

4 October 2021

Attn: Michael Singleton
General Manager Corporate Affairs
Christchurch International Airport Limited

By email only: michael.singleton@cial.co.nz

Dear Michael,

Response to Christchurch International Airport Limited's request for an exemption from disclosure requirements under the Airport Services Information Disclosure Determination 2010

1. We write in response to Christchurch International Airport Limited's (CIAL) letter on 13 April 2021 requesting the Commission provide:
 - 1.1 an exemption from the requirement under clause 2.4(2) of the Airports Services Information Disclosure Determination 2010 (**ID Determination**); and
 - 1.2 an exemption for the 'two final quarters of the calendar year 2020' (i.e. a 'retrospective' exemption)
2. We respond to your requests below. We outline the background and basis against which the decision is made in relation to the current exemption request; and clarify the Commission's position on 'retrospective' exemptions.

Background

3. Under clause 2.4(1) of the ID determination, within five months after the end of each disclosure year, every airport regulated under Part 4 of the Commerce Act 1986 (**Act**) (**regulated airport**) is required to disclose information relating to the quality of its specified airport services.
4. Clause 2.4(1)(a)(iv) requires the disclosure of the *Report on Passenger Satisfaction Indicators* set out in Schedule 14, and clause 2.4(1)(b) requires the public disclosure of those reports.

5. Under clause 2.4(2) of the ID Determination, every three months, every regulated airport must complete a passenger satisfaction survey for:
 - 5.1 passengers about to board a domestic flight (**domestic surveying**);¹ and
 - 5.2 passengers about to board an international flight (**international surveying**).²
6. On 31 March 2020, through our powers under clause 2.9(1)(a) of the ID Determination, the Commission granted regulated airports (including CIAL) an exemption from:
 - 6.1 the requirement to complete a passenger satisfaction survey in accordance with clause 2.4(2) of the ID Determination, for the first two quarters of calendar year 2020; and
 - 6.2 the requirement to publicly disclose the associated Passenger Satisfaction Indicators for those quarters in Schedule 14 of the ID.³

Current Exemption Request

7. On 19 April 2021, CIAL requested a further exemption from requirements to complete international surveying and publicly disclosing the associated passenger indicators, as required under clauses 2.4(1)(a)(iv), 2.4(1)(b) and 2.4(2)(b).
8. CIAL requested an exemption ‘for the period until reviewers undertaking field work are able to be vaccinated and international passenger volumes have recovered to more normal levels.’
9. CIAL outlined that the impact on both domestic and international travel since March 2020 has been well documented, although domestic travel has recovered somewhat since that point. However, CIAL outlined that until international travel recommences in any meaningful way, and people completing fieldwork are vaccinated against COVID-19 (**Covid**), it will not be able to complete passenger satisfaction survey and publicly disclose the associated passenger satisfaction indicators in respect of passengers about to board an international flight.

Exemption granted

10. The Commission considers it appropriate to grant CIAL an exemption from 1 July 2021 for the reasons outlined below.

¹ Airport Services ID Determination 2010 (consolidated 18 June 2019), clause 2.4(2)(a), page 67.

² Ibid, clause 2.4(2)(b).

³ The exemption issued to CIAL on 31 March 2020 can be found [here](#) on the Commission’s website.

11. We acknowledge the airports industry continues to deal with the effects of Covid. As such, regulated airports are struggling to meet the surveying requirements of passengers boarding international flights for several reasons, including:
 - 11.1 an unclear path to recovery for international tourism;
 - 11.2 health and safety considerations relating to field workers and data collection; and
 - 11.3 the volume of international passengers remains very low compared to pre-Covid levels and as such, robust sampling of data may not be possible;
12. Earlier this year, the New Zealand government implemented a 'Trans-Tasman bubble' with Australia to support the recovery of international tourism. Due to multiple outbreaks of Covid in recent months, periodic and regional lockdowns continue to be put in place across Australia and New Zealand. As such, it is likely to be some time before the industry can return to a normal operating environment.
13. We understand, since the previous exemption expired, CIAL has not completed international surveying and publicly disclosed the associated passenger indicators due to health and safety concerns. Further, CIAL implies that even if these surveys were carried out, the relatively small number of respondents would make it difficult to undertake robust sampling of data.
14. We agree that, based on the limited volume of international travellers, the dataset of international passengers is likely to be too small to enable sampling measures that would result in an accurate representation of the population.
15. We consider that, under these circumstances, the purpose of ID is currently unable to be fully met because of insufficient passenger numbers, and the passenger satisfaction data being unavailable as a result of Covid.
16. Under clause 2.9(1)(a) of the ID determination, by this notice, the Commission grants CIAL an exemption from:
 - 16.1 the requirement to complete a passenger satisfaction survey in accordance with clause 2.4(2)(b) of the ID Determination for international surveying, for the quarters starting 1 July 2021 and ending 30 June 2022; and
 - 16.2 the requirement to complete and publicly disclose the associated Passenger Satisfaction Indicators for those quarters in Schedule 14 (*Report on Passenger Satisfaction Indicators*) of the ID Determination.
17. We notified CIAL staff of this decision via e-mail on 9 September 2021.

Our expectations

18. CIAL requested an exemption from passenger surveying on 19 April 2021. In its letter, CIAL did not define a start date for the forward-looking request, however, we understand this to be 1 April 2021 (Q2 of calendar year 2021).
19. As set out in our administrative guidance⁴ parties should not presume in advance that exemptions will be granted, and short notice requests reduce the scope for the Commission to grant any requested exemption. However, we recognise that the ongoing effects of Covid-19 on the industry may have impacted the regulated airports' ability to submit exemption applications in a timely manner.
20. CIAL also requested an exemption for Q3 and Q4 of 2020 (i.e. a retrospective exemption). In its letter, CIAL requested:⁵

an exemption from the relevant Determination requirements for two final quarters of the calendar year 2020 or, in the event that it is not possible to obtain a retrospective exemption and that omission is considered to be a compliance matter, invite the Commission to consider the well documented mitigating circumstances caused by Covid-19.
21. The Commission does not provide an exemption where non-compliance has already occurred. Where non-compliance occurs, the Commission considers this in line with our enforcement criteria, which are extent of harm, seriousness of conduct, and public interest.⁶
22. We expect CIAL to closely monitor international travel volumes and to keep us informed of any change in circumstances that may allow them to re-instate international surveying when reasonably practicable.

Further information

23. This exemption may be revoked or further amended by the Commission at any time in accordance with clause 2.9(1)(b) of the ID determination.
24. A copy of this exemption response letter will be published on the Commission's website.

⁴ Our administrative guidance for exemption requests can be found [here](#) on the Commission's website.

⁵ *Letter to ComCom – ASQ Compliance*, dated 13 April 2021.

⁶ More information about our Enforcement Criteria can be found [here](#) on the Commission's website.

25. If you have any questions regarding this matter, please contact Rhys Williams at rhys.williams@comcom.govt.nz.

Yours sincerely

A handwritten signature in blue ink that reads "Sue Begg". The signature is written in a cursive style with a large initial 'S'.

Sue Begg
Deputy Chair