

**SUBMISSION ON
DRAFT INFORMATION DISCLOSURE
DETERMINATION AND DRAFT REASONS PAPER**

12 July 2010

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Submission Overview

Introduction

1. The New Zealand Airports Association ("**NZ Airports**") thanks the Commerce Commission ("**Commission**") for the opportunity to submit on its Draft Information Disclosure Determination ("**Draft Determination**") and Information Disclosure Airport Services Draft Reasons Paper ("**Draft Reasons Paper**").
2. As invited by the Commission, this is NZ Airports' submission on information disclosure matters (we have provided a separate submission on the Draft Input Methodologies Determination and Input Methodologies Airport Services Draft Reasons Paper ("**Draft Input Methodologies Determination Submission**"). The submission is also made on behalf of Auckland, Wellington and Christchurch International Airports ("**the Airports**").
3. This submission should also be read in conjunction with all previous submissions made by NZ Airports and the Airports as part of the Commission's consultation on input methodologies and information disclosure requirements to be determined under Part 4 of the Commerce Act 1986 ("**the Act**").
4. The submission is structured as follows:
 - Part A provides an overview of the statutory obligations placed on the Commission to establish a "fit for purpose" information disclosure regime; and
 - Part B discusses NZ Airports' outstanding concerns with the Commission's Draft Determination and makes recommendations for improvement.
5. NZ Airports have also **attached** our recommended amendments to the Draft Determination (both in Word and Excel form) ("**marked up Draft Determination**"). We do note, however, that given the technical and detailed nature of the Draft Determination, we have had insufficient time to fully digest the implications of the proposals, particularly the draft definitions.
6. We also refer to the **attached** letter from Airbiz Aviation Strategies Limited dated 8 July 2010 (commissioned by BARNZ and NZ Airports) ("**Joint Proposal for Quality Measures**"), which comments on the unnecessary complexity in various definitions. NZ Airports would therefore be grateful if the Commission would remain open to receiving further comments on points of detail in cross submissions.
7. NZ Airports will also be pleased to provide any further information required in support of this submission.
8. NZ Airports' contact for matters regarding this submission is:

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Executive Summary

9. NZ Airports is pleased that the Commission has acknowledged the purpose of information disclosure under Part 4, and has focussed on establishing a cost effective regime.
10. While NZ Airports is pleased that progress has been made towards more appropriate information disclosure and a broadly workable regime, there remain areas that would benefit from further consideration by the Commission. Our concerns relate mainly to the key input methodologies to be used for information disclosure, which are discussed in our separate submission on the Input Methodologies Draft Reasons Paper.
11. At this stage of the consultation process on the information disclosure requirements, our primary focus is on implementation. We believe that the Draft Determination is unnecessarily heavy handed in some areas (such as the forecast to actuals reconciliation) and that there is room to improve the disclosure requirements by ensuring information is clear for interested parties.
12. In particular, NZ Airports is concerned to ensure that the disclosure requirements are consistent with the purpose of information disclosure, that is, that sufficient information is available for interested persons to assess whether airports are meeting the Part 4 purpose statement or not. No more, no less.
13. This requires the Commission to acknowledge that airports have particularly unique pricing obligations under the Airport Authorities Act 1966 ("**AAA**"). The Commission should also be aware that airports operate and make decisions based on long-term planning and therefore returns must also be assessed over the long-term.
14. NZ Airports is very concerned that the Commission has proposed a retrospective approach to information disclosure. There is nothing in section 53C of the Act (which sets out the requirements for the information disclosure determination) that rebuts the presumption against retrospective regulation. This is particularly relevant for the transition period and the proposed requirement for the preparation of ROIs for two years prior to the commencement of regulation and forecast information for the price setting event prior to the commencement of regulation. The preparation of Schedule 2a in particular will require a significant exercise and associated cost, especially for completion of retrospective information and any restatement of disclosure accounts.
15. NZ Airports is also concerned that the Commission's development of a WACC methodology will confuse interested parties. The Commission proposes to annually update a WACC for information disclosure purposes, whereas airports estimate their WACC for the pricing period. Each WACC will therefore be set using different approaches and assumptions, and for different periods. Over time ROI should fluctuate above and below an ex ante WACC. It is therefore very difficult to see how the Commission's WACC will assist interested parties to assess airport performance.
16. NZ Airports reiterates its previous submissions that a Consolidation Statement is not necessary. In terms of a consolidation between regulatory disclosures and financial reporting, full airport financial results are currently made available in annual reports, which are audited. Interested persons have full access to this information. Regarding the requirement to provide

consolidated information on the non-regulated business, NZ Airports submits that the Commission has failed to show that the information is required for the limited purpose allowed under section 53D of the Act (to monitor compliance with information disclosure regulation applying to regulated goods or services). Instead, the Commission has justified its proposed requirements on the basis that it will provide useful information for interested parties. NZ Airports considers that this statement is not required and further that it does not warrant the additional time and cost required for its completion.

17. In this submission, NZ Airports sets out its key recommendations for improving the information disclosure requirements, following the structure adopted in the Commission's Draft Reasons Paper. Key topics discussed in greater detail in Part B of this submission include:
- Annual disclosure relating to financial information;
 - Annual disclosure of quality and statistics (see also the Joint Proposal for Quality Measures in this respect);
 - Forecast total revenue, particularly implementation issues that arise in the transitional period (forecast disclosure period);
 - Pricing related disclosures; and
 - Certification/statutory declarations and transitional provisions.

Part A - Regulatory Framework and General Approach

Statutory requirements - fit for purpose information disclosure

18. NZ Airports acknowledges that the Commission is required to establish a robust information disclosure regime for regulated airports. Generally, we consider that the Commission has correctly interpreted the applicable statutory provisions. In particular:
- The starting point is the purpose of information disclosure, which is to ensure that sufficient information is readily available to interested persons to assess whether the Part 4 purpose statement is being met (section 53A of the Act);
 - Essentially, the assessment is of whether airports are promoting the long-term benefit of consumers by promoting outcomes consistent with workably competitive markets, such that the specified objectives (a) to (d) in the purpose statement are met;
 - Information disclosure regulation should therefore focus on providing transparency on the performance of airports. Accordingly NZ Airports agrees with the Commission that "utilising the information disclosure regime to influence the investment and pricing decisions of regulated suppliers in a premeditated way falls outside the scope of the section 53A purpose statement";¹
 - It is through transparency that airports will have incentives to perform in accordance with the Part 4 purpose statement; and
 - The information disclosure requirements should not be set for the purpose of allowing the Commission to report to Ministers under section 56G of the Act. This is acknowledged by the Commission.²
19. We are also pleased that the Commission has acknowledged that "the operation of an airport involves a range of complex, interlinked activities".³ We therefore welcome the Commission's intention to identify sector specific factors when determining appropriate information disclosure requirements.
20. NZ Airports is nevertheless concerned that the Commission has not established a fit for purpose information disclosure regime for airports. This is mainly because of the Commission's Draft Input Methodologies Determination (which we have submitted on separately).
21. Broadly, the input methodologies, and in particular the establishment of a WACC methodology to assess airport performance, place a strong emphasis on the annual disclosure of return on investment ("**ROI**"). As detailed in the NZ Airports Draft Input Methodologies Determination Submission, this is likely to encourage an annual "snapshot" view of airport performance, rather than one that is more reflective of the cycle of these businesses.
22. Airports operate and make decisions based on long-term planning commitments and therefore any returns that are assessed on a yearly basis will risk resulting in mistaken conclusions that airports are earning either less than or above "normal returns". This is despite the Commission acknowledging that the airport industry faces particularly lengthy planning horizons.

¹ Draft Reasons Paper, paragraph 2.27.

² Draft Reasons Paper, paragraph 2.45.

³ Draft Reasons Paper, paragraph 2.20.

23. It is therefore critical that the ROI is considered in the context of airport planning and forecasts, and quality performance. The Commission will have an important role in ensuring that, under its monitoring and analysis obligations, interested parties are provided with a complete and accurate picture of airport performance. As we have strongly submitted throughout this consultation process, assessment must be of trends over an appropriate time frame.

Implementation principles

24. We welcome the Commission's focus on establishing a cost effective information disclosure regime. The Commission states that its focus has been on:⁴

the minimum amount of information that should be disclosed to interested persons to assess whether outcomes consistent with outcomes in a workably competitive market are occurring.

25. This is in line with good regulatory practice and in accordance with Parliament's intent that information disclosure for airports will be light-handed regulation.
26. In this context, for example, the decision not to require the disclosure of AMPs is appropriate.
27. However we still have concerns that there is further scope for greater efficiency and simplicity in the information disclosure requirements, which we outline in this submission. Generally, as the Commission acknowledges, the purpose of information disclosure can be achieved largely through existing airport processes and reporting structures and therefore, it is contrary to the principles of good regulation if the Commission makes changes to established arrangements without good reason.
28. We are also pleased that the Commission has for the most part proposed fair and appropriate transitional arrangements going forward, but we are very concerned about the retrospective transitional arrangements (as discussed throughout this submission). As we highlight in this submission, there are some areas where quite significant changes in reporting processes are required. These will take time to implement in a way that ensures accurate disclosure is provided.

Interested persons - need for information disclosed to be simple and clear

29. NZ Airports accepts the Commission's analysis that the range of "*interested persons*" is broad and that the Commission itself is an interested person. We acknowledge that the Commission has an important monitoring and analysis role, to ensure that other interested parties are provided with a full and accurate picture of airport performance over time.
30. However NZ Airports remains concerned to ensure that the design of the information disclosure regime is appropriate for the broader group of interested persons. Many interested persons do not share the Commission's expertise and interest as a regulator or the more sophisticated information requirements of interested persons who have alternative means for obtaining the information they require.

⁴ Draft Reasons Paper, paragraph X3.

31. In particular, NZ Airports is concerned to ensure that the information disclosed is simple and clear enough to be reasonably understood and assessed by the general public, which includes passengers and the end-users of airport services.

Part B - Concerns with Draft Determination

Overview

32. NZ Airports considers that significant progress has been made on the information disclosure requirements as a result of the Commission's consultation process and consideration of submissions. We also acknowledge the work of BARNZ on the Joint Proposal for Quality Standards.
33. In this Part of the submission, NZ Airports identifies the key outstanding implementation issues that it considers should be addressed to help promote an appropriate, fit for purpose information disclosure regime for airports.

Annual disclosure relating to financial information

Return on investment

34. NZ Airports wishes to stress the importance of the Commission's observation that:⁵

An ROI in excess of the cost of capital is, on its own, not determinative of excessive profits given that costs can vary from year to year or short-term profits above the cost of capital may simply reflect superior efficiency or innovation.
35. NZ Airports also strongly agrees with the Commission that it is the analysis of the changes in disclosed ROIs over time that assists interested persons in assessing whether excessive profits are being limited.⁶
36. NZ Airports is still concerned that, despite this sentiment, it remains to be seen whether this appropriate approach to assessment of airport performance will be implemented in practice. At this point in time, airports face regulatory uncertainty in that respect. The Commission appears to be focussed on a short term snapshot analysis of performance, rather than developing an information disclosure regime that will allow accurate monitoring of performance over time.
37. In particular, comparing the ROI to WACC on an annual basis will be problematic. As explained in our Draft Input Methodologies Determination Submission (and the accompanying report by Dr Alistair Marsden of Auckland Uniservices Limited), airports must estimate their cost of capital for future time periods when they set prices (typically for five years). This is likely to be different to the annual WACC determined by the Commission, both because of the different time period covered and because each WACC will likely use different input parameters. Over time, the ex post ROI should fluctuate above and below an ex ante WACC.
38. Accordingly, as noted in the Draft Input Methodology Determination Submission, NZ Airports is concerned about how a WACC methodology will in fact be used under the information disclosure regime. The WACC methodology will not be binding for regulated airports because Parliament recognised that, since only information disclosure regulation applies, establishing a binding WACC methodology would effectively convert information disclosure regulation into price control. NZ Airports therefore struggles to see the value of the Commission developing a

⁵ Draft Reasons Paper, paragraph 3.18.

⁶ Draft Reasons Paper, paragraph 3.20.

WACC for regulated airports.⁷ On the other hand, the Commission developing a WACC methodology has clear costs. There is a great deal of uncertainty regarding how the Commission will apply the WACC in its monitoring of performance, and having a WACC that is different to that used by airports is likely to confuse the assessment of performance by interested parties. NZ Airports is extremely concerned that any comparison of returns to the Commission's specified WACC will be tantamount to price control.

Regulatory Asset Base

39. NZ Airports is greatly concerned by the Commission's proposed retrospective approach to the initial disclosure. Under Schedule 2a, for the financial year end 2011, the Airports would also be required to report comparative disclosures for 2010 and 2009. This implies that a ROI and RIV ought to be determined for those years also. Reporting 2009 disclosures, this would require the calculation of a closing asset value for 2008. This is despite the fact that the draft determinations require the initial asset value to be based on 2009 disclosure statements.
40. NZ Airports believes there will be significant costs involved if airports are required to provide retrospective restatement of disclosure accounts in preparing Schedule 2a.
41. It therefore appears that in this instance, the Commission has abandoned the implementation principle of cost effectiveness, and is instead requiring airports to expend significant resource on producing valuations so that the Commission can analyse past performance. There is nothing in section 53C of the Act (which sets out the requirements for the information disclosure determination) that rebuts the presumption against regulation having retrospective effect. If the Commission is seeking to rely on section 53ZE(c) of the Act, then NZ Airports submits that the general power to examine, consider or investigate matters that occurred within the last seven years is insufficient to empower the Commission to require, under an information disclosure determination, airports to compile new information for a period prior to the commencement of regulation. If Parliament had intended to allow the information disclosure determination to be retrospective in effect, then it would have expressly provided for this under section 53C.
42. NZ Airports submits that the transitional arrangements should be that in the first year of disclosure, which is for the financial year ending 2011, an ROI for 2010 and 2011 be disclosed. In other words, in the transitional period, airports only need to disclose their ROI over two years, not three years.
43. Going forward, the Draft Determination proposes that airports will be required to disclose an ROI for a three year period. Consistent with its submissions that information disclosure should monitor trends over an appropriate timeframe, NZ Airports considers three years in Schedule 2a to be an insufficient period over which interested parties can assess whether the Airports are meeting the Part 4 purpose statement or not. NZ Airports recommends that a period of at least five years is appropriate.

Financial incentives

44. NZ Airports notes its disappointment that the Commission is requiring airports to disclose the value of total financial incentives, with a split between pricing and "other" incentives. Offering

⁷ For example, under the Australian regime no WACC was established for airport information disclosure.

customers financial incentives is particularly important for promoting the entry of new airlines and developing new routes, and thereby increasing competition for the benefit of passengers. As previously noted, public disclosures, even at aggregate levels, could be problematic in terms of maintaining the confidentiality of the broad terms of the agreements with airlines. This could make it more difficult to enter such agreements in the future.

45. NZ Airports further submits that it is entirely consistent with outcomes in workably competitive markets for commercially sensitive agreements not to be publicly disclosed. We see no regulatory benefit in requiring disclosure of these agreements and we consider any such disclosures would be inconsistent with the workably competitive market standard in the Part 4 purpose statement. Furthermore, these agreements are often negotiated with airlines with a view to increasing competition in the airline markets. Thus in our view this requirement provides no regulatory benefit, but risks imposing costs in related markets.
46. If the Commission nevertheless remains committed to requiring disclosure, NZ Airports suggests that it would be prudent to provide public disclosures of pricing and other incentives at an aggregate level. If the Commission remains of the view that pricing and other incentives must be disclosed as two separate categories, then NZ Airports submits that the Airports should provide these to the Commission on a confidential basis only. This would represent a reasonable and practical compromise in that the Airports could continue to reassure their airline customers that any individual concessions made to any one particular airline would remain confidential, and would therefore not discourage the entering into of such arrangements in the future.

Consolidation statement

47. The Commission's Draft Determination requires a Consolidation Statement to be publicly disclosed on an annual basis, which will include reconciliation between statutory and regulatory disclosures within the regulated business and reconciliation between the regulated reporting and the statutory financial reporting for the whole entity (Schedule 7).
48. Regarding the reconciliation between statutory and regulatory disclosures, NZ Airports reiterates its previous submissions that a Consolidation Statement is not necessary as full airport financial results are currently made available in annual reports providing total business outcomes. These financial disclosures are audited. Interested persons have full access to this information. There is no benefit that will arise out of requiring a Consolidation Statement in the regulatory disclosures, only additional and unnecessary costs.
49. As an alternative, NZ Airports supports a less-resource intensive and cost-efficient means of achieving comfort that the financial statements disclosed are accurate. NZ Airports would support a requirement for the audit certification to include a statement that the regulated financial information has been properly prepared. This is in accordance with existing disclosure accounts prepared under the AAA, which require an independent audit report.
50. Regarding the reconciliation between regulated and non-regulated activities, NZ Airports submits that the Commission has not established that the consolidation is required for the purpose allowed under the Act. The Commission correctly cites section 53D of the Act, which states that a determination may require the disclosure of consolidated information only to the extent required to monitor compliance with information disclosure regulation applying to the

regulated services. Given the extensive certifications, declarations and auditing required by the Commission, it is difficult to see how the consolidation statement will additionally help to monitor compliance. Indeed, the Commission's reason for requiring the consolidation of regulated and non-regulated activities is "in order to provide sufficient information for interested persons" and to allow "interested persons to undertake a meaningful assessment of the regulated part of the business relative to the whole business".⁸ NZ Airports submits that these are improper purposes under section 53D of the Act, and that the only remedy is for the Commission to remove this aspect of Schedule 7.

51. For the same reasons, NZ Airports submits that the "unregulated activities" and "total" columns should be removed from Schedules 10a and 11a ("Report on Asset Allocations" and "Report on Cost Allocations").

Capital and operational expenditure

52. The capital expenditure and operating expenditure categories proposed by the Commission are different to those that exist under the current AAA disclosures. However the categories are largely workable (given the proposed transitional period for reporting under these categories).
53. However NZ Airports submits that the "safety and security" operating expenditure and "security, safety and environment" capital expenditure categories should not be disclosed separately, as to do otherwise will create significant problems in practice. NZ Airports is of the view that these particular categories are arbitrary and notes that airports do not currently report in this manner.
54. The fundamental problem here is also one of implementation. It is very difficult to accurately delineate safety and security operations and costs as this goes to the core of airport operations and thus pervade all activities rather than being separable activities. We are therefore very concerned that there will not be adequate certainty of what ought to be included in this category and that as a result each Airport will disclose a different scope of activities, which may change over time. We believe it will be difficult to separate "safety and security" from Airport Maintenance and Airport Operations in some instances. We also note that the Commission has been inconsistent in isolating environmental costs for capital expenditure but not for operational expenditure. We have suggested deletions to relevant parts of the Schedules.

Segmented reporting

55. The Commission's Draft Determination requires segmented reporting aligned to the activities under specified airport services to be disclosed. NZ Airports continues to question how disclosure at the level of activities will assist in meeting the purpose of information disclosure.
56. To begin with, it is sometimes difficult to clearly define the boundaries between each of the three regulated activities. The AAA has established the definitions of each category, but the scope of each is not always aligned to the way airports operate in practice. Therefore judgment will be required in allocating revenue and costs between each activity. NZ Airports questions the usefulness of spending time and resource undertaking this exercise.
57. The Commission has justified its decision on the basis that "some consumers only purchase services in one segment and therefore aggregated information would not provide sufficient

⁸ Draft Reasons Paper, paragraph 3.155.

information to make meaningful assessments".⁹ However this would be a small minority of consumers. Accordingly, we remain unconvinced that the Commission has reasonably justified the costs of requiring segmented reporting.

58. The Commission has also included an "eliminations/transfers" category. NZ Airports does not understand what this refers to, and we submit it should be removed from Schedule 6.

Draft Determination and Schedules

59. NZ Airports has attached an excel sheet containing mark-ups to the Historical Financial Information Disclosure Schedules. In addition to the concerns outlined above, a few areas have been identified which would benefit from clarification, either of the definitions contained in the Draft Determination or in the Schedules themselves.

Annual disclosure of quality and statistics

60. NZ Airports is pleased to see that the Commission has largely adopted the recommendations put forward in the industry proposal for quality reporting. NZ Airports remains of the view that the earlier joint recommendations on quality and statistics would produce sufficient information for interested parties. We note however that in some instances the Commission has modified the industry recommendation. In many instances the modification is inappropriate – either the data does not exist, or it is not the type of information that interested parties would find useful and/or they will find it confusing. NZ Airports refers the Commission to the Joint Proposal for Quality Measures, which addresses these points.

61. In addition, NZ Airports makes the following further recommendations:

Schedule 12: Reliability

62. Schedule 12 improves the quality of information provided to interested parties as a result of the industry clarifying definitions, and focussing on what information is of most importance to users. The industry recommendation results in a short list of the most materially important types of interruptions to users. The resulting Schedule was easy to interpret and applicable for all airports. The Commission has added two further metrics which detract from the usefulness of the Schedule.

- *Fixed electrical ground power statistic:* fixed electrical ground power is an elective service and is not present at all airports. This is not considered to be sufficiently important to warrant additional disclosure. Further, it is unclear how the Commission expects this to be calculated, and in particular, how planned maintenance would be treated. NZ Airports recommends that this metric should be removed.
- *Aerobridge availability:* it is unclear why the Commission has added "aerobridge availability" in a Schedule otherwise focussed on interruptions. NZ Airports believes sufficient information is provided to interested parties through the disclosure of interruptions to contact and non remote stands as contained in the Joint Proposal.
- Further, it is also unclear how "aerobridge availability" would be interpreted if, for example, availability was affected by planned maintenance or if downtime did not affect a scheduled service. We recommend that the aerobridge availability metric be removed.

⁹ Draft Reasons Paper, paragraph 3.149.

Schedule 13: Capacity Utilisation Indicators for Airfield and Aircraft and Freight

63. NZ Airports has recommended a number of changes to Schedule 13 to make it more meaningful from a capacity and utilisation perspective.
64. NZ Airports recommends the following breakdown of aircraft type as these categories are more consistently meaningful across all three airports: international jet; domestic jet; domestic turboprop; domestic general aviation.
65. NZ Airports also considers that busy day reporting of aircraft movements by the type of stands (Aerobridge, Ground, and Remote) as proposed will be impractical. Airports obtain aircraft movement data from Airways Corporation, which does not record the stand allocated. As an alternative, NZ Airports recommends that capacity utilisation would be usefully informed by reporting runway movements by aircraft type and by turnarounds per stand.

Schedule 14: Capacity Utilisation Passenger Terminal

66. NZ Airports recommends a few minor changes to Schedule 14.
 - *Departure lounge seats:* Schedule 14 requires the number of seats in the Departure Lounge to be disclosed. While this requirement would normally be appropriate for traditional operating models, NZ Airports submits that this requirement is no longer a meaningful one and should be removed from Schedule 14. With the cooperation of the airlines, most airports now (or will in the foreseeable future) operate a "call to gate policy", whereby passengers are encouraged to remain in the centralised food, beverage and retail areas where services are readily available. Seating for passengers is therefore likely to be provided in the food and beverage areas, rather than in departure lounges. NZ Airports considers that the survey of passenger satisfaction is a better indicator of whether passengers' needs are being met in respect of the provision of seating. NZ Airports therefore recommends that the definition of "Departure lounges - number of seats" is consequently deleted from Schedule 14.
 - *Baggage trolley:* similarly, NZ Airports considers that the reporting of the number of baggage trolleys available to passengers is not a meaningful disclosure, and instead suggests that the survey of passenger satisfaction on the availability of baggage carts/trolleys in Schedule 15 is again the better indicator of meeting the needs of passengers. NZ Airports therefore recommends that this metric is also removed from Schedule 14.

Schedule 15: Passenger Satisfaction

67. The Commission has requested quarterly data for the ASQ survey. NZ Airports believes that annual data is sufficient and that there is no reason that the passenger data should be detailed on a quarterly basis when annual data is considered sufficient for all other quality and non-quality analysis. To do otherwise will mean the Airports will need to qualify seasonality versus trend effects and may not have the knowledge to meaningfully do so, given the newness of the measure.
68. In terms of the elements of passenger satisfaction to be reported, NZ Airports believes that security inspection waiting time, check-in waiting time, and passport and visa inspection waiting time should be removed from Schedule 15. These waiting times are normally outside

the control of the airport and reflect the policies of the airline or agency that provides the service. Security operations are highly dependent on the provision of facilities and staff rostering by Avsec and may vary from time to time due to changes in international or New Zealand regulations. Passport control waiting times are highly dependent on the provision of facilities and staff rostering by Customs, and vary in the case of inbound passengers by the origin of flights and passengers. Check-in waiting times are highly dependent on the facilities and staff rostering by airlines and handling agents, and also vary significantly between airlines according to the business model that an airline adopts (for example, low cost carriers may adopt a user pays policy, while other carriers are "full service").

Schedule 16: Statistics

69. NZ Airports recommends simplifying the reporting of the number of landings and MCTOW for various categories of international and domestic aircraft. NZ Airports suggest that consideration be given to reporting separately for the most frequent types in each group with the balance of landings (and MCTOW) rolled up into a separate category titled "Others".
70. As outlined earlier, NZ Airports has concerns about data availability for stand allocations. Accordingly, NZ Airports considers that the reference at Line 121 of Schedule 16 to "Terminal access" should be removed.
71. The above recommendations are summarised in a mark-up of the information disclosure templates.

Other amendments to definitions in Schedule 1

72. NZ Airports considers that the term "outbound turboprop passenger" should be substituted by the term "outbound domestic passenger not requiring security screening". The definition of "outbound domestic passenger not requiring security screening" should read:

Any passenger on a flight that departs from the Airport for a location within New Zealand on a category of aircraft that does not require that passenger to be subject to security screening.

73. As a consequence of this proposed change, NZ Airports also submits that for the definition of "security screening - throughput of passengers (via facilities other than those that cater for international transit and transfer passengers)", references to "outbound turboprop passengers" in sub clause (b) and (c) in the definition ought to be replaced with "outbound domestic passengers not requiring security screening".

Forecast total revenue and supporting information

Introduction

74. As NZ Airports has previously submitted,¹⁰ forecasts by their nature are inherently uncertain. In previous submissions NZ Airports has also questioned the need or appropriateness of disclosing forecast information. In particular, we strongly opposed the proposed requirement to prepare

¹⁰ NZ Airports, Information Disclosure Submission, 11 September 2009, paragraph 120.

and disclose AMPS,¹¹ and we acknowledge that the Commission has accepted our submissions on this point.

75. In this section NZ Airports focuses on implementation matters that should be addressed to mitigate the difficulties that disclosure of financial information could create.
76. In this respect, we note that the requirement to disclose forecast statements represents a fundamental change in disclosure reporting requirements from what is required under the existing regulatory arrangements.
77. NZ Airports understands that the objective of this information disclosure is to cover the process that occurs prior to price setting, that is, the determination of the total revenue requirement. NZ Airports also understands that the Commission's purpose for requiring forecast information to be disclosed is so that interested parties can assess:
 - Whether expected profitability is excessive; or
 - Whether suppliers are planning to meet forecast demand and requisite quality in their investment decisions and can indicate whether such decisions are consistent with decisions expected to be made in workably competitive markets.

Forecast disclosure period

78. The Commission has proposed a two tier forecast period of five years each. This is based on the premise that airports typically set standard prices for a period of five years. NZ Airports consider that it is important to note that the five year term is the default *maximum* term under the AAA. Airports may determine to set standard prices for a shorter period, or substantial customers may agree in writing to commit to a longer price term.
79. The Commission states at paragraph 5.29 that it considers it appropriate for the forecast period to include a more detailed focus on the five-year period immediately following the setting of prices for specified airport services.
80. NZ Airports is concerned that this may inappropriately influence the price period, which, as set out above, may not always be five years. We note that the Commission has expressly stated that it is not the Commission's intention to affect pricing under the AAA.¹² Accordingly, to achieve consistency between the AAA and information disclosure (which is also the Commission's intent) and in the interests of establishing an enduring information disclosure regime, NZ Airports instead recommends that the disclosed forecast information be for the *price period* established under the AAA pricing arrangements.
81. NZ Airports reiterates that forecast information beyond the pricing period (eg a requirement to provide forecast information for a period of ten years) will be increasingly uncertain and impose a significant additional compliance cost. It would also be a new requirement as currently forecast information for a five year period is prepared as part of normal business practice (as noted by the Commission at paragraph 5.33).
82. NZ Airports therefore recommends that airports only be required to prepare and publicly disclose forecast information for their respective pricing periods. If the Commission

¹¹ NZ Airports, Information Disclosure Submission, 11 September 2009, paragraph 162.

¹² Draft Reasons Paper, paragraph 2.27.

continues to require forecast information beyond the pricing period, NZ Airports submits that this should be provided to the Commission on a confidential basis. This approach would, in NZ Airports' view, mitigate the complexity of listed airport companies having to notify the market of any material changes to these longer-term forecasts under continuous disclosure requirements (which is a real likelihood as long-term forecasts will always require updating).

Public disclosure requirement

83. NZ Airports reiterates its submission that public disclosure of forecast information could trigger NZX continuous disclosure requirements. NZ Airports understands the Commission's point that company ownership structure should not impact on the types of information that must be disclosed under information disclosure regulation.¹³ However we consider that an appropriate compromise, as previously suggested, is for the Commission to keep forecast information confidential.
84. NZ Airports is also concerned that the Commission has likened listed airports to listed electricity lines businesses. A far greater proportion of electricity lines business capital expenditure is maintenance capital, which is much smoother and easier to predict. Therefore it is understandable that they are better able to manage NZX disclosures without significant compliance costs.
85. By way of practical example our understanding is that Schedules 19 and 20 would be published within 20 days of a price being set. The disclosure per the Commission's requirements would include, among other things, 10 years of forecasts for capital expenditure (by project) and the demand forecasts at that time (both busy hour and total throughput – cut various ways). Potential practical implications of this disclosure include:
- At any point over the next five years where there is a material change in any element (eg if total passengers through domestic was higher or lower) then management would need to notify the market of this change. This change may in fact have no impact on busy hour demand or capital expenditure; and
 - We can be almost certain there will be a material change in the capital expenditure forecast for a period beyond the price term. When this happens to any material level (at an individual level or total level) then management will need to update the market. This may happen several times a year.
86. NZ Airports asks that the Commission takes a more considered view of what disclosure is necessary to meet the purpose of information disclosure in this case, bearing in mind the compliance costs. NZ Airports submits that other options are available to meet the purpose of information disclosure. NZ Airports recommends that capital expenditure forecasts and supporting demand schedules be split into two disclosures:
- Capital expenditure included in the revenue forecasts to be included in a public disclosure for the price period; and
 - Capital expenditure not included in revenue forecasts to be provided to the Commission on a confidential basis for a period not exceeding ten years.

¹³ Draft Reasons Paper, paragraph 5.36.

Forecast asset base disclosures

87. NZ Airports agrees with the Commission's decision to exclude RAB and operational expenditure forecasts from the 10 year disclosure period and to take a higher level view of capital expenditure.¹⁴ However, we do note that under Schedule 19b(i) the forecast asset base is required to be disclosed and under Schedule 19b(ii) forecast works under construction. NZ Airports therefore recommends that the Commission remove the requirement to disclose the forecast asset base and works under construction from Schedule 19 to make it consistent with Table B of the Draft Reasons Paper, which states that there will be no requirement to disclose a RAB roll forward for the 10 year period. NZ Airports considers that the disclosure of forecast capital expenditure should be sufficient for interested persons.

Disclosure of price setting information

88. Clause 15.4 requires each Airport to disclose information under clause 9 in relation to the price setting event that occurred prior to the commencement of regulation. We note that the Commission has not clearly stated in the Draft Reasons Paper that it was applying this retrospective approach to regulation, or sought to justify it.
89. NZ Airports strongly opposes the Commission's requirement for the Airports to prepare a report on Total Revenue Requirements and a report on Demand Forecasts for the price setting event prior to the commencement of regulation. For the same reasons set out above for the ROI disclosures, this retrospective approach is inappropriate under information disclosure regulation.
90. NZ Airports is concerned that the Commission may have imposed this requirement for the purpose of gathering information for its report to Ministers in 2012. NZ Airports strongly submits that this approach cannot be supported by the purpose of information disclosure.
91. Further, if the Commission adheres to this approach, airports may simply not be able to provide the information required - it does not exist given that it requires information on activities that did not form part of the forecasts at the time. If the Commission insists on following this retrospective approach, then the Airports should only be required to disclose aggregate revenue, cost and capital information.
92. NZ Airports submits that the requirements should be limited to requiring airports to disclose their forecasts following the next price setting event after the commencement of regulation, and then preparing reports on forecast to actual capital expenditure on an annual basis from that point on.
93. NZ Airports understands that the primary purpose of the forecast revenue disclosures is to provide information on the process that occurs prior to price setting that would allow interested persons to assess whether planned future profits are excessive or whether current investment plans are designed to meet the long-term benefit of consumers.
94. However, NZ Airports notes that the series of disclosures that the Commission has proposed regarding the price setting process is likely to not align with the approach taken for consultation with substantial customers. It would be inappropriate for airports to change their

¹⁴ Draft Reasons Paper, see Table B: Supporting information used in preparing revenue forecasts, pages 87-88.

approaches to pricing under the AAA so that they are aligned with the Commission's information disclosure requirements under Part 4. Accordingly, these disclosures are unlikely to assist interested persons to assess airport performance, and are more likely to result in confusion or disinformation as to how prices have been set by airports under the AAA.

95. The Commission has acknowledged the submission by NZ Airports that it is difficult to reconcile revenue forecasts used for pricing under the AAA to historical reporting under the Commission's information disclosure requirements.¹⁵
96. The Commission therefore proposes that the Airports be required to disclose the forecasts used in price setting, but that they must provide explanations where the scope and methodology of the forecast components differs from the previous year's actual disclosures of equivalent categories of information.
97. NZ Airports finds it difficult to see how this reconciliation can be performed in practice. This is particularly the case given that consultation on prices does not cover all specified airport services.
98. NZ Airports disagrees with the requirement for airports to explain any variances in capital expenditure forecasts to actual expenditure on an annual basis.¹⁶ As the Commission notes, any material variations that impacted price would be subject to consultations under the AAA. It is therefore unnecessary to require airports to justify variations under that threshold.
99. In terms of managing the costs and benefits of forecast disclosures, it is standard practice in Master Planning to look 20 years or more ahead.¹⁷ However, capital expenditure is typically allocated to staged development without a need for detailed annual expenditure throughout this period. For example, the 2030 Master Plan recently released for Wellington Airport breaks down the forecast expenditure into developments planned for 2015, 2020 and 2030. NZ Airports submits that a similar approach should be adopted for the 10 year forecast period.

Pricing and related disclosures

100. NZ Airports notes that the Commission requires airports to provide a summary of the Airport's Pricing Methodology. NZ Airports understands that the Commission intends airports to have flexibility in this respect, and that disclosure obligations should be fulfilled by disclosing the methodologies presented under AAA consultations.¹⁸
101. NZ Airports disagrees however with the Commission's decision to require "an overview of the extent to which the application of the pricing methodology is expected to lead to efficient prices".¹⁹ These requirements are set out in clause 9.5(b) of the Draft Determination. Airports are not required to apply pricing methodologies, because they are not subject to price control. Accordingly, NZ Airports submits that requiring airports to justify their pricing methodologies blurs the distinction between information disclosure and setting prices. NZ Airports believes

¹⁵ Draft Reasons Paper, paragraph 5.47.

¹⁶ Draft Reasons Paper, paragraph 5.67.

¹⁷ We refer to the expert Master planning report by Peter D Smith attached to NZ Airports' Information Disclosure Submission, 31 July 2009, which discusses standard airport Master Planning practices.

¹⁸ Draft Reasons Paper, paragraph 6.19.

¹⁹ Draft Reasons Paper, paragraph 6.21.

that the statement of the methodology used is sufficient for the purpose of information disclosure.

102. NZ Airports remains disappointed that the Commission requires the disclosure of pricing incentives, for the reasons expressed above in relation to financial incentives. However we support the Commission's sensible decision that, for reasons of commercial sensitivity and cost-effectiveness, terms of commercial contracts with airlines need not be disclosed.

103. We also welcome the Commission's decision not to require the disclosure of various policies.²⁰

Certification, audit and transitional provisions

104. NZ Airports has previously submitted that it does not oppose the requirement for directors to declare that information provided to the Commission is a true copy of the publicly disclosed information.²¹ Upon reflection, and in light of reviewing the range of declarations proposed under the Commission's draft Schedules 21 to 27, NZ Airports considers that the obligation placed on directors may be unnecessarily onerous. NZ Airports will continue to assess the practicalities of requiring the various declarations in these instances and will revert to the Commission in due course if it has concerns.

105. It is positive that the Commission agrees that non-financial forecast information does not need to be audited (as airports are already incentivised to ensure that information published is accurate). However we believe that further clarity is required regarding the format and content of the audit report for the financial measures, and NZ Airports plans to revert to the Commission with a proposal in due course.

106. NZ Airports welcomes aspects of the transition provisions proposed by the Commission. In particular, we support the following:

- The initial disclosure year being for the year ended 2011, but disclosure not being required until 11 months after year end; and
- Capital expenditure and operational expenditure, passenger satisfaction survey results and reliability information will not be required for annual disclosure for the year ended 2011.

107. NZ Airports note that it will be a significant exercise to restate the opening disclosure year and collect new information required to be disclosed in the Schedules. We believe that the proposed 11 month transitional period is necessary, but will remain challenging. However these timeframes should allow the Airports to put in place the resource, systems and processes that will be necessary to comply with the Commission's extensive information disclosure requirements.

108. Finally, while airports will make every effort to disclose the required information accurately, it may not be possible for all required disclosures to be made for the 2011 financial year. The Airports will of course notify and discuss with the Commission if it becomes apparent that there will be difficulties in this respect.

²⁰ Draft Reasons Paper, paragraph 6.38.

²¹ NZ Airports, Information Disclosure Submission, 11 September 2009, page 87, response to question 85.