

# MELBOURNE AIRPORT

16 December 2022

Mr. Gennady Kleiner  
Director – Airports and Ports  
Infrastructure Division  
Australian Competition and Consumer Commission (ACCC)

By email: [airportsandports@acc.gov.au](mailto:airportsandports@acc.gov.au)

Dear Mr Kleiner

## **Response Re: Airport monitoring – more detailed information on airport performance**

Australia Pacific Airports (Melbourne) Pty Limited (**APAM** or **We**) is pleased to respond to the ACCC's consultation paper released on 28 October 2022 (Airport monitoring - more detailed information on airport performance) (**Paper**).

The Paper invites submissions to inform the ACCC's recommendations to the Australian Government on amendments to the Airports Regulations 1997 to implement recommendation 9.4 from the Productivity Commission's (**PC**) 2019 report into the Economic Regulation of Airports.

This submission covers the following sections:

- A. APAM's request for a modified Option 1 (as the terms defined in the Paper);
- B. APAM's significant concerns with Option 2 and Option 3 (as those terms defined in the Paper);
- C. The issues of detailed reporting and publication relating to:
  - (i) common user aeronautical infrastructure;
  - (ii) at-terminal and at-distance car parking; and,
  - (iii) landside access services.

### **A. Modified Option 1**

Of the 3 options proposed by the ACCC, APAM considers that Option 1 - collecting more detailed data for specific services and relying on existing cost allocation principles - more than adequately fulfills the objective set by the Productivity Commission.

Subject to the improvements identified in section A of this submission being adopted, APAM's request for a modified Option 1 will help remove unnecessary and additional regulatory burdens being created.

First, a clearer reporting framework is agreed to so as to protect the publication of commercially sensitive data. This is to ensure the additional reporting does not damage mature contractual agreements between the major airports and their commercial partners, nor compromise commercially sensitive information provided by an airport, airline or commercial partner.

Secondly, APAM recommends grandfathering commercially sensitive information provided under existing agreements, to allow time for APAM to change its internal processes, amend subsequent

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agreements to respond appropriately to any proposed change and agree those changes with commercial partners.

This approach would not restrict the ACCC from publishing general content it receives in confidence from airports regarding the additional quantitative data sets.

Furthermore, this approach would also provide confidence to third parties knowing commercially sensitive data for specific services has been reviewed internally by the ACCC solely for the purpose of its airport monitoring function and therefore avoiding any unintended use by third parties. It would also enable the ACCC to assess any pricing trends without compromising commercially sensitive information and enable the ACCC to meet the PC recommendation - to balance commercially sensitive information against public disclosure.

Thirdly, prior to the publication of any additional data for specific services, a proactive engagement process by the ACCC is implemented to ensure the ACCC's interpretation of the additional data for specific services is accurate and understands the different configurations and operations between the major airports.

Fourthly, Option 1 must further consider the timing of implementation given aviation recovery is ongoing and competition for international services is fierce, with new challenges that have emerged post-pandemic such as labour shortages, supply chain disruptions and increasing costs of materials, which impacts domestic operations.

A target implementation in 2026 provides time for passenger recovery, stabilisation of global economic challenges and scaling of operations to align to a 'new normal'.

This timeframe would also allow major airports to prepare resources to service the additional reporting requirements.

## **B. Significant concerns with Option 2 and Option 3**

Options 2 and 3 are not a proportionate response to recommendation 9.4. The PC recommended that airports be required to provide the ACCC with more detailed information, including separate reporting of costs and revenues in relation to:

- aeronautical services for domestic flights and for international flights;
- the provision and use of at-terminal and at-distance car parking; and,
- the provision and use of landside access services.

Options 2 and 3 in their current form go well beyond the scope and intent of the PC recommendation. Specifically:

- Options 2 and 3 extend the scope of the price monitoring regime beyond what was contemplated by the PC, as expressly acknowledged by the ACCC in paragraph 4.20 of the Paper: "In comparison to Option 1 (which covers only specific service categories and/or sub-categories that the PC has recommended), Option 2 requires data and cost allocation method..." on a full set of service classification.
- Option 2 may require the ACCC to "prescribe high-level cost allocation guidance" that is well beyond the PC's clear recommendation of "any methodologies that the monitored airports use to allocate costs to domestic and international services." (page 309 of the PC Report).
- Option 3 seeks to impose reporting obligations upon major airports related to record keeping rules required of expressly declared natural monopoly services, such as telecommunications and postal services.

Additionally, Options 2 and 3:

- Adds additional compliance costs on the sector and requires more resourcing to prepare new data sets based on a standardised cost allocation method;
- Would potentially compromise commercially sensitive information;
- Ignores the direction of the PC recommendation 9.4, which set out to include consultation with airports to develop an approach that balances disclosure with the protection of commercially sensitive data;
- Ignores the constant threat of further regulation airports are subject to should it be determined they are exercising their market power, which actually facilitates commercial negotiation and acts as an extra constraint on the major airports' market power;
- Creates a set of standardised cost allocations that would be completely misaligned to the nuances and differences between aeronautical, car-parking and landside access operations and their individual requirements to be upgraded between major airports; and,
- Establishes a set of rigid cost allocation standards to specific services with no appreciation for the fact that we do not restrict competitive airfares from entering the market, we continue to deliver responsible capital works programs to enhance the customer experience and we negotiate mature agreements with airlines that are productive and measured.

## **C. (i) Aeronautical services for domestic flights and for international flights and methodologies**

It is our understanding that Option 1 requires the separation of reporting costs, operational data and revenues in relation to the provision and use of aeronautical services for domestic flights and international flights. We note that Option 1 would not include disaggregated reporting by Terminal.

Consistent with current practice, APAM understands that the ACCC will not publish disaggregated passenger numbers for each domestic terminal, however we recognise that there is still a potential risk select commercial partners may be able to back solve other operator charges based on aggregated domestic costs, revenues and passenger reporting.

APAM revenues are separately shown as domestic or international revenues as part of our annual reporting of accounts to the ACCC.

Methodologies are already provided through the annual auditing process that is part of a robust and mature governance process with the ACCC. APAM could provide its methodologies used to allocate costs to domestic and international services however this would need to remain confidential to be consistent with the existing methodology provided to the ACCC.

## **C. (ii) The provision and use of at-terminal and at-distance car parking**

APAM understands that Option 1 requires separate user, costs and revenue data in relation to 'at-terminal' and 'at distance' car parking and the utilisation rates for these two categories.

This approach would require APAM to reclassify its various car parking products to adopt 'at-terminal' and 'at-distance' categorisation given APAM's current 'public' and 'non-public' use allocation.

There would be a considerable burden and complexity in developing a new cost allocation methodology requiring manual inputs given we have 3 key products with various subsets in each product. Again, APAM requests that such changes to reporting not be implemented until 2026.

## C. (iii) The provision and use of landside access services

APAM understands that Option 1 requires separate user, costs, revenue and charges data in relation to the different landside services and the utilisation rates for these two categories.

As to the revenue and costs associated with landside access services, it is similar to aeronautical services in that the revenues are already disclosed as part of the annual ACCC accounts however costs are currently not. Ground Transport is a diversified business and hence allocating costs is broad and complex.

For example, not all operators that use landside access occupy bays therefore there are varied operational costs, and APAM already allocates parking costs by bays.

Therefore, changing our existing categories would require an enormous resource constraint on the airport to prepare this information and would also ignore the operational reality that each airport allocates costs differently as the use, access and investment program is different.

Additionally, the intent of any public disclosure of information in this category remains unclear as to how it would be of meaningful use. For example, given the unique circumstances at each monitored airport, the use of the data would provide no reliable insight into benchmarking between airports.

The complexity with providing this data set is that it is not an accurate representation of the investment required to support landside access services as it does not include capital spend. Hence, the margins would be overstated and would require a significant workstream to determine an appropriate allocation of costs across all landside access products.

APAM does not support item 4.11 as this is essentially seeking disaggregated costs for each of the different modes of landside access that would create an additional burden and compliance cost upon APAM. The premise of item 4.11 may not even be possible to report given landside access consists of shared roads and zones.

Instead of providing costs for the disaggregated landside access portfolio, a total amount could be reported on however it is unclear to what benefit, if any, this would produce.

In regard to the different modes of landside access and the number of vehicles using each of the landside services, it is our understanding that this information is already disclosed as part of the annual ACCC accounts as well as the charges that are disclosed through this process.

## Conclusion

Successive PC reviews have consistently found the light-handed regulatory regime for Australian airports has been working since 2002.

To that end, in the absence of compelling evidence to suggest market power is being exercised by major airports or the current regime is not fit for purpose, Options 2 and 3, in APAM's view, are clearly outside of the intent of recommendation 9.4.

The current regime continues to provide a constructive and practical framework between airlines and airports to agree on pricing structures as evidenced by APAM finalising our ASAs with the majority of the airline community after a successful negotiation and agreement period.

This was also recently evidenced through the new commercial agreement covering access to APAM's international terminal and runways for Qantas and Jetstar.

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The agreement on pricing and assessment of the operational improvement opportunities with a customer focused mindset demonstrates the strength of the relationship that we have with airlines, landside access partners and tenants.

Regards

Jai McDermott  
**Chief of Ground Transport, Public Affairs & Sustainability**