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Dear Catherine

## **Seeking views on the effectiveness of the economic regulation of airport services under Part 4 of the Commerce Act 1986**

This submission is made on behalf of Hamilton Airport, an airport that provides essential connectivity for our community and economy representing New Zealand's fourth largest city and a catchment of over 1.3 million New Zealanders. We endorse the submission that has been provided to you by NZ Airports in addition to our own observations on the matter.

### **1. Regulation of major airports affects the entire airport system**

While we are not regulated under Part 4 of the Commerce Act, the regulatory framework for the three major airports directly shapes our operating environment and the processes and expectations for airport planning and pricing across the network. In this way, regulation at the top of the network cascades through the entire system. Any changes to the regime – particularly if they lower the bar for regulatory intervention or shift toward more bespoke, selective approaches – will have consequences for smaller airports like ours and our investment settings, even if we are not directly included.

### **2. Airline market power is the more pressing issue**

On most regional routes, there is only one airline operating. This means that route decisions, pricing, and service reliability are determined by a single commercial actor, often with little or no competition. Airport pricing is subject to clear constraints in the Civil Aviation Act 2023 and Commerce Act 1986, but airlines have no scrutiny or reporting obligations for the airfares that are ultimately presented to consumers as has been reaffirmed by a recent announcement that the Commerce Commission sees little value in completing a market study on airline pricing.

This imbalance is increasingly difficult to justify. If the goal is to improve consumer outcomes, regulation must apply where the greatest market power lies. In our view, that means examining airline conduct more closely, including fare-setting on monopoly routes.

While Airports are viewed under the current legislation as an effective monopoly due to there being only one airport per catchment, our contrary view is that a single airline with 85% market share can

respond to airport pricing and other factors by making unilateral decisions to redeploy aircraft and adjust services where it is not economic to persevere with the status quo.

### **3. No consideration of actual behaviour**

We are aware that many airport charges in New Zealand have increased significantly in recent years. Such increases are unfortunate but unavoidable given sustained periods of high inflation, supply chain disruption and interest rates severely impacting the cost of infrastructure investment at a time where forecasted travel demand has not come to fruition for various reasons. Such increases are not inconsistent with the broader aviation industry noting overall airfares and other costs in the aviation supply chain including government charges (passenger security levy) and Airways Corporation Air Navigation service charges have increased at higher levels (upward of 40-60%) in similarly quasi-regulated pricing exercises without consideration of regulatory intervention in the sector such as what is proposed by MBIE for airports.

In the first quarter of this 2025 calendar year, air fare data collected by the global OAG Infare database identified an average ticket price for all Air New Zealand domestic flights of \$210 per one way journey, noting Air New Zealand represents an 85% market share. Our assessment is the average airport charge per passenger is \$15, or \$30 across the journey of a departure and arrival. It can be seen in this instance that airport charges account for only 14% of ticket prices. Hamilton Airport respects the rationale for fair and affordable but sustainable costs of travel to ensure the benefits of affordable regional connectivity are met, but believes that even in the event airport charges were unfairly set, they do not have a material cost on the cost of air travel in NZ.

In addition to the limited regulatory processes to set prices referred to earlier, we note several recent legislative reviews have not concluded that any issues exist in the pricing regulation or practices of airports taking into account the absence of changes or findings from the status quo in new Civil Aviation Act 2023 (which came into effect less than two months ago), Commerce Commission review of regulated airports Price Setting Events and a previous 2018 review of airport sector pricing.

It is therefore not clear in any instance above why Airport pricing is the focus of yet another review.

### **4. Dual till is essential to regional airport viability**

We are particularly concerned about suggestions to move away from a dual till regulatory model. Regional airports rely on diversified revenue streams to fund infrastructure investment and manage volatility. This is especially important in the absence of government capital funding or regulated airline pricing.

Any shift that redirects non-aeronautical revenue to reduce charges for airlines risks undermining the financial autonomy of regional airports and reducing our capacity to invest in resilience, safety, and long-term growth. The dual till model is a deliberate and necessary framework that enables airports to function sustainably without taxpayer support.

Our ownership model comprises five councils that do not possess a level of capital to meaningfully further invest in the airport. Airports including our own must therefore be self-funding and it is only non-aeronautical commercial interests available to us that we can raise commercial bank and debt funding against as security, and rely on these assets to generate returns. Our shareholders have little expectation of a dividend in return for our continued reinvestment in the airport from non-aeronautical earnings. In our view, this behaviour achieves the outcome of the hybrid till approach – relying on non-aeronautical activities to help fund the airport – but in a flexible and fit for purpose way specific to our needs at a point in time.

Our concern is a true hybrid-till approach that sees a cap on the earnings of an airport limited by its aeronautical cost and asset base would actually disincentivise airports undertaking diverse investments in non-aeronautical activities. This methodology suggests returns will only ever be limited in the long run to the cost and asset base of the airport: therefore the airport has no incentive to invest more broadly as the outcome will only ever be the same.

Despite the current dual-till methodology being employed, we seldom observe regional airports achieving a full WACC/commercial return on their aeronautical assets. The role airports play in the economy and aviation industry as economic enablers requires concessions to be granted to ensure essential operations can be undertaken. As examples at our own airport, we have offered rental concessions to tenants during COVID lockdowns, delayed pricing reviews to avoid layering cost increases and in setting pricing that is supported by robust narrative, have included incentive structures that provide discounts for growth and volume of passengers that provide benefit to the economy at large but not the airport. We also draw attention to instances where full prices have not been charged because the increase while supportable, would be unjust considering the full pattern of facts.

#### **4. System stewardship matters**

MBIE has a key role to play in stewarding a stable, predictable, and proportionate regulatory framework for the aviation sector. That requires looking beyond the three major airports and assessing how proposed changes might affect regional airports, local government investors, and the communities we serve.

We urge MBIE to:

- Maintain the integrity of the current regulatory framework;
- Avoid selective or politically driven changes;
- Protect the viability of regional airports;
- And refocus attention on areas of unregulated market power – especially where there is the greatest risk to consumers.

We would welcome further engagement on the future of aviation regulation in New Zealand and are happy to collaborate through NZ Airports or directly as a regional airport stakeholder.

Yours sincerely

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