

SUBMISSION TO THE NEW ZEALAND PRODUCTIVITY COMMISSION**DRAFT REPORT****INTERNATIONAL FREIGHT TRANSPORT SERVICES INQUIRY****27 FEBRUARY 2012****1. INTRODUCTION**

- 1.1 This is the submission of Auckland International Airport Limited ("**Auckland Airport**") on the New Zealand Productivity Commission's ("**Commission**") draft report on the inquiry into international freight transport services ("**Draft Report**").
- 1.2 Auckland Airport appreciates the effort made by the Commission to more fully understand the international air freight transport industry and the different roles played by those involved in it, including the time taken to visit individual airports and freight operations. We hope that the Commission's visit to our airport assisted with this.
- 1.3 Generally Auckland Airport is largely supportive of the Commission's findings and recommendations in relation to international air freight transport and we propose only to touch on some of the main points covered in the Draft report and provide some clarification and high level feedback.
- 1.4 Auckland Airport is committed to continuing to positively contribute to the growth of New Zealand's economy. A successful air cargo sector is an important factor in achieving this. The Commission has recognised that Auckland Airport's productivity is high compared to other Asia and Pacific airports. As previously submitted, we strongly believe that the growth of the international freight market is inextricably linked with the growth of international air passenger services, and Auckland Airport will continue to seek new air service routes that will benefit not only the air freight services industry but also the New Zealand economy generally.
- 1.5 If the Commission would like to discuss any aspect of this submission, please contact:
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2. RESPONSES TO SPECIFIC FINDINGS AND RECOMMENDATIONS

- 2.1 Auckland Airport has focused its comments on the Draft Report on the following issues:
- (a) Impediments to competition in international air freight;
 - (b) Regulation of international air freight competition; and
 - (c) Governance and ownership of "council-owned" airports.

Impediments to competition in international air freight

- 2.2 Auckland Airport agrees with the Commission that there is no case for further regulatory intervention in air freight services¹ and strongly supports the Commission's finding that:²

Intervention [in international freight transport] is only justified where benefits outweigh the costs. In particular, principles of good regulation should be used to design and monitor regulatory interventions, including the decision that regulation is the best option.

- 2.3 The Commission considered the following two key factors when assessing whether further regulatory intervention was required:

- (a) whether there are barriers to entry for freight services providers, namely the availability of infrastructure and freight facilities at airports and the existence of incentives to invest in such infrastructure by airports; and
- (b) whether airports are incentivised to restrict access to its infrastructure and freight facilities.

Barriers to entry

- 2.4 As explained in our previous submission, Auckland Airport does not directly provide air-freight related services, but is the custodian/lessor of airport facilities and specific air cargo infrastructure at the Airport.

- 2.5 A number of services associated with air freight that we provide, such as leasing premises to key stakeholders in the value chain, including exporters/importers, freight forwarders, cargo terminal operators ("**CTOs**"), government departments, and air cargo carriers, are clearly contestable. Given the existence of competitive pressures in this market, Auckland Airport agrees that it would be entirely inappropriate to regulate these contestable activities.

- 2.6 Auckland Airport also provides core aeronautical infrastructure to facilitate air freight services (such as access to runway, aprons and terminal facilities). Due to the nature of the business, this is only capable of being provided by Auckland Airport as owner and operator of the Airport.

- 2.7 The fact that these services are strictly not contestable, does not immediately infer that there are barriers to entry issues for CTOs wishing to operate at Auckland Airport. We are pleased the Commission has recognised this, noting that there does not appear to be barriers to entry for new CTOs at either Auckland Airport or Christchurch International Airport.³ In addition to the two CTOs with significant cargo handling operations, Auckland Airport already has a third ground handler. There would be no barrier from Auckland Airport's perspective that would prevent that party increasing its cargo handling activities were it to achieve commercial agreements to support those activities. It is not the airport that determines who will handle cargo for a particular airline, that is a commercial arrangement between the relevant parties.

- 2.8 The Commission also found that there are no barriers to entry of a dedicated freighter to increase capacity.⁴ A more coordinated and strategic approach within the export value chain would assist to drive air freight capacity and provide growth to routes which may be under pressure from the continued trend toward more narrow-bodied aircraft.

¹ Finding 13.5

² Finding 2.3

³ P 68

⁴ Finding 5.2.

2.9 Some submitters have suggested (contrary to the Commission's finding) that the following factors can act as a barrier to CTOs entering the air freight market:

- (a) limited space;⁵
- (b) lack of volume as a barrier to entry for a CTO;⁶ and
- (c) limited commitment from / lack of incentive for airports to invest in freight-related facilities.⁷

2.10 Auckland Airport's response to these concerns follows.

Limited space hinders freight growth

2.11 The current infrastructure at Auckland Airport is adequate to meet the requirements of stakeholders within the air freight value chain. Stakeholder feedback indicated an overall view that CTO facilities were today generally unconstrained in their current format, outside of the typical seasonal peaks in mid-November to early December.

2.12 The future expansion of freight facilities at Auckland Airport will be supported by the proposed Domestic Terminal (DTB) relocation and ultimately the development/construction of the northern runway. Auckland Airport's long established master plan provides for the expansion of a freight precinct abutting the southern runway following the relocation of the DTB facility to a midfield (i.e. between the existing and proposed northern runways) position.

Lack of volume as a barrier to entry

2.13 Another submitter highlighted lack of volume as a barrier to entry for a CTO.⁸ Although volume is not something that Auckland Airport can directly control or influence we are actively seeking new routes to and from the Airport, the development of which may potentially have a direct impact on the growth of air freight. If future opportunities to grow the air freight sector are to be fully exploited, there needs to be a closer working relationship between all the stakeholders within the air cargo value chain and we look forward to engaging further to see how we can support this.

Airports have no incentives to invest

2.14 In response to current facilities and road access at airports, CTO submitters have suggested that airports' "incentive to optimise the facilities for moving freight around the precinct may be muted" because they "do not earn a revenue directly from freight operations".

2.15 Auckland Airport does not agree with such simplistic assertions.

2.16 Auckland Airport has incentives to invest where it has reasonable certainty that it will achieve a commercially acceptable return on the investment can be achieved. Where specific investment is needed to accommodate the specific needs of a CTO, Auckland Airport is willing to (and does regularly) engage on a commercial basis to facilitate that investment. However, the reality is that many of Auckland Airport's investment decisions cannot solely be based on the potential for direct revenue streams or on the interests of an individual stakeholder. The enquiry is necessarily much broader than this. Many assets and facilities have multiple users with varying degrees of usage. Auckland Airport has to consider how best to accommodate a range of divergent

⁵ CBAFF submission

⁶ Air Cargo Council submission

⁷ CBAFF submission

⁸ Air Cargo Council submission

interests and views before an investment decision is made and this is in addition to the need to consider the impact of regulation on its ability to earn a reasonable return from such investment.

- 2.17 Finally, while regulation under the Commerce Act is required to promote incentives to invest among other things, it is still not clear whether the new Part 4 is achieving these objectives. Auckland Airport is currently seeking merits review of various Part 4 determinations on the basis (among other things) that far from promoting incentives to invest the determinations will dampen such incentives, contrary to the Part 4 purpose statement.

Access to airport infrastructure by freight services providers

Constraints on market power

- 2.18 Auckland Airport strongly agrees with the Commission's finding that there is "no compelling case at this stage for either a general access regime or a negotiate-arbitrate access regime" in the airport sector.⁹
- 2.19 As Auckland Airport has previously submitted, there are already constraints in place that act as a check against the exercise of market power to the detriment of consumers, namely under:
- (a) the Airport Authorities Act 1966 (for example, the obligation to consult with substantial customers on charges for identified airport activities, which includes "aircraft and freight activities"); and
 - (b) Part 4 of the Commerce Act ("Commerce Act"), which requires Auckland Airport to provide detailed information disclosure.
- 2.20 Section 36 of the Commerce Act also acts as protection against the exercise of market power. For example, section 36 cases have been brought in the ports context.
- 2.21 It would be inappropriate to regulate access where there are existing mechanisms and no evidence of systemic abuse of market power occurring.
- 2.22 Auckland Airport has no incentive to refuse access to our freight facilities, and it is incorrect that "airports are using their market power to set high charges for cargo services (as suggested by some parties)."¹⁰

Unbundling

- 2.23 The Commission recommends that airport (and port) companies periodically review the extent they unbundle activities within their domains and allow access for competing firms to supply them to help achieve higher efficiency and better customer service. An unbundled operation already exists at Auckland Airport where the infrastructure is provided for CTOs to administer passenger and freight handling activities. Auckland Airport does not provide freight services, rather it is the custodian/lessor of airport facilities and specific air cargo and passenger infrastructure at the Airport which is used by other stakeholders in the value chain.

Review as a mechanism to monitor market power

- 2.24 The Commission acknowledges that, because air freight service charges are not charged by airports directly and the information disclosure regime under Part 4 of the

⁹ Finding 13.5

¹⁰ P 213

Commerce Act is new, amendments to the regime at this stage would be very premature.

- 2.25 Auckland Airport agrees with the Commission that the Commerce Commission's review of the effectiveness of the information disclosure regime is a sufficient mechanism to review whether major airports are exerting market power over freight services providers.¹¹ However, given that the review will come soon after the introduction of the information disclosure regime, it remains to be seen whether it will inform the Commerce Commission sufficiently to enable it to reach any conclusive views on the effectiveness of the regime.
- 2.26 It is also important not to focus on just the interests of the parties directly charged for services (such as airlines or CTOs). Their interests are not necessarily the same as those of the ultimate customer/consumer. It will be imperative to assess the costs and benefits of regulation with this in mind, including thinking about whether any benefit of regulation may bring is passed on.

Access to freight information

- 2.27 The Commission recommends that central Government develop a proposal to extend the current Freight Information Gathering System and its existing practices regarding collection and dissemination of information.¹² Auckland Airport supports the Commission's view that additional information on freight movements in New Zealand that is collected and made available on a regular basis would have considerable value to key stakeholders in the value chain.
- 2.28 Auckland Airport currently has little information on/visibility about air freight volumes including business volumes and forecast date. More access would only be positive, allowing us to better plan for the future requirements of the industry. Such access could be provided in a way that would ensure commercial confidentiality for individual companies.

Regulation of international air freight competition

- 2.29 The Commission states that it "does not consider that there is a case to remove the current competition regime for international air services in Part 9 of the Civil Aviation Act ("**CAA**"), based on air freight considerations alone".¹³ Instead, the Commission proposes to recommend enhancement of the CAA process.
- 2.30 Although Auckland Airport still considers a "Commerce-Act only" regime for international air services is more appropriate, for the reasons given in its original submission, Auckland Airport is nevertheless pleased that the Commission has recognised the importance of transparency in the competition assessment process under the CAA and has recommended that Part 9 should be amended to require:
- (a) the Minister of Transport to have regard to an assessment of the benefits and costs of trade practices that are proposed for authorisation under sections 88 or 99 of the Act, and Commerce Commission regimes proposed under section 89;
 - (b) an assessment of the detriment arising from any potential reduction in competition as part of each assessment of benefits and costs;

¹¹ Finding 13.3

¹² Finding 13.2

¹³ P 202

- (c) public consultation on an assessment of benefits and costs, if the proposed trade practice or commission regime is likely to reduce competition in a market; and
- (d) the public disclosure of section 88 and section 90 authorisations that are granted under that regime.

2.31 Under the Commission's proposal, the Ministry of Transport would either undertake its own competition assessment or commission an external assessment. Auckland Airport considers that it would be sensible for the competition cost/benefit assessment to be undertaken by the Commerce Commission. This would not only make good use of the Commerce Commission's experience and the resources it has available but would be a step closer to aligning New Zealand's process with similar practices conducted by Australia's Australian Competition and Consumer Commission.

Ownership and governance of "council-owned" airports

- 2.32 Auckland Airport understands that the Commission's concerns relate to airports that are "council owned" in the sense that these are "council controlled" (as opposed to airports that have an element of council ownership such as Auckland Airport, a listed company on the ASX and NZX, in which Auckland Council has a minority shareholding of just over 22% and which has sufficient obligations and incentives to act commercially).
- 2.33 Auckland Airport supports the Commission's general findings in relation to the ownership and governance structure of seaports and airports. It is entirely appropriate for the SOE model to be applied.
- 2.34 We agree with the Commission's view that the ownership issues discussed in the Draft Report largely concern seaports and therefore do not warrant any recommendations that impact on airports.
- 2.35 More specifically we note and concur with the Commission's view that it is appropriate to separate (and if necessary to ensure the separation of) the political role a council (through its members supported by employees) plays as a local governing body from the role fulfilled by directors in a corporate entity that owns and operates an airport.
- 2.36 In our view the restructuring that has been effected in relation to Auckland Council entities goes a long way to achieving that independence and may provide a suitable model going forward. In this model the Council's shareholding in Ports of Auckland (100%) and Auckland Airport (22%) is held through a council controlled organisation (Auckland City Investments Limited) which has a board which, although appointed by Council, may not include Council members, officers or employees.