$20 million at Canberra airport, as part of a wider redevelopment by Canberra airport operators.

Table 1 Domestic terminal leases at the five monitored airports

<i>Airport</i>	<i>DTLs</i>	<i>Expiry date</i>
Adelaide	none	..
Brisbane	Qantas and Virgin Blue (domestic terminal)	December 2018
Melbourne	T1 (Qantas domestic terminal)	December 2018
Perth	T2 (Qantas domestic terminal)	2018
Sydney	T3 (Qantas domestic terminal)	June 2019

Source: ACCC (2010).

Box 1 Aeronautical services and facilities

Aircraft-related services and facilities are defined to include:

- runways, taxiways, aprons, airside roads and airside grounds
- airfield and airside lighting
- aircraft parking sites
- ground handling and aircraft refuelling
- airside freight handling / staging areas essential for aircraft loading and unloading
- navigation on an airfield
- airside safety and security services and facilities
- environmental hazard control
- services and facilities to ensure compliance with environmental laws
- sites and buildings used for light or emergency aircraft maintenance

Passenger-related services and facilities are defined to include:

- public areas in terminals, public amenities, lifts, escalators and moving walkways
- departure and holding lounges, and related facilities
- aerobridges and buses used in airside areas
- flight information and public-address systems
- facilities for passenger processing through customs, immigration and quarantine
- check-in counters and related facilities
- terminal access roads and facilities in landside areas
- security systems and services
- baggage make-up, handling and reclaiming facilities
- space and facilities, whether in landside or airside areas, that are necessary for the efficient handling of arriving and departing aircraft

Source: Airport Regulations (Cwlth) (1997).

3 The economic regulatory regime

The current economic regulation of airport services includes:

- price monitoring of aeronautical services
- car park price monitoring
- service quality monitoring of aeronautical services and non-aeronautical services (excluding services of domestic terminal leases).

- price notification for aeronautical services to regional airlines at Sydney airport (not under reference)
- third party access regulation.

Price monitoring

Direction 29, under the *Trade Practices Act 1974*¹, is the instrument that provides for the ACCC to monitor the prices, costs and profits relating to the supply of aeronautical services and facilities by Sydney, Melbourne, Brisbane, Perth and Adelaide airports. Immediately following the removal of price caps (2001-02 and 2002-03), there were significant increases in charges for aeronautical services — over 100 per cent in some instances. These increases were either formally approved by the ACCC, or followed its pricing ‘template’, reflecting that the inherited FAC pricing arrangements were not adequate to provide for efficient replacement investment.

Subsequent increases in charges at some of the monitored airports have been more modest. From 2002-03 to 2008-09, aeronautical revenue per passenger at Sydney, Melbourne and Perth airports increased by 28 per cent, 31 per cent and 16 per cent respectively. Increases were substantially higher at Brisbane airport (table 2).

Table 2 Revenue, margin and profitability of the price monitored airports

	<i>Change aeronautical revenue per passenger</i>	<i>Aeronautical operating margin per passenger</i>		<i>EBITA on aeronautical assets^b</i>	
	<i>2002-03 to 2008-09</i>	<i>2002-03</i>	<i>2008-09</i>	<i>2002-03</i>	<i>2008-09</i>
	%	\$	\$	%	%
Sydney	28	3.77	6.17	5.7	8.3
Melbourne	31	2.36	3.81	9.4	14.3
Brisbane	66	1.02	3.04	2.2	4.4
Perth	16	3.09	3.35	19.1	14.5
Adelaide	np ^a	1.21	4.88	4.1	8.7

np not published ^a Adelaide airport introduced new charges in 2005-06 to recover the cost of its new terminal. These new charges (considered to be aeronautical revenue) replace the DTL charges (non-aeronautical revenue). This event, therefore, represents a break in comparability of the series from 2005-06 for Adelaide airport. ^b average tangible non-current assets.

Source: ACCC (2010).

¹ From 1 January 2011, consumer protection legislation, including the *Trade Practices Act 1974*, was consolidated into the *Competition and Consumer Act 2010*.

Aeronautical operating margins per passenger also increased over the monitoring period. Operating margins at Brisbane airport increased from around \$1 per passenger to around \$3 per passenger in 2008-09. Sydney airport has the highest operating margin of \$6.17 per passenger.

With the exception of Perth airport, the return on assets at the monitored airports have increased since 2002-03. Earnings before interest, tax and amortisation (EBITA) for Melbourne airport increased from 9.4 per cent to 14.3 per cent, but declined from 19.1 per cent to 14.5 per cent for Perth airport.

Since acquiring leases, some of the price monitored airports have revalued their assets, particularly land, sometimes significantly. Such revaluations can provide a rationale for higher charges over time — although the appropriate extent of such revaluations was an area of considerable dispute between airports and airlines during the Commission's 2006 review. The Commission proposed that 30 June 2005 should be the cut-off date for revaluations to the monitored asset base. Although somewhat arbitrary, this 'line in the sand' was intended to represent a reasonable compromise between the range of competing interests (e.g. airlines, and airports that had revalued their asset bases and those that had not). In 2007-08, the ACCC developed and instituted 'line in the sand' asset valuations.

Is there evidence that the price monitored airports have increased charges by more than could be justified on the basis of costs, new investment requirements, and/or other enhancements to service quality? What is the ability of airports to vary prices year on year given many have long term contracts with airlines? Is price monitoring providing a constraint on aeronautical charges at the major airports?

Has the need to adjust the previous FAC's pricing legacy been fully accommodated? Has the price monitoring regime promoted efficient investment and facilitated commercially negotiated outcomes? How would it compare relative to counterfactuals of explicit price regulation, or no regulation? Does the information emerging from the price monitoring process assist commercial negotiations between airports and their customers?

Has the 'line in the sand' for asset valuations been effective or have airports, airlines or other users encountered problems with this approach? Should the line in the sand be extended to other airports? Is there a better alternative approach?

Data and methodology

In undertaking its assessment of the regulatory regime, the Commission will rely partly on the data assembled and published by the ACCC in its annual price and

quality monitoring reports. The ACCC has recognised some limitations of the measures it uses in compiling these reports. For example, it has noted that for price monitoring it would ideally use a direct indexed measure of prices, but, as this is not practical, aeronautical revenue per passenger is used instead (ACCC 2010).

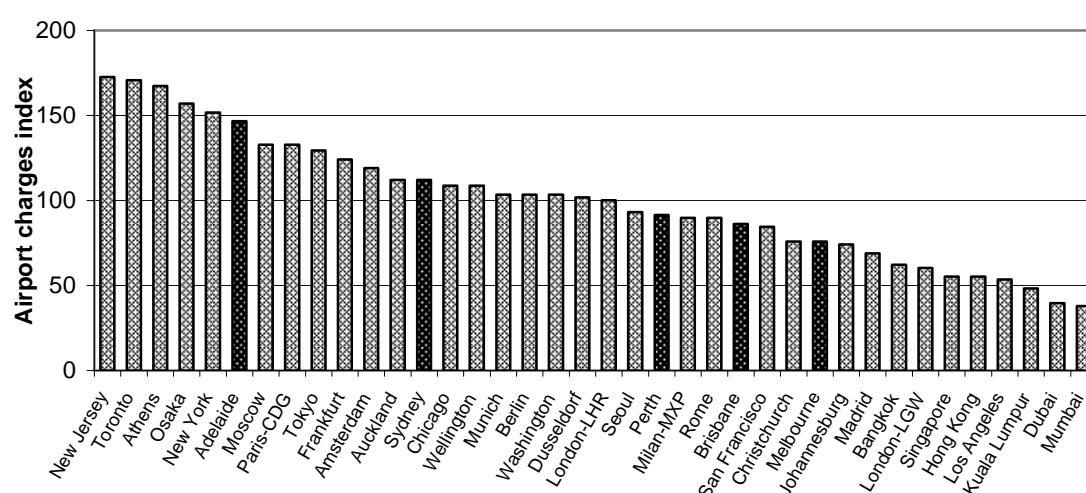
How adequate are the data in the ACCC's price (and quality) monitoring reports for judging the effectiveness of the monitoring regime? Are the regulatory accounts provided by the airport operators sufficient to reveal monopoly pricing and rates of return? Are there material gaps or limitations in that data and can they be practically remedied? What other data sources should the Commission use in its assessment of the price (and quality) monitoring regime?

Are the ACCC's monitoring methodologies appropriate? Is there adequate consultation with the monitored airports?

The Terms of Reference direct the Commission to examine international comparisons of the performance of airport operators. Comparing charges, costs and rates of return at the price monitored airports with those at international airports may provide insights into the reasonableness of outcomes under the current regulatory system.

Although somewhat dated, a 2006 study showed charges for international passengers at the largest monitored airports in Australia ranged from 40 to 80 per cent of the most expensive international airports (figure 1).

Figure 1 Charges at selected international airports, 2005^a



^a Calculated on the basis of the total charges for international carriers for landing, parking, passenger facilitation, navigation and security services for a sample of eight different aircraft types. Sample average = 100.

Data source: Transport Research Laboratory (2006).

How do recent charges for aeronautical services at the price monitored airports compare with those at comparable international airports? What conclusions can be drawn from international comparisons of airport performance?

Compliance costs

To comply with the price and service monitoring regime, airports are required to provide information to the ACCC. For example, the financial reporting provisions of the *Airports Act 1996* require the specified airports to provide the ACCC with annual financial accounts, including income, balance sheet and cash flow statements. Other supporting information, such as accounting policies and cost disaggregation between aeronautical and non-aeronautical services, is also required.

Much of the data requested by the ACCC is likely to be collected by airport operators in the course of their business. However, other indicators require airports to undertake surveys — such as the passenger service quality survey (see below). The costs associated with providing information to the ACCC for monitoring purposes are expected to be met by airport operators.

What are the compliance and administration costs associated with fulfilling the regulatory obligations imposed by the price and service quality monitoring system?

Car park price monitoring

The ACCC, through Direction 31 under the *Trade Practices Act 1974*, monitors prices, costs and profits of car parking services at Sydney, Melbourne, Brisbane, Perth and Adelaide airports. In addition, the *Airports Regulations 1997* provide for the ACCC to monitor the quality of service of car parking at these airports.

In its 2006 review, the Commission noted that the case for continuing price monitoring of car parking services was ‘finely balanced’ (PC 2006). However, given the growth in off-airport parking alternatives, the Commission agreed with the proposal by the then Department of Transport and Regional Services that car parking and landside vehicle services should be removed from the coverage of monitoring. Nevertheless, in 2008 the government directed the ACCC to monitor car parking at the major airports.

Unlike aeronautical services, airport car parking facilities are provided directly by the airports to consumers. These facilities and services are differentiated considerably, with airports providing short- and long-term parking with various attributes — covered, open-air, close to the terminal or some distance away (with

shuttle bus services). The car parking facilities at the five monitored airports are outlined in box 2.

Box 2 Monitored airports' car parking options

- Adelaide airport has combined short- and long-term car parking facilities for both domestic and international terminal.
- Brisbane airport offers short-term, undercover long-term and undercover valet parking for domestic terminal users. A separate facility provides short- and long-term undercover parking for international terminal users.
- Melbourne airport has combined parking facilities for domestic and international terminal users, including short-term (undercover), 'express', business, multilevel long-term (walking distance), and more remote long-term parking with a shuttle bus.
- Perth airport provides separate car parking facilities for domestic and international passengers for both short-term and long-term parking and premium undercover parking near the domestic terminal.
- Sydney airport provides a ground-level and multi-storey car park adjacent to the domestic terminal that provides short-term, long-term and valet parking for domestic terminal users. The same arrangements are available to users of the international terminal. In addition, there is a remote ground-level car park that provides short- and long-term parking for users of the domestic terminal.

Source: ACCC (2010).

Airports charge customers different rates depending on the length of stay and the type of car parking facility used (table 3). However, the complex and variable configurations of airports make price comparisons difficult. For example, Brisbane airport's long-term parking service is within walking distance of the terminal precinct, thereby providing greater convenience than the long-term parking facilities at other airports that provide courtesy bus services (ACCC 2009).

Table 3 Car parking charges as at 30 June 2009 (\$)

<i>Airport</i>	<i>Short-term car park</i>				<i>Long term car park</i>	
	<i>1 hour</i>	<i>4 hours</i>	<i>8 hours</i>	<i>24 hours</i>	<i>1 day</i>	<i>7 days</i>
Adelaide	4.00	12.00	20.00	30.00	20.00	70.00
Brisbane ^a	10.00	16.00	45.00	45.00	25.00	105.00
Melbourne	12.00	35.00	35.00	45.00	25.00	69.00
Perth	5.40	9.40	26.00	26.00	17.00	79.00
Sydney ^a	15.00	50.00	50.00	50.00	25.00	110.00

^a Brisbane and Sydney airports short-term car parking charges for 24 hours are based on the domestic car park at each airport.

Source: ACCC (2010).

There has been significant new investment in car parking spaces, particularly in long-term facilities. At Melbourne airport, for example, the number of long-term car parks increased from 6859 to 14 700 between 2004-05 and 2008-09. Similarly, at Perth airport the number of long-term international car parks increased from around 600 in 2004-05 to 2990 in 2008-09. In some cases, there has been a decline in the number of available short-term car parks (Brisbane and Perth airports).

The ACCC found that prices (on average) for car parking increased at the monitored airports between 2004-05 and 2008-09 (ACCC 2010). Partly as a result of increased prices in 2008-09, car parking revenue increased at all of the monitored airports. As operating expenses grew at a slower rate, all airports, except Perth, reported increased operating margins for parking over 2008-09.

In both the 2007-08 and 2008-09 monitoring reports, the ACCC found that it is likely that airport car parking charges reflect some element of monopoly profits.

On-site parking alternatives

Competition from alternative modes of transport has the potential to limit airports using their market power when setting car parking charges. Alternatives to airport parking include off-site parking, drop-off/pick-up, taxi and use of other transport options such as bus or train. A range of factors influence the choice by passengers including the cost and the convenience.

That said, airports also have some influence over the cost and convenience of the alternatives to using airport provided car parking. For example, airports provide taxi waiting areas for which they control the size and charge levies. They also have the ability to influence the convenience of other options such as the location of the drop-off or pick-up facilities for passengers and shuttle service operators.

One alternative to using airport car parks is off-airport car parking facilities, which are usually located in the suburbs surrounding the airport. These operations offer long-term parking (one day or more) with a shuttle bus to the airport. These services are generally offered near the largest airports (Sydney, Melbourne and Brisbane) and some of the major regional airports such as the Gold Coast and Cairns. While these services have the inconvenience of having to use a shuttle bus, they are generally cheaper than on-site parking and they often offer other services such as car cleaning and car repairs.

What percentage of passengers use the airport's car park facilities? What is the level of competition from other sources of transport? Are off-site car parks a real

source of competition to the airport car parks? Is there evidence that airports are influencing the level of competition from alternative transport modes?

Has the pricing behaviour of airports indicated the use of market power in car parking? Do the price increases reflect monopoly rent, locational rent (e.g accounting for the opportunity cost of alternative uses of land dedicated to car parking), or both? Are monopoly profits evident for short-term, long-term, or all forms, of parking?

Service quality monitoring

The *Airports Act 1996* and the *Airports Regulations 1997* require the ACCC to monitor quality of service at the five specified airports. Misuse of market power could manifest through excessive prices and / or running down quality — possibly by delaying investment — both of which can lead to increased airport profitability.

Originally introduced to complement price cap regulation, quality of service monitoring has been retained under the price monitoring arrangements to:

- reinforce commercial incentives for airports to maintain appropriate service standards
- enhance transparency and comparability between airports, and, in so doing, assist airport users negotiating with airports and assist governments to address airport regulatory matters (ACCC 2007).

In undertaking quality monitoring, the ACCC focuses on those facilities and services provided by, or that could be influenced by, the airport operator, including:

- airside facilities such as runways, taxiways and aprons
- common user terminal facilities such as departure lounges and baggage systems
- car parking
- taxi facilities and kerbside pick-up and drop-off points.

Domestic terminals owned and/or operated by airlines are not included in service quality monitoring.

The ACCC draws on information from several sources, including airport operators, airline passengers, airlines, Airservices Australia, the Australian Customs and Border Protection Service, the Australian Quarantine and Inspection Service and the Department of Immigration and Citizenship.

The overall ranking of quality of service at the monitored airports has largely been unchanged over the five years to 2008-09 (table 4). Brisbane airport was ranked first over this period. Following the opening of the new integrated terminal in 2005-06, Adelaide airport's ranking moved from fifth to second. The two busiest airports — Melbourne and Sydney — have been ranked fourth and fifth since 2005-06.

Table 4 Overall ranking of quality of service for the monitored airports

Rank	2004-05	2005-06	2006-07	2007-08	2008-09
1 st	Brisbane	Brisbane	Brisbane	Brisbane	Brisbane
2 nd	Perth	Adelaide	Adelaide	Adelaide	Adelaide
3 rd	Sydney	Perth	Perth	Perth	Perth
4 th	Melbourne	Melbourne	Melbourne	Melbourne	Melbourne
5 th	Adelaide	Sydney	Sydney	Sydney	Sydney

Source: ACCC (2010).

Over this period, the monitored airports were generally rated as satisfactory to good. Ratings from passenger surveys tended to be higher than other sources (ie. surveys of airlines and government agencies).

How responsive have the monitored airports been to users' service needs and preferences? Are there any significant quality problems for services under the control of the airports that are not being addressed? Have necessary new investments been made in a timely fashion? How does the quality of service at the monitored airports compare with comparable international airports?

How robust are the survey techniques in indicating quality of service? How useful is quality of service monitoring given the differentiation between DTLs and common user facilities, and how would this affect international comparisons?

Access arrangements

A feature of the price monitoring arrangements is that, in the first instance, the use of, and prices for, airport services should be negotiated commercially between the parties.

If agreement cannot be reached, the party seeking access to an airport service has recourse to the national access regime, through Part IIIA of the *Trade Practices Act 1974*. Part IIIA provides for access in prescribed circumstances, under agreed or

determined conditions (including prices), to the services of nationally significant essential facilities.

Part IIIA provides several avenues for gaining access on ‘reasonable’ terms and conditions, including having the service ‘declared’. Declaration gives an access seeker the right to negotiate with the service provider, with provision for arbitration if the negotiations prove unsuccessful. For example, following an application by Virgin Blue, domestic airside services at Sydney Airport were declared for five years to December 2010, and freight handling services at Sydney International Airport were declared from March 2000 until March 2005.

It was always intended that Part IIIA would be an operative part of the airports monitoring regime to provide ‘last resort’ mechanism for resolving serious and protracted disputes. However, in its 2006 review the Commission observed that the reasoning underlying a Federal Court determination upholding the declaration of the airside service at Sydney Airport had the potential to render Part IIIA a more active regulatory instrument (box 3).

Box 3 The Federal Court Decision

In October 2006, the full Federal Court dismissed an appeal by Sydney Airport against the Australian Competition Tribunal’s decision to declare the airport’s domestic airside service. Specifically, one of the key Part IIIA declaration criteria — s. 44H(4)(a) — requires that access to a nationally significant infrastructure service must ‘promote competition’ in a related market. Prior to the Court’s decision, this criterion had been interpreted by decision makers as meaning that the act of declaration, and the access that would flow from it, would promote competition. This effectively required an assessment of conduct without declaration relative to that which might be expected with declaration.

However, the Court found that consideration of conduct ‘with and without’ declaration is not a pre-condition for satisfaction of the competition test; all that is required is a judgement that the nature of the infrastructure service is such that access (or increased access) would promote competition. This interpretation was widely viewed as lowering the Part IIIA entry bar.

The Federal Court decision was made in respect of a declaration determination under a previous s. 44H(4)(a) requirement that access (or increased access) would promote competition in a related market. Amendments to Part IIIA, which took effect from October 2006, mean that s. 44H(4)(a) now requires that access (or increased access) would promote a *material* increase in competition in a related market. Also, other amendments to Part IIIA now require decision makers to have regard to an objects clause focussing on the efficiency implications of declaration.

Source: PC (2006).

In its 2006 review, the Commission was concerned that lowering the hurdle for declaration could, in turn, make it easier for airlines to seek legally binding private arbitration, or arbitration by the ACCC. In this case, Part IIIA could supplant price monitoring as the operative regulatory instrument at the monitored airports, which might in practice be much the same as a reversion to explicit price regulation.

In its response to the Commission's report, the former Government signalled an intention to reinstate the interpretation of Part IIIA to that which prevailed prior to the Federal Court decision (Costello 2007). In November 2009, the current Government introduced reforms to Part IIIA but these focused on streamlining administrative processes (such as binding time limits and limiting merits review) rather than actively restoring the prior interpretation of s 44H(4)(a).

The extent to which the bar for access via Part IIIA has been lowered as a result of Federal Court decision is unclear, given:

- the earlier amendments to Part IIIA that strengthen s 44H(4)(a) and require decision makers to have regard to the efficiency implications of declaration
- that securing a declaration remains a costly and time-consuming process which may inhibit use of the regime
- the Full Federal Court's interpretation will continue to be tested in some forthcoming (rail infrastructure) judicial reviews.

The National Aviation White Paper, in referring to the most recent legislative changes, notes that 'following declaration, Virgin Blue and SACL were able to negotiate a commercial outcome prior to a final arbitration determination being imposed by the ACCC' (Australian Government 2009).

Has the Federal Court's interpretation led to Part IIIA becoming the operative regulatory instrument for the major airports or has the threat of potentially easier recourse to Part IIIA 'conditioned' negotiations between airports and airport users, or has it had little impact?

Have recent legislative changes (in 2006 and 2010) addressed concerns that Part IIIA could supplant price monitoring as the operative regulatory instrument?

4 Future arrangements

The Terms of Reference request the Commission to consider:

- any improvement or enhancements that could be made to the existing regime
- the appropriate future role of the regime

In considering these matters, the Commission will have regard to the objectives underlying the current regime and the general requirement in the Productivity Commission Act to take an economy-wide view.

One issue will be the impact on investment of price monitoring relative to alternatives. For example, airports do not appear to have suffered from the bottlenecks that have arisen in other infrastructure services, such as ports, roads and water. Another consideration will be the likely impacts on efficiency in airport-related and other markets. However, in forming a view on what arrangements would be best for the community as a whole (and consistent with paragraph 4 of the terms of reference), the Commission will need to look at distributional effects. In particular, differences in price levels under alternative arrangements could redistribute income between airlines and their passengers on the one hand and airports and their shareholders on the other.

To assist the Commission to, as far as possible, quantify the impacts of different arrangements, participants are encouraged to provide as much information as possible on the benefits, costs, economic efficiency and distributional impacts of the particular arrangements they consider would be most appropriate in the future.

Is a further period of price monitoring needed?

A threshold issue is whether the existing suite of price and service quality monitoring should continue in its current form. In assessing this question, the Commission will need to consider if:

- there have been changes in the overall degree of market power (for both aeronautical services and car parking)
- there are sufficient incentives or countervailing forces for airports to not use their market power
- the current monitoring arrangements are effective in achieving their objectives, including being an active constraint on the misuse of market power.

At a broad level, is there value in continuing the monitoring of aeronautical services and/or parking prices? Is there evidence that the current light-handed approach has not been successful in addressing market power concerns, and if so, what alternatives are available? Is both price and service quality monitoring needed?

Should there be a fixed duration for any future period of price monitoring? Are further prescheduled reviews necessary?

If there is a further period of monitoring, are there opportunities to streamline arrangements to improve reporting, without compromising effectiveness? Could the number of indicators be reduced? In some areas, would more information be desirable? Do reports need to be produced annually?

Market power

As noted above, the price and service quality monitoring regime undertaken by the ACCC currently applies to the five major airports, whereas previous monitoring arrangements also included Canberra and Darwin (for aeronautical services). Which airports are covered by monitoring should be a reflection of their degree of market power — an assessment that the Commission conducted in its 2002 review (table 5).

Table 5 Overall degree of market power at selected Australian airports for aeronautical services, 2002

<i>Airport</i>	<i>Overall degree of market power</i>
Price monitored airports	
Sydney	high
Melbourne	high
Brisbane	high
Adelaide	moderate
Perth	high
Second tier self-administered monitoring	
Canberra	low/moderate
Darwin	low/moderate
Gold Coast	low
Hobart	low
Other airports	
Alice Springs	low
Launceston	low
Townsville	low

Source: PC (2002).

Have there been changes in the overall market power enjoyed by any of the price monitored airports and if so why? For example, do Avalon and Gold Coast airports materially reduce the market power of Melbourne and Brisbane Airports?

What are the constraints on the airports' market power? Do the airlines have countervailing power in dealing with the airports, especially smaller airports?

If monitoring was to continue, should some airports be removed from, or added to, the list of monitored airports? If airports are removed, would the second tier

self-administered scheme, or some other web-based self-reporting regime for the major airports, suffice?

Are the definitions of aeronautical services appropriate in reflecting market power in particular services? Should some services be excluded or others included? What is the market power of the major airports in relation to car parking prices?

Deterrent and remedies

The monitoring regime and the knowledge that a report of the outcomes will be publically released may be enough, in some instances, to constrain the use of the airports' market power.

The third party access provisions may also act as an incentive for airports to negotiate with airlines until they reach a mutual agreement. An attempt by an airport to set prices significantly above those that would prevail in a more competitive market would provide an airline with an incentive to seek such a declaration.

Failing these, if there is evidence to indicate that an airport warrants further investigation for its pricing behaviour, the Minister for Infrastructure and Transport retains the discretion to recommend a formal inquiry under the *Trade Practices Act 1974*. In its 2006 review, the Commission sought to strengthen the credibility of this 'threat' to more strongly condition the behaviour of airports through a 'show cause' mechanism (box 4).

Box 4 Show cause process – key recommendation

In the 2006 airport services inquiry, the Commission recommended that the Government be required to make an explicit response to the ACCC's monitoring reports.

This would have entailed the responsible Minister publicly indicating that either no further investigation of conduct was warranted, or that an airport would be asked to 'show cause' why further investigation into its conduct should not take place. Such a process would trigger a defined process in those instances where the ACCC's reporting indicated that airports may have misused their market power.

The Commission considered that the absence of a such a process for triggering further investigation of conduct reduced the credibility of 'punishment' being issued for any misuse of market power and therefore provided little incentive for airport operators to not use their market power to extract monopoly rents or reduce service quality.

Source: PC (2006).

In the recent National Aviation Policy White Paper, the government announced that the ‘show cause’ process recommended by the Commission would not be introduced. Both airport operators and airlines expressed concern that the draft show cause assessment, developed by the Department of Infrastructure and Transport, would be resource and time intensive to establish and maintain. Airports raised concerns that the proposed show cause process might also impede their capacity to acquire loan finance because lenders believed that the process introduced uncertainty (Australian Government 2009).

An alternative approach might be to *require* that commercial negotiations between the airports and their customers encompass processes for resolving disputes, such as independent commercial mediation and arbitration — for example, a legislative requirement to the effect that, once a party has notified a dispute, commercial mediation/arbitration is triggered.

Is the existing range of remedies effective in deterring misuse of market power? Are these remedies effective ‘punishment’ for misuse of market power?

What impact does the lack of a ‘show cause’ process have on ensuring appropriate pricing and investment outcomes for aeronautical services? Is there a better approach to developing a ‘show cause’ process or an alternative trigger process? Would there be benefits in a requirement for independent commercial arbitration and if so, how could this be effected? Are there any public interest reasons for such arbitration to be conducted by the ACCC?

Do concerns about the potentially adverse effects of more heavy handed price regulation on investment militate against its reintroduction?

5 Airport planning regulation and transport

The government has requested the Commission to examine the provision and quality of land transport facilities providing access to airports, ‘in line with the Government’s urban policy agenda to make our cities more productive, liveable and sustainable’ (Albanese and Shorten 2010).

Planning and development on federal airport sites are regulated under Commonwealth law. In contrast, areas surrounding airports are subject to state/territory or local government planning and building laws. As a result, planning development on airport land and surrounding land has not necessarily been coordinated.

With airports developing into large and complex operations that support an increasingly wide range of aviation and non-aviation activities, issues about compatibility of development on airport land and nearby neighbourhoods have come to the fore. Airport developments can significantly impact the surrounding transport infrastructure. In the National Aviation Policy White Paper, the Australian Government noted a desire to:

... ensure that the airport planning system is properly integrated with the off-airport transport planning system and contributes to a coordinated transport system that supports our cities' broader economic productive capacity and avoids imposing unnecessary social and economic costs (Australian Government 2009, p. 157)

Airport planning regulation

All federally leased airports (except for Tennant Creek and Mount Isa) are subject to the planning framework in the *Airports Act 1996*. As part of the planning framework, airports are required to prepare a Master Plan. This is a 20-year strategic vision for the airport site, renewed every five years, which includes future land uses, types of permitted development, and noise and environmental impacts.

In developing the Master Plan, airports must publish preliminary versions and invite public comment. Following public consultation, airports must submit draft Master Plans to the Minister for Infrastructure and Transport for a decision. The minister must make a decision within 50 business days, otherwise the documents are taken as approved. The federally leased airports are also required to prepare major development plans that provide specific information regarding particular major developments.

Transport linkages to airports

Passengers travelling to and from an airport can choose from several modes: taxi, car, bus or train. Car — whether it be self drive own car or hire car or using the drop off/pick-up facilities — is a popular option along with taxis.

A distinguishing feature of Australian airports is whether or not they are serviced by mass transport options such as bus or train. Sydney and Brisbane airports have airport rail that links the airport to the central business district (CBD) as well as bus services. Melbourne, Adelaide, and Perth offer a combination of public and private bus services from the airport to the CBD and surrounding areas.

Recent changes to legislation necessitate that Master Plans have a number of new requirements including:

-
- a ground transport plan which shows how the airport's facilities connect with the surrounding road and public transport system
 - additional detail on proposed use of land in the first five years of the plan, including information on proposed non-aeronautical developments.
 - detailed analysis on how the plan aligns with state, territory and local government planning laws, as well as a justification for any inconsistencies
 - information on the number of jobs likely to be created, anticipated traffic flows, and the airport's assessment of the potential impacts on the local and regional economy and community.

The terms of reference request the Commission to focus on the provision of passenger transport services at and surrounding main passenger airports operating in Australia's major cities. Which major cities should the Commission focus on — those housing the five price and service monitored airports, all capital cities or some other combination? Should potential links between airports (such as Canberra and Sydney or Melbourne and Avalon) be examined?

Are planning and development regulations working effectively? Can 'excessive' or 'inappropriate' economic development at airports impinge on effective transport linkages to and from airports, or might such development facilitate better transport linkages?

What mechanisms exist at airports to coordinate with local and state governments on planning issues? Can more be done by airports and governments to better coordinate planning of transport options? Will recent changes to legislation to impose additional requirements on airport Master Plans (such as ground transport plans) help to alleviate past problems?

What transport options exist at the major airports in Australia? Are these reliable, frequent and cost effective services? Are they integrated into the suburban transport network? To what extent are they used relative to private cars? Is there evidence that land transport service providers (such as taxis, shuttles, off-airport car parking providers) are impeded unduly in gaining access to airports? Are charges and conditions of access to airports (e.g convenient pick-up and drop-off points) appropriate? Is there a need to monitor such terms and conditions?

References

- ACCC 2010, *Airport monitoring report 2008-09: Price, financial performance and quality of service monitoring*, March.
- ACCC 2009, *Airport monitoring report 2007-07: Price, financial performance and quality of service monitoring*, March.
- ACCC 2007, *Airport quality of service monitoring*, Discussion Paper November.
- Australian Government 2009, *National Aviation Policy White Paper: Flight Path to the Future*, December.
- Albanese, A. 2010, Transcript of doorstep interview: Parliament House, Canberra, 12 March.
- Albanese, A. and Shorten, B. 2010 *Airport Pricing, Investment and Services Review*, Joint Media Release no. AA492/2010, 9 December .
- Costello, P. (Treasurer) 2007, *Productivity Commission Report - Review of Price Regulation of Airport Services*, Media Release no. 032, 30 April.
- Department of Infrastructure and Transport 2010, *Airport Traffic Data 1985-86 to 2009-10*, <http://www.bitre.gov.au/info.aspx?ResourceId=191&NodeId=96>
1 November
- Productivity Commission 2002, *Price Regulation of Airport Services*, Report no. 19, AusInfo, Canberra.
- Productivity Commission 2006, *Review of Price Regulation of Airport Services*, Report no. 40, Canberra.
- TRL (Transport Research Laboratory) 2006, *Comparison of International Airport Charges*, report to Melbourne Airport, July.

Attachment A: How to make a submission

This is a public inquiry and the Commission invites interested people and organisations to make a written submission.

Each submission, except for any information supplied in confidence (see below), will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document. Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.

How to prepare a submission

Submissions may range from a short letter outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, under certain circumstances the Commission can accept sensitive material in confidence, for example, if it was of a personal or commercial nature, and publishing the material would be potentially damaging. You are encouraged to contact the Commission for further information and advice before submitting such material. Material supplied in confidence on personal or commercial grounds should be provided under separate cover and clearly marked 'PERSONAL IN CONFIDENCE' or 'COMMERCIAL IN CONFIDENCE' accordingly.

How to submit a submission

Each submission should be accompanied by a submission cover sheet. The submission cover sheet is available on the inquiry webpage and a copy is included with this issues paper. For submissions received from individuals, all personal details (eg home and email address, phone and fax number) will be removed before it is published on the website for privacy reasons.

The Commission prefers to receive submissions as a Word (.doc) file attachment to an email (see address below). PDF files are acceptable. To ensure your PDF is as electronically readable as possible, the Commission recommends that it is derived from word processing software (eg Microsoft Word or Lotus notes) and not from a scanner, fax or photocopying machine.

Track changes, editing marks, hidden text and internal links should be removed from submissions before sending to the Commission. To ensure hyperlinks work in your submission, the Commission recommends that you type the full web address (eg <http://www.referred-website.com/folder/file-name.html>).

Submissions can also be accepted by fax or post (see address below).

By email*: airport-regulation@pc.gov.au

By fax: 02 6240 3377

By post: Economic Regulation of Airport Services
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

* If you do not receive notification of receipt of an email message you have sent to the Commission within two working days of sending, please contact the Administrative Officer.

Due date for submissions

Please send submissions to the Commission by 8 April 2011

Productivity Commission
SUBMISSION COVER SHEET
(not for publication)



Australian Government
Productivity Commission

Please complete and submit this form with your submission to:

Airport Regulation Inquiry
Productivity Commission
PO Box 1428
Canberra City ACT 2601

OR

By facsimile (fax) to:

Christine Underwood (02) 6240 3377

By email: airport-regulation@pc.gov.au

Organisation or
Individual:

Principal contact:

Position:

Phone:

Fax:

Mobile:

Email address:

Street address:

Suburb/City:

State

P'code:

Postal address:

Suburb/City:

State

P'code:

Please note:

- For submissions made by individuals, all personal details other than your name and the State or Territory in which you reside will be removed from your submission before it is published on the Commission's website.
- Copyright in submissions resides with the author(s), not with the Productivity Commission.
- Submissions will be placed on the Commission's website, shortly after receipt, unless prior contact has been made concerning material supplied in confidence, or to request a delayed release for a short period of time. **Submissions will remain on our website as public documents indefinitely.**

Please indicate if your submission:

☐

contains NO material supplied in confidence and can be placed on the Commission's website

☐

contains SOME material supplied in confidence (provided under separate cover and clearly marked COMMERCIAL IN CONFIDENCE, or PERSONAL IN CONFIDENCE)