



# AIR NEW ZEALAND

Tuesday 17 August 1999

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Airport Pricing Inquiry  
Commerce Commission  
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Dear Susan

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## AIRPORT PRICING INQUIRY - PROPOSED TIMETABLE REVISION

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### 1. Introduction

- 1.1. Your Information Paper issued 6 August 1999 A 99/2 J2773 invited written submissions on the proposed changes to the timetable for the formal phase of the Airport Pricing Inquiry.

### 2. The Minister's decision

- 2.1 Air New Zealand notes that the proposed changes arise from the Minister of Commerce and Enterprise extending the reporting date of the Commerce Commission Inquiry pursuant to section 54 of the Commerce Act 1986 to 1 August 2002. The rationale for this extension was to allow for:

- 2.1.1. Disclosure of information under the new regime set out in the Airport Authorities Amendment Act 1997, via the Airport Authorities (Information Disclosure) Regulations so the Commission will both:

- > Have disclosure of financial information to assist it in forming a view on whether there is monopoly pricing by airport companies.
- > Be better placed to consider the nature and type of information disclosure necessary to curtail monopoly pricing and suggest changes to the current regulations, if necessary (refer letter R Wigglesworth, Deputy Secretary, Competition and Enterprise Branch, Ministry of Commerce, to Air New Zealand, 5 July 1999).

- 2.1.2. Initial rounds of consultation under the consultation regime established by the Airport Authorities Amendment Act to be completed.

- 2.1.3. Enactment of either the Commerce (Controlled Goods or Services) Bill or other appropriate legislation clarifying the price control provisions of the Commerce Act 1986, and the Commission's jurisdiction thereunder.

- 2.2. Air New Zealand observes the original proposal on which submissions were requested by the Minister of Commerce was:

*That the timing of the Commerce Commission current price control study of Auckland, Wellington and Christchurch Airports be changed so that the substantive work starts in November 2000 and the Commission reports to the Minister for Enterprise and Commerce by 1 July 2001.*

- 2.3. The decision made by the Minister extended the reporting back date of the Inquiry to 1 August 2002. While Air New Zealand considered there was merit in a proposed rescheduling which would remedy the deficiencies identified above, the extent of the rescheduling by the Minister means that airport companies can consolidate their ability to monopoly price in the interim. However, it is to be noted that there is no requirement or warrant in the communication from the Minister for the Commission to apply an “end-backwards” timetable.
- 2.4. Air New Zealand therefore submits it is imperative the Commission take an active role in monitoring airport pricing practices over the next three years. It also submits it is desirable for the Commission to retain the flexibility to respond to changing circumstances, such as airport abuse of monopoly power, the clarification of the price control provisions of the Commerce Act, or the completion of the initial disclosure and/or consultation rounds under the Airport Authorities Amendment Act, rather than setting a rigid timetable up to three years in advance. This position is supported by Air New Zealand’s economic advisers in a letter sent under separate cover to the Commission .
- 2.5. Air New Zealand wishes to have the opportunity to address the Commission directly on these monitoring & timetabling issues as well as the manner in which the inquiry is to be progressed.

### 3. **Benefits from pro-active monitoring role**

- 3.1. Air New Zealand considers that there is merit in the Commission ensuring that any information already gathered remains up to date and able to be utilised when the formal phase of the Inquiry commences. Continued monitoring of the pricing behaviour of airport companies will have three principal benefits, namely it will:
- 3.1.1. Continue to keep the Airport Companies “on notice” with regard to pricing. This is the point made in the Joint Memorandum to Cabinet from the Treasurer, Minister of Commerce and Minister of Transport 3 October 1997.
- 3.1.2. Enable the Commission to monitor the behaviour of Airport Companies and assess whether there is a need for the formal phase of the Inquiry to begin ahead of 2002.
- 3.1.3. Mean that the Commission is in possession of up to date information when it enters the formal phase of the Inquiry and that the work done by the Commission to date will become the early portion of information available to it to monitor trends of airport pricing over time.
- 3.2. Given the importance of this first price control inquiry, any failure by the Commission to actively monitor airport pricing behaviour may result in the Commission not being in a position to judge whether the airports have been exploiting their monopoly supplier positions. There is a real risk of

the deterrent value of the Inquiry being watered down, and in any monopoly pricing decisions by airport companies in the meantime being locked into their pricing structures to the detriment of both airline customers and the travelling public.

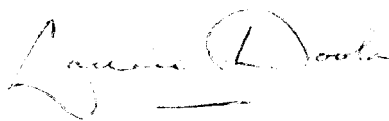
**4. It is too early to be fixing a timetable**

- 4.1. Air New Zealand is concerned about the fixing of a timetable for the formal phase of the Inquiry up to three years in advance of the date for reporting back to the Minister.
- 4.2. The timetable proposed by the Commission in its Information Paper provides for greater intervals of time between significant deadlines than did the original timetable. While Air New Zealand continues to support the proposed procedure for the formal phase of the Inquiry determined by the Commission last August, and while it appreciates the greater time periods allowed by the Commission between each step, Air New Zealand does not support the arbitrary fixing of dates up to three years in advance of the events.
- 4.3. The reporting back date of 1 August 2002 should be viewed as the last possible date, rather than the preferred reporting back date. We do not believe it would be wise for the Commission to make any final determination as to timing in advance of the completion of the first rounds of consultation under the Airports Authorities Amendment Act 1997, disclosure of the first set of information under the new Airport Authorities (Information Disclosure) Regulations, and the clarification of the current uncertainty in relation to the price control provisions of the Commerce Act 1986.

**5. Summary**

- 5.1. This inquiry has already traversed a number of contentious boundaries as interested parties, including the Commission, progress through the issues. The extension means that all parties, especially the Commission, have the opportunity to ensure a meaningful outcome to this important inquiry.
- 5.2. Air New Zealand will further elaborate on the points outlined above when its representatives meet with the Commission. We will contact you shortly to arrange an appropriate time.

Yours sincerely



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