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The Commerce Commission
Wellington
New Zealand

By email: infrastructure.regulation@comcom.govt.nz

Kia ora

Re: Draft Changes to Information Disclosure Requirements for Airports (Major Capital Expenditure Proposals)

The Board of Airline Representatives New Zealand (BARNZ) welcomes the opportunity to submit to *Draft Changes to Information Disclosure Requirements for Airports (Major Capital Expenditure Proposals)*. BARNZ represents the interests of more than twenty airlines operating to, from and within New Zealand. Our purpose drives us to seek a sustainable, efficient, and consumer-focused aviation sector.

The right time to examine major capital cost is before decisions are taken

The Board of Airline Representatives New Zealand (BARNZ) welcomes and endorses the Commission's draft decision to amend the Airports Information Disclosure (ID) Requirements. Specifically, we support the mandatory requirement for regulated airports to disclose comprehensive, granular data on major investment proposals *before* final investment decisions are locked in.

The airport ID regime has operated as *ex-post* (after-the-fact) regime. Regulated airports have presented airlines as substantial customers with capital costs in what is called a consultation phase, setting out capex, opex, growth assumptions and price paths. Airlines have shared views with airports on cost and suitability of proposals, but ultimately airports take decisions as asset owners and set charges 'as they see fit' in a Price Setting Event (PSE). Increased prices are charged to airlines, and construction of assets begins.

After new airport prices are imposed, the Commerce Commission reviews the PSE, making its final observations after all parties submit and cross submit some 18 months into the five-year price path. The Commission's observations are generally about the proposed weighted average cost of capital (WACC) of the regulated airport, and any price adjustments regulated airports have made have related to reductions in the target return.

In 'ordinary times' this approach to funding of airport capex presents challenges. BARNZ continues to hold the position that Information Disclosure is not the most appropriate regulatory tool to apply to the monopoly airports – especially in New Zealand where the Negotiate/Arbitrate tool exists in the Commerce Act 1986.

A wholly ex-post regime cannot consume multi-billion dollar capital plans

What has become clearly evident is that a wholly ex post regime is not an appropriate tool for regulatory oversight of major capital plans which are set to run to the billions of dollars, and once committed to, cannot be stopped. It is appropriate that for these major capex plans, the regime applies an ex-ante disclosure tool.

Airports may claim that an ex-ante tool does not belong in what has been an ex-post regime. However, the regime is not wholly ex-post – the Input Methodologies (IMs) themselves as underpinning ruleset to the Information Disclosure regime are forward looking when set. Of course, the regulator must rely on historic data to set the inputs to the methodology. In recent years, we have also seen the regulator move to be responsive to real-world effects when setting IMs – such as the impact to (and recovery of) air services post pandemic, and its willingness to ensure the regulatory regime is fit for purpose.

Similarly, the Information Disclosure regime should not be unchanged in a changing context. If the regime is blind to its circumstance, it becomes settings which may be maximised by regulated parties. Airport share prices would suggest that the market is very comfortable that these monopoly businesses are well insulated within the regime at present.

The cost burden of airport infrastructure

In line with Section 52A of the Commerce Act, capital efficiency directly drives passenger affordability and airline viability. When monopoly airports over-specify infrastructure or mistime expansions, the excess costs act as a long-term tax on New Zealand's regional, domestic and international connectivity.

AIAL's current build is a cost weight on New Zealand's entire aviation system, with particular consequences for airlines, for New Zealanders, and for visitors to Aotearoa. The substantial costs of AIAL's capital plans – which were set out as a ten-year programme during consultation ahead of PSE4 – were declared by all airlines as too costly for the market to bear. Airlines were concerned that growth would not materialise at these higher costs.

Given that regulated airports earn a regulated return on all commissioned aeronautical assets, it appeared that AIAL was incentivised to develop the comprehensive and multi-period programme in part to assure itself of a regulated income stream.

New Zealand has 26 airports. While only three of these are regulated, all airports recover capital costs in the same way. That means that it is perfectly possible for more than one airport to impose major capital costs on airline participants at one time.

Queenstown Airport is currently moving forward with its own major capital programme. Queenstown Airport is part owned by AIAL. Queenstown Airport Company is not regulated (despite being one of New Zealand's busiest international ports) which means these ID changes will not yet apply to that airport company.

However, the point that must be made is that more than one major airport may impose major capital costs on airlines who fly to, from and within New Zealand simultaneously and without oversight. When this occurs, the burden of cost on airlines who operate the bulk of services to, from and within New Zealand is excess, and puts unreasonable cost burden on those essential air services.

ID changes for major capex deliver urgent and necessary transparency

Airports may submit that current consultation processes within price setting events are sufficient to meet the Commission's transparency goals with respect to major capital programmes. However, in BARNZ member airline experiences, they are not.

In earlier consultation on PSE4, and in consultation on AIAL's public but not costed masterplan, BARNZ has not ever received granular cost benefit data, inputs to growth forecasts, or third-party verification reporting. Even once a price period is underway, AIAL has refused BARNZ requests for reporting on aeronautical capital cost progress, in response to airline concerns about underspending.

Heading into PSE5 (2027-2032) consultation for what is likely to be the largest airport capital cost programme New Zealand has ever seen in a single price period, it is far from clear when airline payers or the travelling New Zealand public, will know what that capital cost might be. Airlines and New Zealanders should have cost information for major airport capex projects as soon as it is proposed – and this would be the effect of the ID changes set out by the Commerce Commission.

BARNZ does not consider that the recent changes to the Civil Aviation Act requiring airports consult on projects over a $30 million dollars are an appropriate solve to the problem of major capex proposals. While there have only been a small number of examples of these consultations, the examples we have seen to date have not been transparent in process. Airports consult with substantial customers in confidence – and customers cannot easily verify proposals. Where proposals relate to recently acquired assets which require costly renewal, airlines cannot discuss cost proposals beyond with the airport in question, cannot seek more information from any other source, and cannot see independent reporting or cost benefit analysis. To date, examples of this sort of consultation have not allowed for a deep understanding of cost proposals.

Airport infrastructure must be cost efficient to enable growth

If airport infrastructure is efficient, air services are able to grow. New Zealand is already an isolated destination with a small home market. Airlines who operate here do so at significant cost and must work hard to ensure commercial viability.

BARNZ works to ensure costs to connect to New Zealand are as low as possible, and that settings such as Ohakea Air Base are available as tools to reduce fuel and carbon burn. If New Zealand airports become costly to connect to, international airlines will deploy assets elsewhere.

Several airlines have recently taken decisions to cease services to New Zealand or to pull back from plans for new services. Growth in international air services has been hard to come by for New Zealand post-pandemic. Growth in air services is impacted by geo-politics, by fuel costs, by currency fluctuations, by fleet availability, and many other things. New Zealand – as a small, isolated island nation – must do all it can to ensure costs to connect to New Zealand are appropriately overseen.

If we do not have oversight on major capital costs of regulated airports, New Zealand risks allowing the airport monopoly to live off regulated returns arising from an inflated RAB while New Zealand loses air connectivity 'market share' in what is a global travel and trade market.

The risk of project slicing

BARNZ agrees that setting the trigger for a major investment proposal at 20% of the airport's Regulated Asset Base (RAB) from the preceding disclosure year is a sensible mechanism. It is pleasing to note that this figure was also proposed by airport companies. It correctly captures systemically massive, transformative projects while excluding more routine, business-as-usual asset renewals. We submit that the Commission continue to monitor whether this trigger remains appropriate over time, as RAB values grow it may require adjustment.

However, the draft determination leaves a material loophole that monopoly airports may exploit if left unchanged. Without explicit aggregation rules, a regulated airport might bypass the 20% threshold by breaking a single major development program into distinct, smaller modular contracts (e.g., dividing an integrated terminal project into separate "enabling works," "apron extensions," and "facade construction" packages).

The current airport rebuild imposed by AIAL provides an exemplar here, which these new ID rules must be certain to capture. The current ID requirements state that the regulated airport must set out capex projects. These are not linked – except that they all contribute to the forecast capex within the ID templates. It should not be possible for a regulated airport to claim that projects are wholly independent, and do not trigger the major capex rules, when in fact they are representative of an interlinked programme of work.

The final determination must include an aggregation clause. If multiple capital projects are operationally interdependent, physically linked, or executed within the price period, their combined estimated cost must be aggregated to determine if they clear the 20% RAB threshold.

To give effect to this BARNZ submits that the definition of a *major investment proposal* in Clause 1.4.1 be amended to explicitly state that where multiple capital projects are operationally interdependent or executed within the same pricing period, their cumulative forecast value must be aggregated for the purpose of the 20% RAB threshold test.

Defining "timely" disclosure (the ex-ante window)

The draft determination states that disclosure must occur "before airports make the investment decisions." BARNZ submits that this phrasing will cause problems of interpretation in future years. If this is interpreted to allow a regulated airport to disclose data just days or weeks before a Board sign-off or contract execution, the regulatory intent is defeated.

For the Commission, airlines, and other interested persons to digest complex engineering briefs, financial models, and demand assumptions, a meaningful analysis period is required. BARNZ recommends the Commission explicitly define "before investment decisions are made" as a **minimum of 6 months prior** to either:

- The airport board passing a binding resolution to commit to the capital expenditure, or
- The execution of any construction or procurement contracts exceeding 5% of the total project budget.

BARNZ submits that the current phrasing in Clause 2.5 (or the relevant sub-clauses governing disclosure timing)—which states disclosure must occur 'before' an investment decision be amended to explicitly mandate such a 6-month minimum window.

Verification reporting

BARNZ was disappointed to see that truly independent verification has been reduced to the sharing of airport commissioned verification reporting in the Draft Determination.

However, we agree with the Commission that sharing of existing airport third party verification reporting would be a good first step. Indeed, if the airport has such reports airlines would welcome the ability to see these, and to understand their basis. BARNZ requests the Commission mandate the sharing of underlying assumptions in such verification reports, so they can in themselves be verifiable. This would require an amendment to the determination at 2.5A as follows:

2.5A (1) (d) Any third party reports held by an airport verifying, supporting or commenting on the information supplied by an airport in clauses (a) – (c) above, ***including inputs supplied to third parties on which results are based;***

Required granularity of information disclosed

To effectively reduce information asymmetry, the quality of the data disclosed must allow for commercial verification. BARNZ requests that the Commission explicitly mandate the inclusion of the following three elements within the disclosure framework:

- Comprehensive options analysis: Airports must clearly disclose what lower-cost, phased, or non-capital operational alternatives were evaluated and provide the quantified economic reasons why those alternatives were rejected.
- Unbundled cost drivers & benchmarking: Capital costs should be unbundled into standard industry metrics (e.g., cost per square meter, cost per baggage system unit). The airport must provide objective, independent benchmarking data comparing these costs against recent equivalent projects internationally.
- Traffic demand sensitivity audits: Given that major capex is heavily justified by forward-looking traffic growth, airports must disclose the underlying sensitivity modelling. BARNZ airlines have unsuccessfully requested such modelling inputs in earlier 'consultation' phases, which has always been extremely concerning given reliance on growth assumptions to fund capital plans. The Commission should also consider what happens if passenger demand underperforms by 15–20%, how does the financial viability of the

project shift, and what are the triggers for pausing or otherwise amending capital rollout?

BARNZ requests that the disclosure templates and prescriptive text within the new Schedules governing *Major Capital Expenditure Disclosures* be amended to explicitly include mandatory fields for: (1) a quantified options analysis, (2) unit-cost benchmarking metrics, and (3) a 15–20% traffic demand downside sensitivity audit.

Summary of Key Recommendations

Section	Issue	BARNZ Position / Recommendation
Threshold (1.4.1)	Avoiding regulatory bypass	Implement an explicit **aggregation rule** to stop airports from "slicing" mega-projects below the 20% RAB line.
Timeliness (2.5)	Latency of disclosure	Mandate a strict **6-month minimum window** between public disclosure and final board or contractual lock-in.
Verification Reporting (2.5A)	Weakened oversight and transparency	Mandate that airports must publicly disclose the underlying data and assumptions used in their commissioned third party verification reports (as proposed above)
Granularity (2.5A)	Verification of data	Require the public release of the **Options Analysis**, traffic sensitivity triggers, and unit-cost benchmarking data.

Should you have any questions about this submission, I am available at any time to discuss.

Regards

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Board of Airline Representatives of New Zealand