

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188

Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

SUBMISSION TO

**THE
AUSTRALIAN COMPETITION & CONSUMER
COMMISSION**

BY

Victorian Regional Air Charter Pty Ltd

**DRAFT PRICE NOTIFICATION
AIRSERVICES AUSTRALIA**



FILE No:	D04/45067
DOC:	
MARS/PRISM:	

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188

Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

INTRODUCTION

Our concern with the present proposal is the large and unnecessary transfer of costs from the major airline sector to the financially weaker, small business, general aviation sector. This is an excessive benefit provided directly to the major commercial operators by the Government agency Air Services Australia (ASA).

Our other concern is a conflict that ASA appears to be ignoring. It cannot comply with its responsibility under the Air Services Act to promote and foster aviation while at the same time reducing cross subsidisation between service lines and user groups. The more that location specific pricing (LSP) is applied the more ASA is destroying general aviation. LSP is not an appropriate economic model in the General aviation (GA) arena, because of the nature of the industry. Just like Postage and telecommunications (more on that later).

We see no reason why the present balance should not be retained and any cost increases spread equally on a percentage basis over all sectors. In the present proposal we are looking at a 71% increase at Moorabbin over 4.5 years compared with a 5.8% weighted average total increase.

The following comments address the issues raised in the Issues Paper and are oriented on the effect of the proposal on operations and operators at Moorabbin Airport in Melbourne.

This submission is in addition to that already supplied in July to both ASA and the ACCC as part of the consultation process with General Aviation businesses.

The Consultation Process

Comment on the effectiveness of ASA's consultation processes and the extent of our support.

The original proposal for 565% increase at Moorabbin was unconscionable, irresponsible, discriminatory and incompetently proposed and should not have occurred.

It was created without regard for any semblance of economic sense.

When consultation with GA began in June 2004 it occurred, not in a spirit of discussion and negotiation prior to decision making, but rather as an adversarial fight over indefensible, unwanted and unwarranted proposals and was laid out as a fait-a-compli and as the minimum requirement to sustain the Government Agency. The proof of this is in the 600 submissions to ASA and the highly modified proposal now before us.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

The first proposal was rubbish and we think very little of the revision and do not support it for reasons stated later in this submission.

VRAC supports a proposition that representatives of the ACCC attend a meeting of GA operators in the Melbourne area. We understand that the Royal Victorian Aero Club is prepared to host such a meeting. We also consider that the ACCC should also attend other capital cities with a view to holding similar meetings with GA operators.

Risk Sharing Arrangements

Comment on the appropriateness of risk sharing arrangements should changed circumstances occur during the next five years.

We have strong objection to a review of pricing within the five-year period. It is ASA's choice to move to the 5-year plan. It must therefore be its risk to stick to prices set for that 5-year period. It cannot be allowed to "have its cake and eat it too".

Operating Costs

Comment on the efficiency with which ASA provides its services, including the level of costs and incentives to contain costs.

We are unable to comment on the overall level of ASA operating cost; nor its ability to contain or reduce the overall level of cost, because we are not privy to the internal workings or have any control over the management of the organization.

However, it is of interest to note that staff costs and total operating expenses of the tower at Moorabbin, is forecast to rise over the five year period by only 16%; well under the overall 24%. In the same five-year period the charges proposed on our tower usage is set to rise by 71%.

Capital Expenditure

Comment on the efficiency of the capital expenditure program, including the appropriateness of projects, the level of costs proposed and the approach taken to determine the program.

Our only comment on this subject is that it is obvious that all the capital expenditure is for the benefit of the major airlines. We see nothing in the way of capital expenditure at Moorabbin or any need for any. Accordingly, we do not accept that this is any reason for increasing prices at Moorabbin. It is an illogical and discriminatory shifting of costs to a virtual non-user.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

Asset Base

Comment on the efficiency of ASA's asset base, the appropriateness of new values and the appropriateness of revaluations from zero written down book values.

The matter of revaluing assets is a theoretical accounting matter. It should not be allowed to impact on cost calculations for ASA services.

It is stated that the revaluations are related to the extension of the useful life of assets by constant repair and maintenance. The ASA budget provides for those expenses and accordingly they have already been factored into costing.

Revaluing and then charging out new depreciation, as well as ongoing maintenance, is double dipping and should not, in our opinion, be allowed.

Rate of Return

Comment on the proposed rate of return (9.75%), the progressive transition to this figure over the five-year period and the extent to which this is an incentive to increase productivity and contain costs.

How many organizations in Australia enjoy a 9.75% return on their bricks and mortar asset? In any event, ASA should not be a profit centre. It is a service provided to the community, not a profit making undertaking or scheme. The notion of the return is nonsense.

With ASA paying the full range of taxes, plus a dividend to the Federal Government, Why is there a need to build up a surplus for the benefit of future users and who are those future users going to be? Why should current users of ASA's services pay more than is required to meet actual costs? This is not "user pays" it is "user overpays/user exploitation".

Any profit made by ASA is an unnecessary charge on current users for the benefit of others, including the Federal and State Governments. If nothing else, this profit should be returned to the payers in funding a community service obligation (see later comment on this subject)

We are highly sceptical that a desire to achieve a 9.75% return on assets is adequate incentive for management to control costs. We do not know what penalty (if any) applies to management (including the Board) if the rate of return is not achieved.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

Activity Forecasts

Comment on the reasonableness of ASA's activity estimates.

The activity level at airports, and in particular at Moorabbin, is mainly dependent on costs.

Over 200 aircraft have already left Moorabbin for other non-towered airfields close-by because of the cost of operating at Moorabbin.

ASA's costs are only one of the many costs, including and, in particular, the charges of the airport owner. To Moorabbin Airport Corporation's credit however, is that their increases basically follow CPI increases.

This is not so with the current ASA proposal which is 5.5 times the current CPI.

We consider the activity forecasts are only reasonable if cost increases mirror CPI increases. If costs escalate beyond that, it removes the ability or willingness of users to pay and the activity forecasts become meaningless and unattainable.

In the latter event ASA will not achieve its forecasts.

Structure of Prices

Comment on whether the proposed method of cost allocation is appropriate.

In our view, cost allocation via LSP is not appropriate.

LSP is an idealistic accounting and academic theory that fails when the blowtorch of reality is applied to it.

ASA is already moving away from it with a statement that it has adjusted its approach to the allocation of indirect costs to take into account "capacity to pay". That is reality at work and proof that LSP is not commercially viable.

Capacity to pay is a powerful tool. No business in the world can sell a product at a price that the customer is unwilling or unable to pay. Even monopolies like ASA cannot force users to pay more than they are willing to pay.

In our view it is about time that the networking principle was accepted. Cross subsidisation, eventually, cannot be avoided.

It is also necessary that the ACCC understand that the whole economic and accounting theory behind the ASA prices is flawed. The concept of charging, based on Maximum Take Off Weight (MTOW) of an aircraft is nonsense. The provision of

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

service provided to an aircraft with different weights is not altered. It is therefore discriminatory to charge one aircraft a higher fee for the provision of an identical service simply because one aircraft is heavier than the other and is accordingly without justification. In fact, it has been stated by ASA officers at community meetings that this chosen method is one based on the "perceived ability to pay" rather than "the costs to provide the service". Such an admission is an outrage and must be condemned.

Basin Approach

Comment on the application of the capital city basin approach to charging for terminal navigation services.

The basin approach is networking under another name. It is certainly a better answer than the first ASA proposal, but it is still networking. It does, however, defy the logic and the nature of GA; in that GA is an Australia wide activity not a location specific activity. Networking must therefore be applied to the whole of ASA operations.

Timing of Price Increases

Comment on the phasing in of proposed price increases stemming from both changes in cross subsidisation and increased costs.

Firstly, we object to any price increases and call for a removal of the charges. Having said that, if prices have to rise, we see no reason for the first huge increase. The total increase should be spread evenly over the five years, commencing say on 1 January 2006 and annually thereafter.

Pricing Across Services and User Groups

Comment on the stated aim of ASA of avoiding cross-subsidies and on the appropriateness of the levels of cross-subsidies between services and between user groups.

We register our protest, in the strongest possible terms, of the total 71% increase imposed on secondary airports such as Moorabbin.

As stated earlier, increases in costs at Moorabbin are around 16%, so a 71% increase in costs is harsh, unreasonable, unconscionable and discriminatory.

What we are witnessing is a desire to transfer cost recovery from the major airlines to GA, which is a minimalist user of ASA services compared with the major commercial operators. Likewise, the majors would be the main beneficiaries in the reduction in the enroute service cost.

Without a transfer of costs between the majors and GA, the status quo could be maintained with an increase of 5.8% on current costs, spread over the five years.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

We also see cross subsidisation as a practical and desirable attribute.

The concept of network pricing does not appear to be contrary to Government policy. This seems to be a similar concept used by other Government organizations. For example, Australia Post charges 50 cents to send a standard letter anywhere in Australia, and Telstra is required to cap the cost of a local telephone call in all areas. These charges are not reflective of LSP, but rather network pricing.

It makes practical sense and is applied extensively in business. The fast food chains are a classic example. The costs of a KFC or MacDonald's product are the same in Cairns as it is in Perth. The reality of life in the business world is such that eventually cross-subsidisation will come to be accepted.

Also, in our opinion, the major airlines form a group exerting unacceptable business power. They see large financial benefits from this issue of LSP.

Further comment on whether the proposed prices provide incentives for ASA to provide services at particular locations and whether users have incentives to provide their services.

ASA does not need a financial incentive to provide a service at a particular location. Its charter to provide air safety demands it.

Users of ASA services are very much influenced by the cost. If one cannot operate profitably at a location, then one will simply and quickly walk away. Cost increases (especially unreasonable and unfair increases) are a huge disincentive to small businesses and contrary to ASA's charter to promote aviation.

Impact on Users

Comment on the likely impact of the proposed prices on the users of airports and air traffic control services and to the providers of aviation services

The high increase in prices at Moorabbin will have a severe affect on providers of various aviation services as has already been experienced. We are one such operator who has removed our aircraft from Moorabbin and gone to Tyabb because of the outrageous and unconscionable cost increases, which include the ASA fees.

Every customer who leaves the airport because of the higher costs reduces the business viability of the whole airport community.

Each airport is a small economic group, in many ways interdependent on each other. There are flying schools, aircraft maintenance businesses, spare parts businesses, charter operators, fuel suppliers, bookshops, coffee shops, restaurants, pilot supply

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

shops etc. They all depend on each other for their livelihood. Price increases above the norm drive people away and they never come back. Again we say that this is not compliant with ASA's charter to operate in a way that promotes the general health of the aviation industry.

Other Issues

Community Service Obligation (CSO)

This issue keeps being dismissed by Government and it may well be beyond the scope of this inquiry.

Nevertheless, we continue to press for its implementation. The fact that the \$7m capping subsidy, (another word for a CSO), has been withdrawn is no doubt a political matter and we may well have to pursue this matter in that arena.

In our view the need for a CSO commitment is clear.

There are so many areas where ASA's services are for the benefit of the public at large. The Air Services Act requires ASA to regard the safety of air navigation as its most important consideration. It is also required to protect the environment (meaning the public) from the effects associated with the operation and use of aircraft.

Aircraft control towers play a significant safety role, not only for the pilots and their passengers, but also, significantly, for all persons and property under and in the vicinity of the flight paths.

They also provide a safety role for the general public via community-based services such as the Police Air Wing, Air Ambulance, Fire Fighting Services, Royal Flying Doctor Service and State Emergency Services.

Therefore, the funding that the Federal Government has provided since the implementation of LSP in 1998/99 should continue, not as a one-off subsidy, but specifically as an ongoing commitment to its community service obligation. This would include a portion funded by the State Government.

What would be the community response if the Government introduced a fee for service on every traffic light and traffic sign on our roads? The outrage would be staggering. But that is exactly what is being proposed here. The only difference is that we are a community of thousands not millions as are the road users. Think about it!

Unemployment

Based on experiences at Moorabbin over the past few years, it is our considered opinion that continuing price increases will result in business closures and further

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

unemployment. This is especially so because GA is, to a large extent, a personal discretionary spending activity

Over the past few years, prices in many sectors of aviation have escalated enormously. The ability to pass on these costs to our customers has reached breaking point. Sailing, boating and 4 wheel driving become more attractive pastimes for people with discretionary available funds.

Cost increases have been experienced in the following areas – wage increases, spare parts cost, the GST, CASA costs, aircraft repair costs, fuel costs, rental costs, airport owner charges and numerous other costs.

There is evidence of numerous business closures at Moorabbin over the last few years, so we are confident that further cost increases, such as the current proposal, will be directly reflected in unemployment.

Monopoly Service Provider

We are frustrated by the cost increases proposed by ASA in its proposal.

One should be able to seek alternative services from a competitor. We can now do that with a range of community services such as electricity and telephone services.

Business Investment

This proposal has brought all strategic planning and capital expenditure to an immediate halt. Other operators we know have stopped planning for growth and development until this issue is satisfactorily resolved.

We believe that the proposed increases are unsustainable for GA.

Overview of Issues Facing General Aviation

Whilst it is recognised that ASA does not have control over areas other than its specific business, the proposal to increase fees must be viewed in context with other issues that are facing every GA business now.

In some instances, GA is over serviced at secondary airports; for example, Essendon Airport has Air Traffic Controllers on duty 16 hours per day.

We have been advised that the Civil Aviation Safety Authority (CASA) has also reviewed its pricing structure. Fees to industry have at least doubled and may well increase substantially more as it attempts to move to full cost recovery. We understand that the implementation date for these fees is also 1 July 2005. Coupled with this is the impost of around \$220 each pilot is likely to face every two years for a security clearance.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188
Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

Moorabbin Airport is now privately owned and the airport owner (Moorabbin Airport Corporation) is feigning concern at the possible loss of a large number of GA aircraft from this airport. Conversely, we believe that the present developer-owner will welcome the potential closure or size reduction of the airport so that it may move further with its extremely profitable full commercial development. No doubt the C for Compensation word would enter its thoughts as it takes on ASA for decimating the aviation side of its business.

The Civil Aviation Safety Authority will be introducing the new Civil Aviation Safety Regulations (CASR) Part 61 Flight Crew Licences and Part 141 Flight Training Operators rules within this same general timeframe. This will involve all flying schools and charter operators being required to rewrite syllabi, produce new operations manuals, and implement Safety Management Systems and train staff to be compliant with the new regulations. This will impose a significant cost to each organization.

The introduction of the GST has had an adverse impact on the GA industry. Prior to its introduction, the industry was free of sales tax. The GST has, as you will be aware, also been applied to labour cost for the first time and the GA industry is very labour intensive. The majority of flying activities undertaken in GA is at the private level and so that GST cost falls heavily on the private end-user. This impost alone has been a negative factor on the GA industry and accounts for our estimate of \$26m a year in direct GA based net revenue to the government.

Because the GST imposes very significant cost on the GA industry, and the Federal Government returns GST back to the States, it would seem appropriate for the State Government to apply this GST to meet costs associated with community service obligations for aviation activities.

The cost of fuel comprises 25 – 35% of operating costs and this item is at a historically high level, exacerbated by the application of the GST

Our concern is that when all of the above factors are taken into account, our costs will be substantially greater than previously experienced, which will affect the viability of our business.

Level of ATC Service at Moorabbin

At the current air traffic movement rates we do not believe that, as a general rule, Moorabbin Tower could be safely operated with fewer controllers or for fewer hours per day. This is despite the view of some that a Tower service is not required at Moorabbin at all.

VICTORIAN REGIONAL AIR CHARTER PTY LTD

ACN 004 446 682 AOC # MB 522083-3

32 Holloway Road Sandringham 3191 P O Box 2168 Hampton East 3188

Telephone 03 9532 3161 Fax 03 9532 3001 Email: tony@smithtaggart.com.au

14th September 2004

The most recent safety case review, conducted approximately 18 months ago, concluded that additional staffing and hours were required. This review was conducted after a nighttime fatal in-flight collision, when the tower was unmanned and the airport was experiencing a high level of traffic movements.

The collision occurred within the airport boundary, but had it occurred over nearby private housing, the outcome would have been much more serious. This is further reason why we consider the Federal and State Government has a community service obligation to provide ASA services.

Needless to say, if the fees as proposed are implemented, the traffic will decline to such an extent that tower services would not meet the mandatory number of movements that trigger its operation and would accordingly have to be cut or withdrawn altogether. Uncontrolled aircraft flying over neighbouring residential areas at night and at weekends would not be acceptable to the general community.

The further transfer of a substantial number of Moorabbin based aircraft to outlying satellite airfields in the Melbourne basin would adversely affect both safety and the environment at those airfields. Some of these airfields are already operating at maximum capacity at peak periods.

Yours faithfully

VICTORIAN REGIONAL AIR CHARTER PTY LTD



Tony Taggart
Director