

**COMMERCE ACT (SPECIFIED AIRPORT SERVICES INFORMATION DISCLOSURE)
DISCLOSURES FOLLOWING PRICE SETTING EVENT
COMMERCE COMMISSION RESPONSES TO REQUESTS FOR TECHNICAL GUIDANCE/CLARIFICATION**

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#	Template/clause reference	Guidance/clarification sought	Commission response	Exemption Sought
24	Schedule 18	CIAL's pricing consultation to set the current prices was for a three year period 1 July 2008 to 30 June 2011. Consequently CIAL only prepared forecast information for a three year period. CIAL requests an exemption in respect of the forecast information required for year 4-10 in schedules 18 and 19.	Forecast information is not limited to the information that was consulted on. If forecasts have been used by airports in their decision to set prices then they must be disclosed. The Commission will provide airports an exemption from being required to disclose capex forecasts that relate to the period beyond their pricing period for the September 2011 disclosure where forecasts were not used by Airports in the decision to set prices. Refer to #12 for guidance on demand forecasts	An exemption from the requirement to disclose capital expenditure forecasts for the period beyond the 1 July 2008 to 30 June 2011 pricing period as these forecasts were not used by CIAL in the decision to set prices
25	Schedule 18	CIAL did not establish forecast information for total specified airport services for the current pricing period. If the Commission's intent is that the forecast information should reflect total specified airport services CIAL requests an exemption concerning inclusion of forecast information that was not included in the consultation forecasts provided to airlines.	The intention of Schedule 18 is to disclose information regarding the total revenue requirement for all specified airport services. However, given that airports are unlikely to have prepared information for the most recent price setting event on this basis the Commission will provide an exemption so that only that which was consulted on is required to be disclosed pursuant to clause 2.10(3)	An exemption from the obligation to disclose total revenue requirement for all specified airport services as this information was not prepared for the July 2008 to June 2011 pricing consultation with disclosure under clause 2.10(3) being only for information that was consulted on.
26	Schedule 18	Schedule 18b(iv) requires CIAL to provide forecast of operational expenditure in three cost classifications. CIAL did not classify its expenditure in this way in the 2008/09 consultation. CIAL requests a exemption from the Schedule 18b(iv) disclosure requirement in respect of the disclosure of operational expenditure by category.	The Commission will provide airports an exemption from being required to disclose forecast operational expenditure by category for the clause 2.10(3) disclosure. Airports will still be required to disclose total forecast operational expenditure.	An exemption from being required to disclose forecast operational expenditure by category as determined by clause 2.10(3) to disclose total forecast operational expenditure with disclosure on operational expenditure being for total Operational Costs as detailed in the pricing consultation
27	Schedule 19	CIAL did not prepare, for the past consultation, passenger terminal demand and aircraft runway movements information as required to be disclosed in Schedule 19. CIAL requests an exemption from these schedule 19 disclosure requirements	Passenger forecasts disclosed under the clause 2.10(3) transition provisions can be split 50:50 between inbound and outbound passengers if airports are comfortable this is a reasonable proxy. Explanatory notes are to be provided in the comments box to explain the approach adopted. If the busy periods used in the forecasts differ from those defined in the ID determination, then this should also be noted.	An exemption from the requirement to disclose passenger demand forecasts for the period beyond the 1 July 2008 to 30 June 2011 pricing period as these forecasts were not used by CIAL in the decision to set prices. In disclosing such demand a ratio of 55:50 will be used to disclose arriving and departing movements
28	2.5(1)(a) and 2.5(1)(c)	Clause 2.5 contains conflicting information in respect of the information required in schedule 18. Leased properties that fall within the definition of specified airport services would be included in the information required by clause 2.5(1)(a), but excluded from the information required by clause 2.5(1)(c). CIAL requests that the Commission clarify that it is the actual forecasts used that are required.	The intention of Schedule 18 is to disclose information regarding the total revenue requirement for all specified airport services. However, given that airports are unlikely to have prepared information for the most recent price setting event on this basis the Commission will provide an exemption so that only that which was consulted on is required to be disclosed pursuant to clause 2.10(3)	An exemption from the requirement to disclose information regarding the total revenue requirement for all specified airport services, with disclosure being only for revenue information that was consulted on, pursuant to clause 2.10(3)
29	1.4 Interpretation	The definition of forecast operational expenditure is consistent with definitions of other financial inputs detailed in sub clause 2.1(c). However, this definition also contains a defined term 'operational expenditure', which refers to operating costs after applying Part 2 of the Input Methodology Determination	Definitions applying to clause 2.5 disclosures are not intended to use the defined term 'Operational expenditure'. Either the requirements will be updated or, as a temporary measure, an exemption will be provided.	In the event the definition of "forecast operational expenditure" is not amended before disclosure is required by 31 October 2011, an exemption from the requirement to apply that definition.
30	1.4 Interpretation	CIAL notes that some aspects of the requirements are effectively open ended including the requirement to comment on 'whether there are any cross subsidies.' CIAL does not have the information necessary to enable a broad statement to be made as to whether cross subsidies did or did not exist for all aspects of CIAL's aeronautical business.	In its explanation of why the pricing methodology will lead to efficient prices an airport should outline any areas where the airport considers that there are cross subsidies. Airport consideration of cross-subsidies is limited to where an airport has identified and considered the matter. An airport is not required to further investigate cross-subsidies for the purpose of this requirement. Further clarification on what the Commission defines as cross-subsidies can be taken from the subsidy-free discussion in footnote 354 of the Input Methodologies (Electricity Distribution and Gas Pipeline Services) Reasons Paper.	CIAL will disclose any known aspect of cross subsidy where relevant to the setting of current prices. As this consultation did not encompass the total business no disclosure can be made as to whether any other cross subsidies existed.
31	2.5(1)(c)(x) and 2.5(1)(d)	The determination requires reference to the latest annual disclosure of information made under clause 2.3, in establishing the requirements for the pricing disclosure. As there have been no disclosures under clause 2.3 CIAL requests that the Commission confirms that these requirements are not applicable for this disclosure	No disclosure is required in accordance with clause 2.5(1)(c)(x) for the September 2011 disclosure as there has not been a disclosure in accordance with clause 2.3, therefore it is not applicable to include an explanation of the difference. A valuation report is required in accordance with clause 2.5(1)(d) for the September 2011 disclosure as the forecast value of assets employed is based on a value other than that used for the purpose of a disclosure under clause 2.3	No disclosure is required Valuation reports used in the consultation of prices to be set for the period July 2008 to June 2011 will be disclosed

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32	Schedule 19	Schedule 19 requires passenger numbers to be disclosed by inbound and outbound passengers. CIAL has forecast domestic and international passenger movements in total only and broadly assume that inbound and outbound total are equal. CIAL proposes to make the disclosure on this basis and requests the Commission to confirm that this approach will be acceptable.	Passenger forecasts disclosed under the clause 2.10(3) transition provisions can be split 50:50 between inbound and outbound passengers if airports are comfortable this is a reasonable proxy. Explanatory notes are to be provided in the comments box to explain the approach adopted. If the busy periods used in the forecasts differ from those defined in the ID determination, then this should also be noted.	An exemption from the requirement to disclose passenger demand forecasts for the period beyond the 1 July 2008 to 30 June 2011 pricing period as these forecasts were not used by CIAL in the decision to set prices. In disclosing such demand a ratio of 55:50 will be used to disclose arriving and departing movements
33	Clause 2.7(2)	CIAL has considered the requirement for clause 2.7 of the Determination, which specifies when director's certificates are required to be disclosed with the substantive disclosures. On this occasion, where disclosure is required under clause 2.10(3) of the Determination, CIAL considers that the requirement for director certification under clause 2.7(2) does not apply.	As outlined paragraph 7.11 of the Information Disclosure (Airport Services) Reasons Paper, it is clear that director certification is required. Also refer footnote 1.	To be resolved post discussion with Andy Nichols, Chapman Tripp Thursday 29 September

Footnote

1. Airports have raised concerns that due to some of the historic attributes of the clause 2.10(3) disclosures they are unable to complete a Director certification in respect of all information disclosed under these requirements. Clause 2.10(3) requires information to be disclosed in respect of the price setting event that immediately preceded the commencement date of the determination.

If the Determination contains any ambiguity concerning the requirement for Director certification of clause 2.5 disclosures that are required under clause 2.10(3), when the determination is read in conjunction with the Commission's Reasons Paper the correct interpretation is made clear.

If, after considering the Commission's response to the requests for technical guidance/clarification, an Airport still considers that it will be unable to comply with the clause 2.7(2) Director certification requirement, the airport may request partial exemption from this requirement.