

**Submission by NZ Airports Association on the
Productivity Commission International Freight
Transport Services Draft Report**

28 February 2012

Introduction

1. This is the submission from the New Zealand Airports Association (“NZ Airports”) on the International Freight Transport Services Draft Report (“Draft Report”) issued by the Productivity Commission (“Commission”) in January 2012. This submission is made on behalf of the Association’s members and should be read in conjunction with separate submissions that may be provided by individual airports.
2. NZ Airports will be pleased to provide any further information required in support of this submission.

The contact person is:

Kevin Ward
Chief Executive
New Zealand Airports Association
PO Box 11 369
Manners Street
Wellington 6142

DDI: 04-384 3217
Mobile: 021 384 524
Email: kevin.ward@nzairports.co.nz

Overview Comment

3. The Commission’s report is comprehensive and includes considerable analysis of a wide range of issues.
4. Fundamentally the Commission has proposed little change in the legislation governing air services markets and airports with the key conclusions being that:
 - In respect of airports a new Commerce Act regulatory regime has recently been implemented requiring disclosure of airport performance, the initial annual disclosures are due for publication in 2012, and that it is premature to consider further requirements for regulation.
 - Authorisation of air services trade practices should remain with the Ministry of Transport, as is currently provided by the Civil Aviation Act, but with *“strengthening the analytical requirements for assessing authorisation proposals by assessing and publicly testing costs and benefits, including the impacts on competition”*¹.
5. NZ Airports agrees with these overarching conclusions by the Commission although we provide further comment on the latter conclusion below.
6. We also provide comment on a number of the more detailed findings or recommendations from the Report.

¹ Productivity Commission Report page xxvi

Approval for Air Alliances or Bilateral Arrangements

7. There are two aspects that warrant further comment by NZ Airports.

Requirement for Bilateral Agreements

8. The Commission's Draft Paper does not consider whether in fact New Zealand needs to continue to maintain or develop bilateral agreements. NZ Airports is not convinced that it is justified to continue imposing capacity limits on overseas domiciled airlines access to New Zealand airports. There is a prospective economic cost to New Zealand in the international air transport freight market from reduced capacity and this aspect does not appear to have been considered by the Commission.
9. NZ Airports therefore remains of the view that New Zealand should have a broad open skies policy, and a more liberal approach than the current policy setting.
10. NZ Airports recognises however that there would still be important roles for the Ministry of Transport to perform, namely:
- Ensuring that New Zealand continues to meet its international obligations; and
 - Continuing to seek access for New Zealand's air carriers to other international markets. NZ Airports considers that retention of the ability to trade reciprocal rights is not necessary as New Zealand can benefit far more from foreign airlines operating in New Zealand, than it can offer other countries through services undertaken by Air New Zealand.

Authorisation of Air Services Alliances

11. If the current Civil Aviation Act Part 9 authorisation regime is to be retained NZ Airports supports the Commission's recommendation R12.1 for amendments to the authorisation process. Specifically consideration of the costs and benefits of proposed alliances, an assessment of prospective detriments to competition and the requirement for public consultation.
12. NZ Airports submission on the International Freight Transport Services Issues Paper (Issues Paper) submitted that assessment of the economic and competition benefits should be undertaken by the Commerce Commission. We note that the Commission did not agree with this submission because of the wider considerations required in air services agreements and because the Civil Aviation Act regime is probably less costly than a Commerce Act regime.
13. As commented above NZ Airports is not suggesting that the Ministry of Transport's role in considering New Zealand's international obligations should be diminished. Rather our concern relates to the economic assessment of prospective agreements or extensions.
14. NZ Airports is unclear how a Commerce Act regime should be a more costly alternative when the Commerce Commission already has the necessary economic expertise and experience in place. Changes to the Civil Aviation Act requiring the Ministry of Transport to fulfil this role would require them to establish their own economic expertise or contract other parties, such as the Commission, to undertake assessments. Given that in either case the economic assessments must be of comparable quality and open to public consultation it is not clear why the costs should be different.

15. NZ Airports again submits that the Commerce Commission is the appropriate party to consider the economic merits of air services agreements.

Statutory Objective for Airports

16. In recommendation 10.1 the Commission recommends that the objectives of council owned ports or airports should be brought into line with those for state owned enterprises. NZ Airports is not convinced that a change to the Airport Authorities Act is required. The Commission acknowledges that the legislation governing airports meets a structure that the Commission considers appropriate.

“There would appear to be a case to clean up the legislation. For example, one Act could cover owner behaviour, another cover general company behaviour, and a third (if required) cover company scope and behaviour specific to that industry. Airports are closest to this model, where the LGA, Companies Act and Airport Authorities Act fulfil these roles respectively.”²

17. Interestingly when later discussing the appointment of directors the Commission expresses concern about the conflicting responsibilities to the community under the Local Government Act and their responsibilities to the company under the Companies Act. Yet the three objectives in the purpose for state owned enterprises shown on page 148 of the report include both commercial and community objectives.
18. Amending the purpose in the Airport Authorities Act to that recorded in the State Owned Enterprises Act will therefore not remove any perceived conflict of objectives. In any event two of the three main New Zealand airports are privately owned and consequently it would not be appropriate for their commercial objectives to be overridden by the requirements for publicly owned entities.
19. NZ Airports also notes that the three main airports have been subject to extensive regulatory review since 2007 when changes to the Commerce Act were first considered. This included consideration of the airport governing legislation and ultimately Parliament’s decision to retain the current provisions in the Airport Authorities Act.
20. NZ Airports does not consider that any benefit is to be achieved by revisiting or changing the Airport Authorities Act.

Cargo Terminal Operators (CTOs)

21. The Commission notes that AIAL and CIAL are each served by two CTO’s which appear capable of competing with each other³. The Commission then referred to several submissions that indicated potential competition issues with respect to CTOs.
22. NZ Airports is somewhat bemused by these concerns when it is the airlines who contract the CTO’s not the airports, with the largest CTO, as noted by the Commission, being Air New Zealand. Any new CTO must therefore secure contracts from airlines while of course ensuring they have appropriate airport facilities to be able to meet their commitments.

² Productivity Commission Report page 147-148

³ Productivity Commission Report page 68

23. The situation has not arisen where a CTO has requested access to airport space and been denied, recognising of course that the commercial terms for access are negotiated between the airport and the CTO. BARNZ endeavours to confuse this issue with reference to pricing inputs for landing charges⁴ however these are not inputs into the establishment of property rental levels. These are set in the same manner as occurs in the commercial market with valuers engaged to recommend rental levels and arbitrations utilised where the valuers from the respective parties cannot reach an agreed position with their clients.
24. NZ Airports therefore remains unclear on how any prospective growth in CTO's has been constrained by airports.
25. NZ Airports agrees with the Commission's conclusion that a case does not exist for a regulatory access scheme to be developed (F13.5).

Unbundling of Services

26. The Commission considers the implications of vertical integration of the airport businesses where these companies own the land and facilities and also undertake the freight handling activities. The Commission then makes recommendation R13.1 that:

"In the interests of their own productive efficiency and service to customers, port and airport companies should periodically review the extent they unbundle activities within their domains and allow access for competing firms to supply them."⁵

27. NZ Airports cannot understand the basis for the reference to airports in this recommendation. New Zealand airports do not now participate in freight, or passenger, handling and consequently already operate a model that has structural separation of facility ownership and service provision.
28. NZ Airports submits that the reference to airports should be removed from this recommendation.

Government Role in Infrastructure Planning

29. In chapter 9 of the Draft Report the Commission provides a detailed discussion of the challenges and impediments that exist for investment coordination and planning.
30. There is little reference to airports in the chapter which is perhaps due to evident and long term commitment of the three large airports to continue investment in their facilities. While this is dominated by the requirements for aircraft landing and passenger services it is indicative of the airports willingness to invest should this be necessary for the processing of freight.
31. Investment in the roading network outside the airport boundaries is obviously a critical factor in the efficiency of the transport of air freight. In this regard NZ Airports supports the Commission's recommendation (R9.2) for a "facilitated discussion" model based on cooperation and information sharing.

⁴ Productivity Commission Report page 213 footnote 128

⁵ Productivity Commission Report page 219

32. Co-operation between airports, local authorities, airlines carrying freight and CTOs can only improve the long term planning for air freight services.

Market Information

33. The Commission recommends (R13.2) that the Government develop a proposal to extend the freight information gathering system.
34. NZ Airports supports any initiative in this area that improves the availability of information on air freight volumes and expected market changes. The airports receive little information at present and consequently have little opportunity to proactively plan for investment required to accommodate growth or expected changes in the way freight may be processed.