



Australian
Competition &
Consumer
Commission

Airservices Australia price notification

ACCC decision

June 2015

Australian Competition and Consumer Commission

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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Contents

ACCC decision.....	1
1. Background.....	2
1.1. Airservices' 2011 long-term pricing agreement	2
1.2. ACCC's assessment approach and process	2
2. Assessment of Airservices' price notification for 2015-16	3
2.1. Proposed TN, en route and ARFF prices for 2015-16	3
2.2. Proposed out of hours charges for TN and ARFF services	4
2.3. Airservices' progress against its LTPA commitments	4
3. ACCC decision.....	5
Appendix A: Airservices Australia's current and proposed prices	6

ACCC decision

The Australian Competition and Consumer Commission (ACCC) has decided to **not object** to Airservices Australia's (Airservices) proposed 2015-16 prices for terminal navigation (TN), en route navigation (en route) and aviation rescue and fire fighting (ARFF) services.

The TN, en route and ARFF charges proposed by Airservices are consistent with those accepted by the ACCC in 2011 as part of Airservices' long-term pricing agreement (LTPA). In addition, Airservices also included 2015-16 prices for its ARFF services at four locations namely, Ballina, Coffs Harbour, Gladstone, and Newman, where those services commenced operation in 2014-15.

The ACCC also does **not object** to the proposed increases in charges for out of hours TN and ARFF services.

The new charges are proposed to take effect from 1 July 2015.

This decision responds to a price notification submitted to the ACCC on 4 June 2015 by Airservices pursuant to subsection 95Z(5) of the *Competition and Consumer Act 2010* (CCA). Airservices' prices are set out in its price notification (available on the ACCC's website) and are reproduced in Appendix A.

1. Background

Airservices Australia's (Airservices) provision of terminal navigation (TN), en route navigation (en route), and aviation rescue and fire fighting (ARFF) services are declared to be notified services under section 95X of the CCA. Airservices is a declared person under subsection 95(X)(2) of the *Competition and Consumer Act 2010* (CCA).¹ Therefore under section 95Z of the CCA, Airservices is required to submit a price notification to the ACCC before increasing the prices for these declared services.

On 4 June 2015, Airservices submitted a price notification to the ACCC including proposed prices for its NT, en route and ARFF services effective 1 July 2015. The price notification is published on the ACCC's website (<https://www.accc.gov.au/regulated-infrastructure/airports-aviation/airservices-australia-2015>) and the proposed prices are included in Appendix A.

1.1. Airservices' 2011 long-term pricing agreement

The current prices for Airservices' declared services are set out in its long-term pricing agreement (LTPA), which was accepted by the ACCC in 2011. It provides a price path for the TN, en route and ARFF services for the five year period from 2011-12 to 2015-16. The ACCC accepted those prices following a detailed assessment to ensure that the proposed prices would allow recovery by Airservices of only the efficient level of costs of providing those services.²

As part of the LTPA, Airservices had made commitments that it would improve its consultation with members of its Pricing Consultative Committee (PCC) on its capital expenditure programs, and improve its internal drivers of efficiency by benchmarking and setting efficiency targets. The PCC is comprised of representatives from Airservices and a range of industry stakeholders, including airlines and airline representative bodies. Since the ACCC's 2011 decision formally related to only the first year of the LTPA period, Airservices is required to submit a price notification for each of the subsequent years.³ The ACCC noted in its 2011 decision that Airservices progress on those LTPA commitments would be an important consideration when assessing the subsequent annual price notifications.

1.2. ACCC's assessment approach and process

In assessing price notifications, the ACCC is required to have particular regard to the following statutory criteria set out in subsection 95G(7) of the CCA:

- the need to maintain investment and employment, including the influence of profitability on investment and employment
- the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices
- the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

¹ The declaration originally had effect under section 21 of the *Prices Surveillance Act 1983* (PS Act). On 1 March 2004, the PS Act was repealed and the declaration was taken to have effect under Part VIIA of the *Trade Practices Act 1974* (TPA). On 1 January 2011, the TPA was renamed the *Competition and Consumer Act 2010*. The relevant declaration, Declaration No. 66, is available on the ACCC's website at: <http://www.accc.gov.au/regulated-infrastructure/airports-aviation/airports-aviation-price-notifications>.

² The LTPA prices and the full details of the ACCC's assessment of Airservices' LTPA are available at: <https://www.accc.gov.au/regulated-infrastructure/airports-aviation/airservices-australia-2011>.

³ Since the 2011 LTPA, Airservices has submitted three price notifications for 2012-13, 2013-14 and 2014-15 respectively prior to the current price notification.

The ACCC's approach to interpretation of the statutory criteria and process for assessing price notifications is outlined in its *Statement of regulatory approach to assessing price notifications* (Statement)⁴. Specifically the ACCC considers that the criteria in subsection 95G(7) will generally be met by economically efficient prices, which reflect an efficient cost base and a reasonable rate of return on capital.⁵ In assessing the Airservices' price notification for 2015-16, the ACCC has had regard to these matters insofar as they are relevant to Airservices' price notification.

The Statement also outlines the processes for 'standard' and 'short-form' assessment of price notification, with the former involving extensive stakeholder consultations prior to making decisions while the latter providing for a more expedited and less formal process of consultation. The ACCC may consider, on a case by case basis, that it is appropriate to conduct a short-form assessment, where a price notification proposes a price anticipated in a price path submitted in a previous notification.⁶

The ACCC's decisions on Airservices' previous three annual price notifications since the 2011 LTPA were based on a short-form assessment involving consultation with the PCC members on the progress made by the Airservices against its LTPA commitments.⁷ Airservices' price notification for 2015-16 includes prices for the final year of the LTPA, which are consistent with the price path in the LTPA. Airservices has also provided supporting information relating to its progress against the LTPA commitments. Given these, the ACCC considers it appropriate to conduct a short-form assessment process in this instance.

2. Assessment of Airservices' price notification for 2015-16

2.1. Proposed TN, en route and ARFF prices for 2015-16

The proposed prices for TN, en route and ARFF services for 2015-16 will result in an increase of 0.4 per cent in nominal prices from the 2014-15 level on a weighted average basis.⁸ Airservices also proposed to implement the ARFF Category 6 network charge for 2015-16 (\$2.32) as set out in the LTPA at four locations namely, Ballina, Coffs Harbour, Gladstone and Newman. ARFF services commenced operation at these locations in 2014-15.

The proposed charges are consistent with the LTPA, which was accepted by the ACCC in 2011. The ACCC is therefore satisfied that they would ensure Airservices receives sufficient revenue to cover only the efficient cost of providing its services. Consequently the ACCC considers the proposed prices for 2015-16 meet the criteria in subsequent 95G(7) of the CCA.

However, the ACCC notes that ARFF pricing was raised as an issue in its consultation with the PCC members on the price notification, although their concerns mainly related to the appropriateness of the current pricing approach for the ARFF services. The ACCC further notes that this matter will be considered as part of the upcoming consultation on the next LTPA.

⁴ The document is available at: <https://www.accc.gov.au/publications/regulatory-approach-to-price-notifications>.

⁵ ACCC 2009, Statement of regulatory approach to assessing price notifications, June 2009, p13

⁶ Ibid. p10

⁷ The decisions are available on the ACCC's website.

⁸ See Airservices draft price notification for 2015-16 (<https://www.accc.gov.au/regulated-infrastructure/airports-aviation/airservices-australia-2015/draft-notification>).

2.2. Proposed out of hours charges for TN and ARFF services

Airservices also proposed to increase its out of hours charges⁹ for TN services by 2.9 per cent and for ARFF services by 2.7 to 3.4 per cent for various categories of aircraft operations (these charges are outlined in Appendix A). For NT services extending on from normal operating hours, the rates are charged in hourly increments. For ARFF services extending on from normal operating hours, the rates are charged in 15 minute units. Where an ARFF crew is required to be called back after normal hours, a minimum of three hours overtime is required to be covered.

Airservices previously advised that its charges for out of hours TN and ARFF services are calculated based on the costs of making ATC staff available to provide TN services and the necessary number of staff to provide an appropriate ARFF services,¹⁰ and these charges are increased by around three per cent each year to cover wage growth.¹¹

The ACCC provided the PCC members with the opportunity to comment on the proposed out of hours charges as part of the short form assessment process. While there were some general concerns regarding the implementation and the structure of the charges, no specific issues were raised regarding the proposed increases for 2015-16.

The ACCC is satisfied that the increases in the charges are appropriate in order to cover the overtime rates for an air traffic control or ARFF crew to be available to provide the relevant category of service.¹² Given this, the ACCC does not object to the increases in charges for out of hours TN and ARFF services.

2.3. Airservices' progress against its LTPA commitments

In support of its price notification, Airservices illustrated its consultation process by providing examples of capital expenditure programs and business case information and quarterly service charter reports that were presented to PCC members in the past 12 months. In addition, Airservices provided the ACCC with the minutes of the PCC meetings held in May 2014, August 2014, November 2014, December 2014 and March 2015.

The ACCC sought views from members of the PCC in relation to the extent to which Airservices has made reasonable progress against its LTPA commitments to:

- improving its consultation with PCC members on capital expenditure, and
- developing internal drivers of efficiency through internal benchmarking and setting of explicit efficiency targets.

These improvements would promote economic efficiency by providing incentives for Airservices to manage its costs prudently and efficiently.

Four members of the PCC responded to the ACCC's request for consultation and participated in telephone interviews with ACCC staff. They include a major domestic and international airline, a major international airline, a regional airline and an industry representative body.

⁹ The out of hour charges for NT and ARFF services were not considered as part of the LTPA. They were included in Airservices' price notifications for 2013-14 and 2014-15, which were accepted by the ACCC.

¹⁰ ACCC 2013, Airservices Australia price notification – ACCC decision, June 2013, p15

¹¹ ACCC 2014, Airservices Australia price notification – ACCC decision, June 2014, p7

¹² While the minimum fire vehicle water carrying requirements, foam discharge rates, response times and other safety measures required for each category of ARFF service are set out in clause 139H of the *Civil Aviation Safety Regulations 1998*, staffing requirements are not. The minimum level of staff required to provide an adequate ARFF service has been determined by Airservices using a risk based assessment of personnel required to respond to an incident, given the number of vehicles required to be operated and the category of aircraft involved.

The PCC members were generally satisfied with the information provided by Airservices in relation to its capital expenditure programs and as part of its quarterly reporting in 2014-15. Airservices' representation at the PCC meetings over the past 12 months was regarded as satisfactory with a perception shared among the PCC members that Airservices' representatives were reasonably responsive to their concerns.

However, those PCC members who engaged with the ACCC also noted there were some areas where they considered Airservices progress has been less satisfactory. Concerns raised included the ability of PCC members to contribute effectively to Airservices' decision making, particularly in the area of capital expenditure and projects. Airservices' decision on OneSky¹³ was given as a particular example of this issue. PCC members were also of the view that there had been a lack of progress in the development of a financial rewards/penalties system for measuring Airservices' performance against its Key Performance Indicators.

After assessing Airservices' submission and the consultation process with PCC members, the ACCC considers that Airservices' consultation process in relation to its capital expenditure program remains generally satisfactory in 2014-15.

However, the ACCC notes the feedback from PCC members about areas in which Airservices could further improve its consultation processes and the work still to be done to develop suitable internal drivers of efficiency through internal benchmarking and setting of explicit efficiency targets. The ACCC encourages Airservices to consider these issues further, and notes that these aspects will be looked at in more detail as part of the ACCC's consideration of the next long-term pricing proposal later this year.

3. ACCC decision

The ACCC, having regard to the statutory criteria in subsection 95G(7), has decided to not object to Airservices' proposed 2015-16 prices for TN, en route and ARFF services. The ACCC also does not object to the increases in charges for out of hours TN and ARFF services. The new charges are proposed to take effect from 1 July 2015.

This decision responds to a price notification submitted to the ACCC on 4 June 2015 by Airservices pursuant to subsection 95Z(5) of the CCA.

¹³ OneSky refers to the implementation from 2018 of a single civil-military air traffic management system that is intended to replace the existing civilian system - Australian Advanced Air Traffic System. Further information on OneSky is available at: <http://www.airservicesaustralia.com/projects/onesky-australia/>.

Appendix A: Airservices Australia's current and proposed prices

A.1 En route navigation services

Charging formula for en route navigation (en route) services:

- For IFR aircraft with an MTOW of 20 tonnes or more:

$$PRICE \times \frac{DISTANCE}{100} \times \sqrt{MTOW}$$

- For IFR aircraft with an MTOW up to 20 tonnes:

$$PRICE \times \frac{DISTANCE}{100} \times MTOW$$

Table A1: Airservices' current and proposed prices for en route services

En route service	Current price	Proposed price (from 1 July 2015)
20 tonnes or more	\$4.03	\$4.03
Up to 20 tonnes	\$0.90	\$0.90

A.2 Terminal navigation services

Charging formula for terminal navigation (TN) services:

- For all aircraft:

$$PRICE_{location} \times MTOW$$

Note: MTOW shall not exceed 500 tonnes.

Table A2: Airservices' current and proposed prices for TN services

TN service location	Current price	Proposed price (from 1 July 2015)
Adelaide	\$11.83	\$11.89
Brisbane	\$6.18	\$6.18
Cairns	\$12.20	\$12.20
Canberra	\$11.80	\$11.68
Gold Coast	\$8.81	\$8.50
Melbourne	\$5.50	\$5.52
Perth	\$7.72	\$7.56
Sydney	\$5.61	\$5.62
Albury	\$14.70	\$15.22
Alice Springs	\$14.70	\$15.22
Avalon	\$5.21	\$5.39
Broome	\$14.70	\$15.22
Coffs Harbour	\$14.70	\$15.22
Hamilton Island	\$10.66	\$11.03
Hobart	\$9.68	\$9.68
Karratha	\$14.56	\$14.71
Launceston	\$14.16	\$14.65
Mackay	\$12.07	\$11.95
Rockhampton	\$13.47	\$13.47
Sunshine Coast	\$14.21	\$14.21

Tamworth	\$14.70	\$15.22
Archerfield	\$14.70	\$15.22
Bankstown	\$14.70	\$15.22
Camden	\$14.70	\$15.22
Essendon	\$14.70	\$15.22
Jandakot	\$14.70	\$15.22
Moorabbin	\$14.70	\$15.22
Parafield	\$14.70	\$15.22
Darwin	\$1.84	\$1.75
Townsville	\$2.39	\$2.27

A.3 Aviation rescue and fire fighting services

Charging formula for aviation rescue and fire fighting (ARFF) services:

- For all aircraft greater than 15.1 tonnes and target aircraft between 5.7 and 15.1 tonnes:

$$PRICE_{category,location} \times MTOW$$

Note: MTOW shall not exceed 500 tonnes.

Table A3: Airservices' current and proposed prices for ARFF services

ARFF service location	Current price	Proposed price (from 1 July 2015)
Category 6 aircraft and below		
Brisbane	\$2.29	\$2.32
Melbourne	\$2.29	\$2.32
Sydney	\$2.29	\$2.32
Perth	\$2.29	\$2.32
Adelaide	\$2.29	\$2.32
Cairns	\$2.29	\$2.32
Darwin	\$2.29	\$2.32
Gold Coast	\$2.29	\$2.32
Canberra	\$2.29	\$2.32
Hobart	\$2.29	\$2.32
Karratha	\$2.29	\$2.32
Townsville	\$2.29	\$2.32
Alice Springs	\$2.29	\$2.32
Avalon	\$2.29	\$2.32
Ayres Rock	\$2.29	\$2.32
Ballina	\$2.29	\$2.32
Broome	\$2.29	\$2.32
Coffs Harbour	\$2.29	\$2.32
Gladstone	\$2.29	\$2.32
Hamilton Island	\$2.29	\$2.32
Launceston	\$2.29	\$2.32
Mackay	\$2.29	\$2.32
Newman	\$2.29	\$2.32
Rockhampton	\$2.29	\$2.32
Sunshine Coast	\$2.29	\$2.32
Port Hedland	\$2.29	\$2.32
Category 7 aircraft		
Brisbane	\$2.57	\$2.57
Melbourne	\$2.52	\$2.52
Sydney	\$2.48	\$2.48

Perth	\$2.75	\$2.81
Adelaide	\$3.11	\$3.26
Cairns	\$3.35	\$3.69
Darwin	\$4.96	\$5.46
Gold Coast	\$3.85	\$3.79
Canberra	\$8.94	\$9.08
Hobart	\$9.85	\$10.00
Karratha	\$8.37	\$8.37
Townsville	\$12.40	\$13.64
Category 8 aircraft		
Brisbane	\$3.41	\$3.41
Melbourne	\$2.98	\$3.01
Sydney	\$2.64	\$2.64
Perth	\$4.41	\$4.85
Adelaide	\$5.85	\$5.27
Cairns	\$6.97	\$7.67
Darwin	\$21.42	\$21.75
Gold Coast	\$5.87	\$6.46
Category 9 aircraft		
Brisbane	\$5.54	\$6.09
Melbourne	\$4.54	\$4.99
Sydney	\$3.67	\$3.67
Perth	\$7.61	\$8.37

A.4 Current and proposed prices for out of hours TN services: 1 July 2015

The TN charge applicable outside normal hours of operation is calculated as the sum of the TN charge per the rates detailed above, plus the following additional amounts.

Before or after normal hours (inc. GST)	Current price	Proposed price (from 1 July 2015)
Up to 15 minutes	n/a	n/a
Over 15 up to 60 minutes	\$208	\$214
Each additional hour or part hour	\$208	\$214

A.5 Current and proposed prices for out of hours ARFF services: 1 July 2015

The ARFF charge applicable outside normal hours of operation is calculated as the sum of the ARFF charge per the rates detailed above, plus the following additional amounts.

Out of Hours ARFF Services	If only 15 minutes	If more, every 15 minutes, thereafter (or part thereof)		Recall of staff (flat rate) ¹⁴	
		2014-15	2015-16	2014-15	2015-16
Aircraft category (inc GST)					
6 (and below) ¹⁵	-	\$93	\$96	\$1,113	\$1,147
7	-	\$113	\$116	\$1,356	\$1,397
8 (and above) ¹⁶	-	\$148	\$153	\$1,782	\$1,835

¹⁴ Recall of Staff Charges apply only where the timing of the out of hours service requires staff to be called in from home to work.

¹⁵ Out of Hours services provided to aircraft operations less than Category 6 will be charged at the Category 6 rate.

¹⁶ Out of Hours services provided to aircraft operations greater than Category 8 will be charged at the Category 8 rate.