



Australian  
Competition &  
Consumer  
Commission

## **Decision**

# **Sydney Airport Corporation Limited's price notification for regional air services**

**August 2013**



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## ACCC decision

The Australian Competition and Consumer Commission has decided to **not object** to Sydney Airport Corporation Limited's (SACL) locality notice of 6 August 2013. The locality notice is for the provision of regional air services out of Sydney Airport and does not result in an increase in the charges previously notified to the ACCC in 2002. These include for terminals, check-in counters and related facilities, passenger security and bag screening, runways, aircraft parking, and other services.

Under Part VIIA s.95X of the *Competition and Consumer Act 2010*, SACL is required to notify charges for the provision of aeronautical services and facilities to regional air services at Sydney Airport to the ACCC when charges are increased or have not been imposed in the previous 12 months. The ACCC must then assess the proposed increases and decide whether to object or not object to the locality notice.

## 1 Introduction

On 6 August 2013, SACL provided the Australian Competition and Consumer Commission (ACCC) with a locality notice (price notification) for charges which apply to the provision of regional air services out of Sydney Airport.

The notification was occasioned by the planned move of Qantaslink's operations from Sydney Airport's common user domestic terminal (Terminal 2) to the Qantas leased and operated domestic terminal (Terminal 3).

## 2 Legislative framework

The notification was made pursuant to Part VIIA s.95X of the *Competition and Consumer Act 2010* (the Act) and Declaration No 93.<sup>1</sup> Pursuant to Declaration No 93 the provision of aeronautical services and facilities to regional air services are notified services and SACL is a declared person for the purposes of the Act. Regional air services are defined as regular public transport air services operating wholly within the State of New South Wales, at Sydney Airport and aeronautical services and facilities are specified in Part 7 of the *Airport Regulations 1997*. These include both aircraft-related services and facilities (including runways, aircraft parking, refuelling, airside baggage handling) and passenger-related services and facilities (including check-in counters, passenger security and bag screening, departure and holding lounges, flight information systems, aerobridges and buses used airside).

Prior to 1 July 2002, aeronautical services and facilities at Sydney Airport were declared under the *Prices Surveillance Act (Cth) 1983*, requiring SACL to notify the ACCC if it proposes to increase prices. On that date the Australian Government discontinued the price notification regime for most aeronautical services but separately declared the provision of aeronautical services and facilities for regional air services providers at Sydney Airport.

A declared firm cannot raise the price of declared services beyond its peak price of the previous 12 months unless it first notifies the ACCC of a proposed price increase and the terms and conditions of supply. Following the lodgement of the price notification, there is a price-freeze period of 21 days during which the ACCC can assess the proposed prices.

The price-freeze period ceases when:

- the ACCC advises it does not object to the proposed price increase;

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<sup>1</sup> *Competition and Consumer Act 2010* Declaration No. 93 took effect on 1 July 2013 for a period of three years.

- the declared firm agrees to implement a lower price specified by the ACCC; or
- the prescribed period – initially 21 days – expires.<sup>2</sup>

The ACCC has the option of recommending an inquiry to the minister if the outcome of the procedure is perceived to be unsatisfactory.

### **3 SACL's price notification**

SACL proposes to charge providers of regional air services (regional airlines) the charges listed in its price notification at Attachment A. These are substantially the same charges that were notified by SACL in 2002, to which the ACCC did not object.<sup>3</sup>

SACL proposes that regional airlines have the option of paying the passenger facilitation charges either separately (option A), as a combined 'per passenger' charge (option B), or as separate 'per passenger' charges (option C). These charges are largely consistent with SACL's 2002 notification. SACL advised the ACCC that since 2002 option B is the generally preferred option for regional airlines.

The price notification states that passenger facilitation charges are based on either option A or B or C, as selected by users.

### **4 Background**

Qantas is moving its QantasLink operations to Terminal 3, which it leases and operates. After the move it will no longer require all the passenger facilitation services it currently takes at Terminal 2. However, QantasLink may require apron parking services for aircraft parking from time to time.

The SACL price notification is for charges applying to regional airlines operating out of Sydney Airport Terminal 2 and Terminal 3. The notification will enable SACL to charge QantasLink for using apron parking services as required.

### **5 Consultation**

The ACCC received a draft notification from SACL on 24 July 2013. The ACCC is of the view that the relevant stakeholders in this price notification are the regional airlines operating from Terminal 2. The ACCC published the draft notification on the ACCC's website on 24 July and contacted the regional airlines to obtain their views on SACL's price notification.

Discussions were held with the following regional airlines that do, or have, operated from Terminal 2:

- Qantas (QantasLink)
- Virgin Australia
- Regional Express holdings Limited (Rex)
- Tigerair
- Jetstar Airways Australia and New Zealand

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<sup>2</sup> Pursuant to subsection 95ZB(2) of the CCA the ACCC may specify a longer price-freeze period with the consent of the person who gave the locality notice. In circumstances where the ACCC has given a response notice under subsection 95Z(6)(c) the period is also extended by 14 days.

<sup>3</sup> In September 2010 the ACCC objected to a price notification for a 2.9 per cent increase in aeronautical services and facilities charges to regional airlines by SACL.

None of the airlines raised issues of concern that would create grounds for the ACCC to object to the SACL price notification.

SACL formally notified the ACCC on 6 August 2013 of its proposed prices for the provision of regional air services out of Sydney Airport. These prices were the same as those outlined in SACL's draft price notification and were published on the ACCC's website on 6 August 2013.

## 6 ACCC's assessment

In assessing price notifications, the ACCC is required to have particular regard to the matters set out in subsection 95G(7) of the Act. These matters broadly relate to the promotion of economically efficient investment and employment throughout the economy.

In addition, the ACCC is directed by the Minister to give special consideration to the Australian Government's policy that:

The total revenue-weighted percentage increase in prices over the three years from 1 July 2013, or part thereof (including new or restructured prices) paid by operators of regional air services to SACL for the provision of regional aeronautical services and facilities declared to be notified services in Declaration 93 should not exceed the percentage increase in the Consumer Price Index (CPI) over that same period.<sup>4</sup>

The ACCC applies this legal framework according to the concepts and procedures outlined in the ACCC's Statement of regulatory approach to assessing price notifications.<sup>5</sup> For current purposes, having regard to the matters in subsection 95G(7), the ACCC would have no objection to economically efficient prices that reflect:

- an efficient cost base
- a reasonable rate of return on capital.

In applying this framework in the context of the current price notification the ACCC has considered the following relevant factors:

- The charges proposed by SACL are substantially unchanged from those currently applying to airlines operating from Terminal 2.
- Those charges are substantially unchanged from those approved by the ACCC in 2002 when SACL notified restructured charges to introduce the combined per passenger terminal facilities charge. The 2002 restructure of charges held prices at the same levels as those approved in 2001 when the ACCC undertook a comprehensive and detailed assessment of costs of services to providers of air services under the *Prices Surveillance Act (Cth) 1983*.

Given this, the ACCC is of the view that the proposed charges for providers of regional air services are not likely to be above the level of efficient prices, reflecting an efficient cost base and allowing a reasonable rate of return on capital. The ACCC is therefore of the view that it has had appropriate regard to the matters set out in subsection 95G(7).

## 7 ACCC decision

In light of the above assessment, the ACCC does not object to the locality notice provided to it by SACL on 6 August 2013 for the provision of regional air services at Sydney Airport's Terminal 2 and Terminal 3. The locality notice is at Attachment A.

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<sup>4</sup> Competition and Consumer Act 2010 Direction No 34 of 27 May 2013.

<sup>5</sup> The *Statement of regulatory approach to assessing price notifications* is available on the ACCC's website at [www.accc.gov.au](http://www.accc.gov.au).

# Attachment A

## Locality notice and supporting submission

### Supporting submission to the locality notice given by

### Sydney Airport Corporation Limited on 6 August 2013

#### 1 Background

Sydney Airport Corporation Limited (*Sydney Airport*) has notified various charges which apply to the provision of declared services to regional air services operating from Terminal 2 of Sydney (Kingsford Smith) Airport (the *Airport*). Sydney Airport now wishes to accommodate regional air services operating from both Terminals 2 and 3 and submits the attached locality notice for that purpose.

The notification is made in the context of QantasLink's intention to relocate its operations from Terminal 2 to Terminal 3.

No increase in charges is sought. The maximum charges proposed by Sydney Airport are no higher than those previously notified to the ACCC in 2002, and approved by the ACCC in 2002 and 2010 in respect of regional air services operating from Terminal 2. This notification will not result in any change in charges for regional airlines who continue to operate from Terminal 2.

#### 2 Proposed prices

Sydney Airport will charge no more than the following GST exclusive amounts:

<b>Passenger facilitation charges – separate charge components (option A)*</b>		
Terminal facility	\$1.75	Per passenger
Apron parking	\$35.00	Per 15 minutes
Check-in counter	\$17.00	Per counter per hour
<b>Passenger facilitation charges – per passenger charges (option B)*</b>		
Regional PFC	\$4.50	Per passenger
<b>Passenger facilitation charges – separate charge components (option C)*</b>		
Terminal facility	\$1.74	Per passenger
Apron parking	\$2.50	Per passenger
Check-in counter	\$0.26	Per passenger
<b>Apron parking charges applicable where a regional airline operates from a terminal that is not owned by Sydney Airport and requests that an aircraft associated with it park on a common user apron at the Airport</b>		
Apron parking	\$35.00	Per 15 minutes
<b>Passenger security and bag screening</b>		
Per passenger	\$0.87	Per passenger
<b>Runway charges</b>		
Runway charge	\$3.44	Per MTOW tonne
Minimum runway charge	\$50.00	Per movement
Minimum runway charge	\$41.25	Per movement

\* Passenger facilitation charges are based on either option A, or B or C, as selected by users

(MTOW 5-10 tonnes)		
Minimum runway charge (MTOW 0-5 tonnes)	\$20.00	Per movement

For the avoidance of doubt, where "passenger facilitation charges – per passenger charges" (option B) is charged, Sydney Airport shall not apply any of the "passenger facilitation charges - separate charge components" (options A and C) except in accordance with the Sydney Airport Conditions of Use (or other commercial agreement) and Part VIIA of the *Competition and Consumer Act 2010*, as applicable.

### 3 Consistency with regulatory framework

The proposed charges are consistent with:

- (a) Ministerial Direction No 34; and
- (b) the rationale for, and the express terms of, the three factors set out in s 95G(7) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) to which the ACCC must have particular regard in considering this notification,

in that they represent no increase to the long standing charges applicable for regional airlines operating from Terminal 2. Further, Sydney Airport's current proposal to apply charges to both Terminals 2 and 3 to a maximum that is no higher than those previously notified is analogous to the transfer of the former Domestic Express Terminal charge to Terminal 2 in 2002.

Sydney Airport submits that the ACCC should not object to the proposed charges.

**Attachment**

**Locality notice given by Sydney Airport Corporation Limited**

**Proposed prices and terms for the provision of aeronautical services and facilities to regional air services at Sydney Kingsford Smith Airport**

Notification of prices pursuant to s 95Z of the *Competition and Consumer Act 2010* (Cth) in relation to Declaration No 93.

1 Declared person:

Sydney Airport Corporation Limited  
Central Terrace Building  
10 Arrivals Court  
Sydney International Airport  
New South Wales 2020

gives notice that it may supply aeronautical services and facilities to regional air services at Terminals 2 and 3 at Sydney Kingsford Smith Airport (the **Airport**) as specified in paragraph 2 below, effective from 15 August 2013.

2 Sydney Airport Corporation Limited (**Sydney Airport**) will charge no more than the following GST exclusive amounts:

<b>Passenger facilitation charges – separate charge components (option A)*</b>		
Terminal facility	\$1.75	Per passenger
Apron parking	\$35.00	Per 15 minutes
Check-in counter	\$17.00	Per counter per hour
<b>Passenger facilitation charges – per passenger charges (option B)*</b>		
Regional PFC	\$4.50	Per passenger
<b>Passenger facilitation charges – separate charge components (option C)*</b>		
Terminal facility	\$1.74	Per passenger
Apron parking	\$2.50	Per passenger
Check-in counter	\$0.26	Per passenger
<b>Apron parking charges applicable where a regional airline operates from a terminal that is not owned by Sydney Airport and requests that an aircraft associated with it park on a common user apron at the Airport</b>		
Apron parking	\$35.00	Per 15 minutes
<b>Passenger security and bag screening</b>		
Per passenger	\$0.87	Per passenger
<b>Runway charges</b>		
Runway charge	\$3.44	Per MTOW tonne

\* Passenger facilitation charges are based on either option A or B or C, as selected by users.



Minimum runway charge	\$50.00	Per movement
Minimum runway charge (MTOW 5-10 tonnes)	\$41.25	Per movement
Minimum runway charge (MTOW 0-5 tonnes)	\$20.00	Per movement



**Jamie Motum**  
General Counsel and Company Secretary  
Sydney Airport Corporation Limited