



Virgin Australia Airlines Pty Ltd  
PO Box 1034  
Spring Hill QLD  
Australia 4004  
T +61 7 3295 3000  
[virginaustralia.com](http://virginaustralia.com)

23 September 2024

David Barrett & Dijana Cremona  
Infrastructure & Transport – Access & Pricing Branch, Infrastructure Division  
Australian Competition and Consumer Commission

By email: [david.barrett@acc.gov.au](mailto:david.barrett@acc.gov.au)  
Copied to: [dijana.cremona@acc.gov.au](mailto:dijana.cremona@acc.gov.au)

Dear Mr Barrett

**Re: ACCC Preliminary View Paper – Airservices Australia Draft Price Notification**

Virgin Australia appreciates the opportunity to provide a submission to the ACCC's Preliminary View Paper – Airservices Australia Draft Price Notification. This submission is in addition to Virgin Australia's submission to Airservices Australia's Revised Price Notification dated 23 August 2024.

**1. Executive Summary**

Virgin Australia acknowledges the ACCC's view not to object to Airservices Australia (**ASA**) proposed weighted average price increase of 6%; and the detailed preliminary view paper the ACCC has published for public consultation.

In this submission I address Virgin Australia's position in relation to each of the following:

- (a) Absence of actionable performance measures to hold ASA accountable for the delivery of its services;
- (b) The appropriateness of the price increase justification;
- (c) The duration and magnitude of the revised price change; and
- (d) Ongoing lack of consultation.

**2. Service Performance Levels and Monitoring**

Virgin Australia wishes to emphasise the ACCC's view that ASA should improve the transparency and accountability of its performance monitoring. ASA has not commented on, nor committed to, what its response will be if it does not meet its performance targets.<sup>1</sup> Airlines, including Virgin Australia, experience significant downstream impacts without any means of even partial cost recovery or cost sharing when avoidable cancellations and disruptions occur. Virgin Australia therefore, strongly stresses the ACCC's comment that despite ASA having reasonable measures in place to monitor and drive improved performance, there is still substantial scope and need for ASA to improve its level of transparency and accountability in relation to its performance.<sup>2</sup>

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<sup>1</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 76

<sup>2</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 78.

Virgin Australia reiterates its preparedness and desire to participate in the co-development of service level agreements in the context of genuine, open, and transparent consultations related to any price proposal and to evidence a commitment by ASA to improved service.

### 3. Pricing Model Inputs

Virgin Australia notes the ACCC's preliminary views and makes the following comments:

- Re-establishing the Pricing Consultative Committee and other stakeholder engagement forums will present a platform to work towards an annual 'true-up' mechanism that balances the risks of Airservices and airlines.<sup>3</sup>
- Virgin Australia asks ASA to reinvest available funds into infrastructure, performance improvement initiatives and addressing identified problems before considering paying a dividend to the government.<sup>4</sup>
- Virgin Australia remains concerned about ASA's lack of accountability with regards to their cost management efforts. The declared air traffic control enterprise agreement states that salaries will increase by 11.2% over a period of 3 years.<sup>5</sup> Virgin Australia understands that the increase in salary is for existing and new staff. Virgin Australia is concerned that the view on salaries does not account for substantial allowances and other possible employment benefits.<sup>6</sup> ASA furthermore fails to provide any detail on their cost structure for contractors which make up a substantial proportion of ASA's workforce.<sup>7</sup>
- An accurate reflection of ASA's Weighted Average Cost of Capital (**WACC**) is warranted. Based on recent data, Bloomberg estimates ASA WACC as 6.3%.<sup>8</sup> Virgin Australia acknowledges the ACCC's view that a reduction on WACC would have a minor impact on this price notification and that the impact is bigger for the next price notification given the extensive capital expenditure projected<sup>9</sup> (anticipated to include major investment programs such as OneSKY and Western Sydney International Airport).
- Virgin Australia reiterates that costs associated with new airspace users (e.g. drones) should not be funded by airlines and similarly, remediation costs due to PFAS use should also be funded by other sources such as insurance, rather than airlines.

### 4. Magnitude and Duration

Virgin Australia remains concerned about the absence of a long-term price agreement and notes the ACCC's preliminary view that '...if the amended draft price notification involved a longer pricing period that included 2026-27 with a price path of several price increases, it would necessitate the assessment of several major capital expenditure projects including OneSKY and WSIA'.<sup>10</sup>

<sup>3</sup> For the ACCC assessment, see ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 31.

<sup>4</sup> Section 2.2.3 page 13 Minister's Statement of Expectations (The current Statement of Expectations can be accessed here: <https://www.legislation.gov.au/Details/F2023L00987>) references return to profitability and pay a dividend to the Government in 2027-28 or sooner.

<sup>5</sup> [Air Traffic Control Enterprise Agreement Declared - Airservices \(airservicesaustralia.com\)](https://www.legislation.gov.au/Details/F2023L00987)

<sup>6</sup> See Administrative Decision (Remuneration) 2023/01 [Scanned Document \(airservicesaustralia.com\)](https://www.legislation.gov.au/Details/F2023L00987).

<sup>7</sup> ASA's high operating costs appear to be driven by a heavy reliance on external contracting labour (supplier costs have increased 51% in FY23) with minimal incentive for ASA to manage this cost moving forward. Review of Airservices Australia financial statements.

<sup>8</sup> Source: Virgin Australia subscription to financial data from Bloomberg.com on 21 Aug-24.

<sup>9</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 5.

<sup>10</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 20.



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Virgin Australia furthermore notes that the '...ACCC's preliminary view is that the assessment of costs and revenues over the 2024-25 and 2025-26 financial years is appropriate.'<sup>11</sup>

Virgin Australia is seeking a firm commitment from ASA to engage in open and transparent dialogue commencing early 2025 to develop a long-term price agreement effective from 2026/27 onwards, and visibly demonstrate that all feedback provided during the current consultation process is actioned.

## 5. Lack of Consultation

Virgin Australia welcomes the ACCC's statement that it '...is not satisfied that the level of customer consultation, that has occurred from 2021 to the date of the amended draft price notification, has provided appropriate transparency and accountability. The ACCC expects Airservices to reengage with stakeholders in a way that provides meaningful and timely engagement, as well as greater transparency.'<sup>12</sup>

Virgin Australia was pleased to hear that ASA has committed to re-establish the Pricing Consultative Committee; and that it is establishing a quarterly customer engagement forum (to discuss performance and investment matters), as well as a 6-monthly industry-wide forum (to discuss the development of future long-term pricing agreements).<sup>13</sup>

Virgin Australia is grateful for the opportunity to provide this submission to ACCC Preliminary View Paper – Airservices Australia Draft Price Notification. ASA's services have a material impact on Virgin Australia's operation performance, and ultimately its customers. As such Virgin Australia remains focused on ensuring this process delivers a fair and transparent cost increase, which achieves acceptable and reliable services from ASA.

Yours sincerely

**Race Strauss**  
**Chief Financial Officer**  
**Virgin Australia Group**

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<sup>11</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 20.

<sup>12</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 81.

<sup>13</sup> ACCC preliminary view on Airservices Australia's Draft Price Notification, August 2024, page 82.