

Catherine Montague
Manager - Competition Policy
Ministry of Business, Innovation and Employment (MBIE)

23 May 2025

Kia ora Catherine,

Thank you for your invitation to respond to MBIE's stakeholder consultation relating to the regulation of airports.

Wellington Airport's views are set out below. We also fully endorse the more detailed submission made by NZ Airports.

Recurring and overlapping reviews are undermining investor confidence in airports

Wellington Airport considers this consultation to be without basis. Airports are one of New Zealand's highest performing infrastructure categories, supporting the economic growth and wellbeing of virtually every other industry and every region. Wellington Airport provides excellent facilities and services and is highly regarded by our customers, community and stakeholders. Despite this, we have been subjected to repetitious reviews of regulatory settings over the last 15 years.

Regulation of New Zealand airports is supposed to be light-handed. The system was deliberately designed this way to encourage efficient investment and maximise economic welfare. Since privatisation in the 1990s, investment outcomes at airports have been favourable, indicating that less is more when it comes to regulation and government intervention.

The decisions made at the time of designing the current regulatory settings were deliberate and well-informed. We have attached two papers that canvas some of the history of the regulatory design and international comparisons, to provide some background and context. While produced at the outset of the ID regime we consider the arguments made are still relevant.

Information Disclosure has existed in its current form since 2010, a relatively short legislative period, particularly given that airport investments occur over a 20-year horizon or longer. Wellington Airport has recently completed its fifth price setting event, and by now the system ought to have fully bedded in. After an initial period of both airlines and airports testing the boundaries of the ID regime, the regulatory settings were finally reaching a point of mutual agreement and understanding, until recently.

The combination of significant Input Methodologies changes and the latest targeted MBIE review have undermined this stability and certainty. It should not have been necessary to review the regulatory settings yet again and we find ourselves repeating arguments that have been fully tested already.

Several other reviews have taken place since 2010, confirming that the existing settings should remain in place. These include MBIE's own 2018 review, the recent full rewrite of the Airport Authorities Act and Civil Aviation Act, the 2018 Commerce Amendment Bill, and thorough interrogation of all airport investment decisions by the Commerce Commission, including in 2023-25 (Auckland Airport) and currently (Wellington Airport).

If the Government would like to support effective infrastructure investment by airports, it should do so by supporting investor certainty and allowing airports to get on with the job. The existing safeguards of Information Disclosure regulation and five-yearly Commerce Commission reviews are more than sufficient to protect consumers and ensure airports continue providing infrastructure of the highest standard.

Government agencies must stop bowing to airline pressure, and instead recognise the importance of consistent regulatory settings. This review, cumulatively with the others mentioned above, undermines willingness to invest in airports and to pursue major airport developments. If investors cannot be guaranteed a stable return over the 20-to-50 year life of a project, they will simply take their capital elsewhere, likely offshore.

MBIE's consultation is inappropriate and poorly formulated

Wellington Airport is concerned by the nature of this consultation. While verbally framed by MBIE as a "check in" and "early process", the consultation raises major questions that would fundamentally change the regulatory settings. We would expect these types of questions to be set out in a formal consultation paper approved by Cabinet and backed by evidence. In particular, any consideration of departure from single till regulation signals a major shift and should be treated with due seriousness.

Other matters, such as the question of whether to regulate airports singly or as a whole, are also fundamental to the functioning of the regime. We are concerned that MBIE believes these matters are of minimal consequence because they do not immediately change the regulatory requirements on airports. This is a misapprehension. Any moves to make regulatory settings more "flexible" undermine certainty and stability. Airport investors have rightly reacted very strongly to this and MBIE must be cognisant of the damaging effects of raising these questions.

Of course, it is the Government's prerogative to alter regulatory settings if it chooses to do so. But any such move should be backed by a clear problem definition, evidence, due consideration, and Cabinet processes. It ought also to follow the processes clearly set out in the Commerce Act for reviewing airport regulation, rather than taking place via ad hoc emails.

The limited number of stakeholders engaged in this consultation is also insufficient. In order to properly test views, MBIE should have at a minimum engaged with the investment community and local government owners of airports. Reviews of regulatory settings affect all airports and their investors, as all airports follow similar processes whether they are regulated or not.

Finally, it is clear that the current regulation is effective and fit for purpose, because this has been determined by MBIE itself in its own review in 2018. It is also worth noting that the Australian Productivity Commission also reviewed the Australian regime in 2019 and found there was no justification for significant change to the current form of regulation.

Current oversight of capital expenditure is effective and fit for purpose

The existing regulatory settings include the following oversight of airport capital investment...

- Extensive consultation with airlines on all significant aeronautical investment;
- Reviews by the Commerce Commission following price setting, but prior to the majority of capital investment taking place;
- New tools under the Civil Aviation Act to provide government agencies and Ministers with more power over spatial planning.

... and the following controls on airport charges:

- Regular WACC reviews by the Commerce Commission which effectively set an upper limit on charges by airports;
- Reviews by the Commission following every pricing decision, to ensure airports apply a reasonable WACC when pricing, and justify all capital and operating expenditure;
- Significant media and political pressure which has led, without exception, to airports repricing on the few occasions the Commission has found overearning.

These settings provide effective oversight by the Commerce Commission of both the quality and price of investment decisions. Despite the highest level of airline-generated controversy in years, Auckland Airport's recent review by the Commission demonstrates that airline complaints about its investment plans are baseless. The airport's investments have been found to be necessary and benchmark well against international comparisons. We do not understand why MBIE nevertheless continues to query whether oversight of airport investment is sufficient.

Greater oversight would come at the significant cost of delaying investment. Any additional requirement for government review of capital expenditure would stall developments until approval is granted, and lock in "approved" plans with no flexibility to respond to changing needs. This would set investments back by years, during which costs would continue to escalate and consumer needs would fail to be met. It would also certainly undermine investor confidence, reducing incentives to invest in the first place.

The current regulatory settings recognise that airlines are important stakeholders and need to be thoroughly consulted on airport investments. However, it is also recognised that:

- Market power in the aviation industry is not one-sided; airlines also have significant power given the monopoly position of Air New Zealand and its government ownership. The only other airline of any scale is Qantas/Jetstar which is also endowed with regional market power and commercial resource;
- Airline incentives are not always aligned with consumer outcomes. For example, incumbent airlines will always resist investments that attract greater airline capacity and competition, placing downward pressure on airfares and their own profits.

Airlines have more than enough political, economic and market power to resist bad investments by airports. They do not require even more government intervention on their behalf. The current system strikes the right balance by ensuring airport proposals are

thoroughly tested, in a way that is lower-cost, more informed and more effective than government-led review.

Regulation does not lead to investment and growth – it does the opposite

The Government's focus is rightly on supporting infrastructure investment and economic growth. The best way to support the development of airport facilities is to allow airports to get on with the job with no more government interference than necessary. No Government ever regulated its way to prosperity.

Wellington Airport is a privately held company with minority local government ownership, and is currently underway with more than \$500m in capital investment projects that will greatly support the growth and development of Wellington and the lower North Island. Over the last 15 years Wellington Airport has raised over \$1 billion of retail bonds and currently has over \$550 million of retail bonds held by private investors. Unlike most other categories of infrastructure, the economic and social outcomes generated by this investment require no Government capital. Also unlike most other categories of infrastructure, our facilities are highly rated by consumers, commercial users, and our local community. Threats of altered or stronger regulation undermine these outcomes.

Airport charges are low, fair, and do not impact ticket prices

MBIE's link between its regulatory review and economic outcomes is tenuous. If MBIE's concern relates to the impact of airport charges on airfares, we refer to the volumes of material that have been presented to previous government reviews on this point. Airport charges have a minimal impact on airfares as they form only a small fraction of the total ticket price. Furthermore, the unrestrained dynamic pricing methods employed by airlines set air fare levels according to demand, not input prices. If MBIE is concerned about consumer and economic outcomes related to airfares, it should conduct a wider review of the airline ecosystem rather than narrowly focusing on niche areas of airport regulation.

In our verbal discussions, MBIE acknowledged concern relating to airfares and noted other parts of MBIE and other agencies were considering this matter. We look forward to seeing the results of these considerations.

Wellington Airport has recently completed its fifth Price Setting Event, and charges are now increasing at a modest rate for the first time since 2018, due to agreement with airlines to discount and defer charges through the pandemic period. These deferrals and passenger risk sharing wash ups are now coming due, giving the appearance of increased charges. However, our cost base has been kept to a minimum, including capital expenditure which has been significantly deferred with the agreement (and strong written commendation) of airlines.¹

¹ BARNZ stated on our most recent pricing proposal: "We support the approach WIAL has taken to the proposed Capital Expenditure Programme (the proposed Programme) and acknowledge the steps taken to revise this considering the impact of COVID-19 – while still supporting longer term Master Plan intent. In this regard we applaud the airport for its decision-making in what is a complex environment... In particular we support the decision to defer the construction of the new terminal due to the impact of Covid-19 and the restrained passenger numbers now forecast, while still ensuring that existing congestion and service level concerns are addressed via interim terminal works."

Operating costs per passenger have not increased. Any suggestion by airlines that Wellington Airport's charges are arbitrarily increasing is disingenuous but sadly typical of recent airline lobbying.

Single or hybrid till models would undermine both aeronautical and commercial investment

The suggestion of moving to a single or hybrid till model is alarming, and would represent a complete restructure of airport regulation. Given the suggestion is supported by nothing more than a throwaway comment in an OECD report, we can only conclude it is unserious. We note MBIE has not selected any other items from the OECD report to consider for further regulation, and query why this particular matter has been raised.

In practice, a hybrid till model would realign airports' incentives to invest in both aeronautical and commercial facilities (such as car parking and retail). Commercial facilities are currently provided to a high standard and Wellington Airport in particular receives very positive customer feedback on the in-terminal experience. Any change would lead to worse outcomes for airlines' own customers. Currently, airlines pay nothing toward commercial facilities but their customers greatly benefit.

A single or hybrid till would also lead to worse outcomes for aeronautical investment. While it may initially transfer some value and profitability from airports to airlines, it would not achieve anything else in airlines' favour. Instead, it would reduce incentives to invest in aeronautical infrastructure and limit airports' ability to fund investment. Furthermore, it would remove airports' incentives to focus on passenger comfort and amenity. This would give rise to a need for greater regulatory oversight to monitor and influence these outcomes, a significant cost impost to the aviation system with a low likelihood of resulting in better services for consumers.


We also note airports are not unique, and other regulated utilities have unregulated adjacent businesses (e.g. Chorus, Vector). This is managed through cost allocation, which ensures that there is no cross-subsidy between regulated and unregulated services, which in turn ensures that investment in both is at efficient levels and there is no distortion of competition in unregulated markets.

Any future regulatory change should follow due consideration

We were also alarmed to hear verbally that MBIE is querying whether the current process to up-gauge airport regulation is too "lengthy" and "clunky", and may take "up to 12 to 18 months" if required.

Any regulatory change would wipe the value of privately held investments to the tune of hundreds of millions of dollars. The process to do so should quite rightly take some time and consideration. There is absolutely no justification for enabling airports to be regulated in less than 12 months, or to allow for whiplash regulation in the event of one perceived fault by an airport.

The system was deliberately designed this way, and should remain so. Increased regulation should occur in the event system-wide deficiencies are found, not as a punishment for isolated



controversies. For the same reason, Wellington Airport's preference is for airports to continue to be regulated on a system basis rather than one by one. Treating regulated airports differently is not required, as it has not been made out that one airport is a problematic outlier. Even if this were the case, there are important arguments for consistent regulatory settings across all three airports, not the least of which is to support the Commission to regulate airports effectively and consistently, and to promote transparency and comparability.

If increased regulation is required in future, the Commerce Act already allows for this in an appropriate manner. MBIE has not identified any reasons the existing settings are insufficient, particularly given that this has been thoroughly considered and addressed by MBIE via the 2018 consultation and Commerce Amendment Bill. This process worked through the issues in detail and lowered the barriers to increasing regulation. It was also determined that airports should continue to be regulated as a group. The current settings, we believe, represent the minimum level of rigour necessary to have confidence in a decision to change the form of regulation, and should not be changed yet again.

Extending regulatory oversight to other airports is unnecessary

Wellington Airport does not hold a strong view on whether additional airports should be regulated, but in saying that, the additional cost and resource allocation required to enable it seems unnecessary and unwarranted. We note that most airports behave as if they are regulated anyway, by following the building block model and Commerce Commission WACC when setting prices.

Airport consultations with airlines are not one-sided, as Air New Zealand brings outsize market power to its side of the table meaning that an unregulated airport attempting to step outside of the established conventions would be publicly (and ruthlessly) called to account. Therefore we do not see a particular problem that needs to be addressed by extending regulation to more airports.

Kind regards

Matt Clarke
CEO

