

**Process and Preliminary Issues**

INTRODUCTION

Pursuant to section 54 of the Commerce Act 1986 (the Act), the Minister of Commerce (the Minister) requires that the Commerce Commission (the Commission) report to him on whether he should recommend to the Governor-General that an Order in Council be made declaring that the prices for certain goods or services be controlled in accordance with the Act.

The goods or services specified by the Minister are **airfield activities** as defined in the Airport Authorities Amendment Act 1997. Airfield activities

“means the activities undertaken (including the facilities and services provided) to enable the landing and take-off of aircraft; and includes-

- (a) The provision of any one or more of the following:
 - (i) Airfields, runways, taxiways, and parking aprons for aircraft:
 - (ii) Facilities and services for air traffic and parking apron control:
 - (iii) Airfield and associated lighting:
 - (iv) Services to maintain and repair airfields, runways, taxiways, and parking aprons for aircraft:
 - (v) Rescue, fire, safety, and environmental hazard control services:
 - (vi) Airfield supervisory and security services:

- (b) The holding of any facilities and assets (including land) acquired or held to provide airfield activities in the future (whether or not used for any other purpose in the meantime):”

The Minister gave notice in writing to the Commission by letter dated 26 May 1998.¹ The Commission will give notice that the requirement has been made in the *Gazette*. The Commission is required to report to the Minister by no later than 14 December 1999.

This paper outlines the Commission’s proposed approach and proposed timetable for conducting the price control study and for requesting identification of any preliminary issues. It also seeks comments on the use of electronic communications.

¹ A copy of the Minister’s letter, the related media release and this document are available on the Commission’s web-site: www.comcom.govt.nz.

REPORT REQUIREMENTS

Pursuant to section 54 of the Act, the Minister requires the Commission to report on the following matters:

- “A whether there is evidence that airfield activities provided by the three major international airports (Auckland, Wellington and Christchurch) are supplied or acquired in a market in which competition is limited or is likely to be lessened; and it (is) necessary or desirable for the prices of these goods or services to be controlled in accordance with the Act in the interests of users, or consumers, or as the case may be, suppliers; and
- B whether market conditions are such that the Commission believes that (the Minister) should recommend to the Governor-General that he make an Order in Council under section 53 of the Act invoking price controls over charges for airfield activities at the three major international airports.”

Specific matters which the Commission is required to consider and report to the Minister on are:

- “1. Whether charges should be introduced for airfield activities at one or more of the three major international airports.
- 2. If the Commission is of the view that price control should be introduced, to which (i) regions, areas, or localities in New Zealand; (ii) quantities, qualities, grades, or classes; and (iii) different persons or classes of persons, should price control be applied?
- 3. What conditions, tests, or thresholds does the Commission consider would be useful in judging whether (i) airfield activities are or will be supplied in a market in which competition is limited or likely to be lessened; and (ii) it is necessary or desirable for the prices of airfield activities to be controlled in accordance with the Act.

If price control was introduced (i) what form of price control would the Commission apply; (ii) and why; (iii) how would the Commission operate this form of price control; and (iv) what time and/or in what conditions should price control end?”

PRELIMINARY ISSUES

The Commission now seeks comments from potentially interested parties who may have any issues in relation to the scope and nature of the Minister’s requirements or the Commission’s interpretation of them. The Commission believes that such issues (if any) should be raised at this stage to enable them to be considered and, if need be, addressed now.

PROPOSED APPROACH

The Commission proposes to model the approach to its price control study on the process the Commission uses for authorisations.² This would involve the following sequence of steps:

- seeking comments from interested parties on process and preliminary issues by 30 June 1998;
- basic monitoring of prices for airfield activities;
- entering the formal phase of the price control study on 2 August 1999;
- seeking formal submissions on price control from interested parties by 31 August 1999;
- preparing a draft report identifying issues on which the Commission requires further information, analyses or submissions. The draft report would be similar in purpose to the draft determination issued as part of the authorisation process;
- making available the draft report to interested parties and seeking further submissions from them and, if appropriate, from other parties;
- convening a conference in a similar format to that undertaken for an authorisation and hearing additional submissions from interested parties, their counsel and experts. As with authorisation applications, confidential information will be protected by appropriate confidentiality orders and restrictions; and
- undertaking further investigation as appropriate, completing the Commission's report, and providing this to the Minister.

The Commission may commence the study at an earlier or later date, consistent with meeting the Minister's reporting deadline of 14 December 1999, if it considers this appropriate. Under the provisions of the Act the Minister is responsible for the publication of the Commission's report.

² The authorisation process and requirements for a conference are specified in Part V of the Act.

PROPOSED TIMETABLE

The likely timetable for the Commission's price control study is:

4 June 1998	Initiate request for comments on the proposed procedures
30 June 1998	Submissions on procedural issues close
31 July 1998	Commission publishes formal procedures and timetable
2 August 1999	Formal phase of study commences
31 August 1999	Submissions due from interested parties
10 September 1999	Commission's draft report released
1 October 1999	Submissions from interested parties due on draft report
13 - 14 October 1999	Conference on draft report
29 October 1999	Final Report completed

USE OF ELECTRONIC COMMUNICATIONS

The Commission is currently considering whether it can facilitate the conduct of its price control study, and in particular the flow of information, through the use of e-mail and internet facilities. For example, the Commission could receive and distribute submissions by electronic means and maintain a publicly accessible internet site holding electronic submissions (excluding confidential information). The Commission believes that such an approach could improve availability of information. The Commission notes that many interested parties will already have access to such facilities and that access is commonly available through public libraries and other public institutions.

If this approach were adopted the Commission would request that all submissions and documents be provided in electronic format, and that the Commission would distribute these to others on a similar basis. The Commission electronically publishes information in Adobe Acrobat format (.pdf) and uses Microsoft Word (.doc) internally.

COMMENTS

The Commission is now seeking comments, to be made by no later than 30 June 1998, in respect of:

- the Commission's proposed approach to its price control study;
- any preliminary issues arising out of the Minister's requirement which may need to be addressed prior to the Commission commencing its price control study; and
- the use of electronic communications to facilitate its price control study.

The Commission would not expect confidential material to be included in these comments and, unless good reasons exist, all comments will be made publicly available. Submissions on the issues which are the subject of the price control study itself will be sought at a later date.

Comments should be addressed to:

Price Control Study of Airfield Activities

Commerce Commission

P O Box 2351

Wellington

Or by **fax to (04) 4710771**

Or by E-mail to **airports@comcom.govt.nz**

Formal submissions should be supplied to the Commission no later than 31 August 1999.

Any queries can be sent to the above address, fax number, or E-mail address.

Commerce Commission

4 June 1998