

1 August 2022

Mr. Gennady Kleiner  
Director, Ports and Airports  
Australian Competition and Consumer Commission  
GPO Box 520 MELBOURNE Vic 3001

Via Email: [airportsandports@acc.gov.au](mailto:airportsandports@acc.gov.au)

Dear Mr Kleiner

### **Airport Quality of Service Indicators – Review**

I am writing today to respond to the Australian Competition and Consumer Commission's (ACCC's) consultation paper on its Review of Airport Quality Indicators (the Review) at the four airports (Brisbane, Melbourne, Perth and Sydney) monitored by the ACCC.

This letter from the Australian Airport Association (AAA) supports the submissions provided by the four monitored airports and adds additional views from a whole-of-industry perspective on the Review and the Consultation Paper (the Paper).

The AAA makes the following specific comments on the Paper followed by general comments on the overall Review:

#### **ACCC-defined Quality of Service standards do not currently reflect the reality of the airport environment**

The commercial environment between airlines and airports often plays out in decisions on infrastructure investment to improve passenger amenity. When the ACCC seeks to develop Quality of Service (QoS) indicators, it should recognise an airport's ability to invest in improved passenger amenity is linked to its ability to efficiently recover the costs of improvement from users. Generally, this means airports and airlines must reach commercial agreement on the need for providing or upgrading the amenity and the efficient costs of providing a service.

It is not uncommon for airlines to seek airports to deliver only an 'average' level of service in the pursuit of reducing airport infrastructure costs, while providing their own 'improved' service offering for passengers using airline lounges. This can mean efforts by airports to improve the passenger experience can be criticised by industry participants and regulators as 'gold plating' of infrastructure, despite the potential for real, measurable improvements for passengers. In this context, it would be questionable whether airlines are best placed to serve as agents for passengers in assessing QoS metrics at airports.

#### **ACCC-defined Quality of Service indicators do not consider the full aviation value chain**

Establishing a true reflection of a passenger experience at an airport requires QoS monitoring across all passenger touch points. The ACCC's current QoS monitoring fails to capture the full spectrum of the passenger experience beyond the scope of services provided by airports. QoS monitoring should also consider the interaction of services provided across the entire aviation value chain, that is by airlines and their subcontractors as well as airports and their subcontractors. There are also elements of the passenger experience captured in the QoS monitoring regime beyond the ability of airports to control, particularly the availability and wait times for border services provided by Australian Government agencies including Australian Border Force, Department of Home Affairs, Department of Foreign Affairs and Trade and the Department of Agriculture.

As seen in recent weeks, airlines play a critical part in delivering the airport experience to customers, including the QoS provided during check-in, baggage drop and retrieval, flight information and lounge services. It is therefore prudent for the ACCC to consider how to better incorporate and integrate these measures to provide a better overall picture of performance at airport terminals.

### Interactions between Australian Government policies and the ACCC's Quality of Service indicators

The QoS indicators also do not necessarily reflect the complex interactions between other Australian Government policies and the ACCC's regulatory oversight role. In particular, the ACCC's passenger-related QoS indicators as outlined in Appendix E of the Paper do not account for the policy changes made by the Australian Government at monitored airports and other security-controlled airports.

Areas where this interaction was recently the subject of media attention include:

- upgrades to mandated passenger security screening equipment, particularly the effect on departing passenger throughput rates and quality of screening processes, and;
- staffing and performance of border services such as customs, immigration and quarantine caused by the Australian Government's introduction of the Digital Passenger Declaration

There is also the potential for future policy making to affect the ACCC's QoS monitoring standards, particularly the requirement for airports and airlines to upgrade or improve passenger information, signage and public address systems, check-in services and facilities, gate lounges and seating and public areas and amenities in terminals through the forthcoming reforms to the Disability Standards for Accessible Public Transport.

Without appropriate and contextual understanding of the complex and often permanent interactions between Australian Government policies and the provision of facilities at airports, there is potential for these ongoing (mandated) changes to aviation security, border services and passenger amenity to be viewed by the ACCC as reducing, rather than increasing, the quality of service at monitored airports.

### General Comments

The AAA has significant concerns that the Review is symptomatic of the ACCC's recent 'scope creep' that seeks to regulate more aspects of airport operations at a greater number of airports. These efforts, based on a particular view of the purported market power of airports, fall well beyond the findings of the four Productivity Commission (PC) reports on economic regulation of airports from 2002 to 2019, which found airports did not systematically exercise their market power. In fact, the monitoring regime was narrowed from 12 of the Federally-leased airports to the current four airports.

Perceptions of 'scope creep' were most recently observed in the *Airport Monitoring Report 2020-21*, which commented on airline concerns regarding aeronautical pricing at regional airports – a matter outside the directions given to the ACCC in 2012 by the then Assistant Treasurer and linked tenuously at best to the ACCC's 'responsibilities' for monitoring airports and aviation.<sup>1</sup> These are non-capital city regional airports, which the 2002 PC inquiry noted in relation to market power "...does not warrant special regulation".<sup>2</sup>

Secondly, the ACCC is perceived to now be a participant instead of an observer in the ongoing dialogue between airports and airlines over aeronautical pricing. Its quarterly *Airline Monitoring Report* and annual *Airport Monitoring Report* repeat unsubstantiated views by un-named industry participants on the purported actions by monitored airports to recover pandemic-related losses through increased aeronautical charges. This is despite the ACCC stating in its own *Airport Monitoring Report 2020-21* that monitoring does not enable it to assess in detail whether airports have exercised market power to earn monopoly profits.<sup>3</sup>

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<sup>1</sup> Australian Competition and Consumer Commission (ACCC): *ACCC role in airports & aviation*: Viewed on 27 July 2022 at: <https://www.accc.gov.au/regulated-infrastructure/airports-aviation/accc-role-in-airports-aviation>

<sup>2</sup> Productivity Commission (2002), *Price Regulation of Airport Services*, Report Number 19, 23 January, p. XVI.

<sup>3</sup> ACCC (2022), *Airport Monitoring Report 2020-21*, Canberra, p. 129.

These instances, along with the ACCC's selective quotation from the WA Supreme Court's decision on the Perth Airport v. Qantas Group case exposes the ACCC to reputational risk that potentially undermines its credibility as an impartial competition regulator.

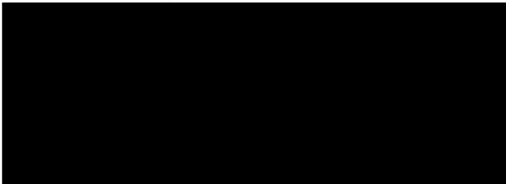
The AAA is also concerned that the current pattern of mergers and acquisitions among airlines is already disrupting the balance of market power in the aviation industry. Recent transactions including Qantas Group's May 2022 buyout of the remaining 80.1% stake in Alliance Aviation that it did not already own and Rex's July 2022 announcement it would acquire Cobham Aviation's National Jet Express business. This pattern of consolidation within the domestic aviation market is likely to lead to further growth in the market power of airlines to the detriment of participants across the entire aviation value chain. Existing exercise of market power by airlines was referenced in the ACCC's own recent *Airport Monitoring Report 2020-21*, which noted a domestic airline using short payment of fees to airports, having "...unilaterally paid the price it deemed reasonable, rather than the... price that was set by the airport for all airlines".<sup>4</sup>

To conclude, these three cases identify the need for the ACCC to pay more attention to the growth in market power of airlines by ensuring its *Airline Monitoring Report* continues permanently after its current expiry date of mid-2023. These actions would be more relevant to maintaining competition in the aviation industry compared to the ACCC's current policy of doggedly searching for evidence of the designated airports exercising market power by and the resultant scope creep from extension of its search for market power to other capital city and regional airports.

#### Concluding remarks

The AAA appreciates the opportunity to contribute to this review process. Should you have any questions regarding this submission, please contact the AAA's Director of Policy and Advocacy, Scott Martin via telephone on [REDACTED] or via email at: [REDACTED].

Yours sincerely



James Goodwin  
Chief Executive

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<sup>4</sup> ACCC (2022), *Airport Monitoring Report 2020-21*, Canberra, p. 34.