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Director
Airport and Ports
Infrastructure and Transport- Access and Pricing
Australian Competition and Consumer Commission
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SUBMISSION ON ACCC'S AIRPORT MONITORING – MORE DETAILED INFORMATION ON AIRPORT PERFORMANCE

The Qantas Group (Qantas) welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission's (ACCC) consultation regarding more detailed information on airport performance.

Based on our experience, the current light-handed airport regulatory regime provides inadequate scrutiny of the major airports and no scrutiny of smaller airports. Given the importance of this infrastructure, this is ultimately detrimental to the broader economy and, in our view, unsustainable.

In its 2019 report, the Productivity Commission found that appropriate scrutiny of airport performance required an improved evidence base. It recommended, among other things, that the ACCC collect more detailed information from the monitored airports on their financial performance to aid with transparency and determining if the monitored airports are exercising their market (which typically equates to monopoly) power.¹

In December 2019, the then Australian Government endorsed the Productivity Commission's recommendation and agreed, in principle, to amend Part 7 of the Airports Regulations 1997 to expand the reporting requirements for monitored airports, asserting that this action "*will benefit users of airports, both passengers and commercial users, and the broader community in the long-run.*"²

With the COVID-19 pandemic delaying action to address the Productivity Commission's recommendations, Qantas welcomed the current Government's request for the ACCC to commence a review and provide recommendations on these matters.

¹ Productivity Commission. 2019. Economic Regulation of Airports – Final Report. At: <https://www.pc.gov.au/inquiries/completed/airports-2019/report/airports-2019.pdf>

² Australian Government. 2019. Australian Government response to the Productivity Commission Inquiry into the Economic Regulation of Airports. At: https://treasury.gov.au/sites/default/files/2019-12/41706_govresponseairports.pdf



Response to the Options

Of the three options presented by the ACCC, Qantas considers that Option 2 – collecting systematically disaggregated data and relying on a detailed cost allocation method – is the most appropriate option to improve the transparency of information produced by Australia’s monitored airports in a timely manner, while ensuring compliance costs remain as low as possible, ensuring consistency in service classifications and categorisation across all monitored airports.

Qantas supports moving toward Option 3 over time. We agree with the ACCC that Option 3 presents an effective and reasonable option that still retains a light-handed regulatory regime. However, we anticipate this option may take more time to implement where it is in the industry’s best interests to implement these changes as soon as possible. It is similar to the information disclosure framework applied by the New Zealand Commerce Commission to the monitored New Zealand airports and would enable the ACCC to undertake assessments and benchmarking that will support the aim of the regulatory framework, by providing incentives for airports to operate efficiently.

Qantas does not consider Option 1 viable as it does not prevent potential distortions by transferring cost of operations from international activities to domestic activities, resulting in increases to domestic pricing and the cost of regional ring fencing. This is likely to create different disputes between airlines and airports.

We suggest that in order to ensure the effectiveness of the selected option, the ACCC will need to:

- Clearly define what is included in aeronautical and non-aeronautical;
- Capture the allocation methodology for capital and operating expenditure; and
- Ensure transparency of directly attributable, non-attributable and apportionable costs and revenues at a line level.

Response to feedback from airports

The monitored airports have raised various concerns regarding the publication of more detailed performance information by the ACCC – including damage to airports’ competitive position, the adverse impact on competition between airlines, and the reporting burden.

The clear reluctance of the monitored airports to submit to greater transparency or accept efforts focused on improving efficiency is disappointing but is not new. These concerns have been raised many times before, including during the Productivity Commission’s 2019 Inquiry. The Productivity Commission was clear in its response: *“The reforms are necessary and justified. The benefits of increasing the credibility of the threat would outweigh the costs to airports of complying with the enhanced reporting requirements and the costs to the ACCC of administering the regime.”*³

Qantas considers that concerns relating to airport competitive positions (and competition between airlines) would be alleviated by the ACCC’s proposal to manage these concerns through the existing protections under the *Airports Act 1996* and the *Competition and Consumer Act 2010*, and by publishing some of the data in aggregate. Qantas notes that the New Zealand Commerce Commission’s requirements for information disclosure by airports go further in terms of transparency and reporting burden than what is proposed by Option 2.

While publishing the collected data in full would support transparency and accountability of airport performance and pricing, if the information were to be published in aggregate, it would not preclude the ACCC from analysing the data and publishing the results and observations arising from its analysis.

³ Productivity Commission. 2019. Economic Regulation of Airports – Final Report. At: <https://www.pc.gov.au/inquiries/completed/airports-2019/report/airports-2019.pdf>

There is no evidence to substantiate the airports' contention that the proposed enhanced monitoring will have an adverse impact on competition between airlines. As has been repeatedly demonstrated, airlines in Australia operate in a highly competitive market, and there is nothing proposed that would diminish this.

Qantas acknowledges that improving the information collected from airports may have the effect of an increased regulatory burden for some airports. This minor effect is weighed against the benefits to the system as a whole, including and most importantly, for consumers.

Voluntary Code of Conduct

Qantas notes A4ANZ's submission in relation to attempts to work with airports on a voluntary code of conduct enshrining the Aeronautical Pricing Principles and providing an efficient and effective dispute resolution process to which all parties could adhere.

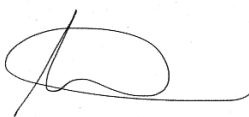
Qantas is disappointed that good faith efforts to strengthen commercial relationships under the current regulatory framework by establishing principles that could be of assistance in guiding negotiations and achieving mutually satisfactory service contract outcomes have recently been rejected by the AAA and its airport members.

Concluding comments

In its most recent Airports Monitoring Report the ACCC concluded "*the current light-handed regulatory regime is not working well enough to effectively protect Australian businesses and consumers from the exercise of monopoly power by airports.*"⁴ Enhanced transparency and monitoring represent important steps towards addressing this. We urge the ACCC move swiftly to give effect to the Productivity Commission's recommendation and enable more definitive assessments of the exercise of market power. To that end, Qantas supports A4ANZ's submission that the next Productivity Commission Inquiry should be deferred until these amendments are implemented and their impacts can be assessed along with outcomes from the upcoming Aviation White Paper and the sunseting Airport Regulations review.

Qantas would welcome the opportunity to discuss this submission with the ACCC.

Yours sincerely,



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⁴ Australian Competition and Consumer Commission. 2022. Airport Monitoring Report 2020-21. At: <https://www.accc.gov.au/publications/airport-monitoring-reports/airport-monitoring-report-2020-21>