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CONFERENCE ON THE ECONOMICS OF AIRPORTS AND AIR NAVIGATION SERVICES

(Montreal, 19 - 28 June 2000)

Agenda Item 1: **Economic situation of airports, air navigation service providers and their financial relationships with air carriers and other users**
Agenda Item 2: **Organizational issues**
Agenda Item 4: **Determinants of the economic regulation of airports and air navigation services**

DEVELOPMENTS IN AIRPORT OWNERSHIP AND REFORMS TO THE PROVISION OF AIR NAVIGATION SERVICES IN AUSTRALIA

(Presented by Australia)

INFORMATION PAPER

SUMMARY

The attached paper presents information on the management of aviation infrastructure in Australia. It sets out why Australia has chosen to privatise its major airports, what regulatory arrangements apply and details what is planned for air navigation services in the future.

1. Introduction

1.1 Australian aviation infrastructure, airports and air navigation services, have undergone significant change over the past two decades as Australian (both Federal and State) Governments have vigorously pursued microeconomic reform across most sectors of the economy.

1.2 For the information of delegates to the ANSConf 2000, Australia provides the attached paper canvassing the reforms undertaken and underway in Australia, with particular reference to airport operations and air navigation service provision.

1.3 The Australian delegation would be pleased to answer any questions delegates may have about the policy reform process in Australia.

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(30 pages)

APPENDIX

AUSTRALIAN AIRPORT OPERATIONS IN THE CONTEXT OF PRIVATISATION

PRESENTATION TO THE ICAO ANS CONFERENCE JUNE 2000
MONTREAL, CANADA

CONTENTS

Introduction

This paper examines the context in which major airports in Australia were privatised and reforms are being made to aviation safety as part of the Australian Government's micro economic reform agenda. It also covers the regulatory framework implemented as part of that process.

Over the last two decades, successive Australian (Federal and State) Governments have actively been pursuing microeconomic reform across a number of areas to make the Australian economy more responsive and efficient.

In regard to the aviation industry, the micro reform initiatives have included:

(i) Commercialising, corporatising and privatising government businesses to improve the effectiveness and efficiency of service delivery and facilitate a move to service specific charging. For example, this process has been followed in regard to the operation and subsequent sale of the Australian Government (Federal) airports.

(ii) Reducing business regulation to essential elements and disentangling regulatory activities undertaken by Government from non-regulatory elements capable of being provided under contestable conditions with appropriate regulatory safeguards. For example, a new regulatory framework is being developed to facilitate competition in providing control tower and fire fighting and rescue services on airport.

(iii) The Government withdrawing from operating business enterprises where it has been judged that the particular services can equally be provided under private ownership. For example, the Federal Government sold its domestic carrier, Australian Airlines, to Qantas and subsequently privatised that carrier.

(iv) The Government introducing contestability and competition into Australia's domestic and international markets, and liberalising the economic regulation of air services to the greatest extent possible consistent with safety and international obligations and the national interest. For example, Australia now has multiple designation for Australian international carriers and has created a single aviation market with New Zealand (that permits competition on domestic routes).

Australia has no legislative restrictions on entry to its domestic market for air services subject to safety, insurance, aviation security etc. requirements being met. The State of New South Wales controls access to its intrastate routes under its own State legislation (*Air Transport Act 1964*), but no other State or Territory imposes such controls.

This paper canvasses the types of reforms undertaken by the Australian Government under (i) and (ii) above in regard to the aviation industry and airport operations in particular. More recent developments in Australian airport operations are also briefly discussed.

Airport Infrastructure in Australia – the Historical Context

A Government-owned statutory authority, the Federal Airports Corporation (FAC), was established in 1988. It started with 17 airports comprising all the major capital city airports, to which a further 6 were added in 1989 (one later being sold by the FAC).
The majority of other smaller airports in Australia are under local ownership.
Following a scoping study in 1995 into the possible sale of the 22 airports operated by the FAC, the then Government announced its intention to privatise those airports. The sale of the Sydney Basin airports (including Sydney Airport), however, was deferred pending satisfactory resolution of noise issues affecting the Sydney basin and the outcome of an environmental impact study into a second major airport for Sydney.

The decision to privatise reflected a number of factors, including:

- On going constraints on Government funding, and the large (sunk) capital investments that could be released for other higher priority expenditure requirements.
- The growing maturity of private financial markets, capable of funding major transport and infrastructure investments.
- The need to improve efficiency and flexibility in the way airports are managed and operated, by introducing new technology and working practices and fostering a commercial culture through privatisation.

During 1997 and 1998, long-term leases (50 years with an option to renew for a further 49 years) were sold over seventeen of the FAC operated airports in two phases. The first phase sold leases to Melbourne, Brisbane and Perth airports and the second phase sold leases to the remaining fourteen airports, comprising:

- 10 regular public transport airports – Adelaide, Alice Springs, Canberra, Coolangatta, Darwin, Hobart, Launceston, Townsville, Mt Isa and Tennant Creek; and
- 4 general aviation aerodromes – Archerfield, Jandakot, Moorabbin, and Parafield (Attachment A refers).

No decision has yet been taken on the sale of the Sydney basin or Essendon airports, including timing or the form of the sale. The other 17 sales in the Australian airport privatisation process were all by way of trade sales.

The FAC was self-regulating in a large number of areas, including land use and environmental planning and control. As part of the sale process, the Parliament enacted the *Airports Act 1996* to remove these responsibilities from the new operators

To ensure that the airports remaining in Government ownership could compete effectively with the privatised airports, the Government (in July 1998) formed two wholly Australian Government-owned companies to acquire leases over the four Sydney basin airports (Sydney, Bankstown, Camden, Hoxton Park) and Essendon (in Melbourne). While these airports remain in public ownership they will operate

on a fully commercial basis and under the same regulatory regime as that applying to the privatised airports.

Introducing Competition to Airport Operations

Through the sale and legislative processes, the Government also put in place arrangements that would encourage competition between, and on, airports to the greatest extent possible.

To that end, in the sale process the Government (inter alia):

- encouraged local participation from the community in which the airport is located (particularly in the case of the airports located outside mainland capital cities);

- ensured the airports remained Australian owned and controlled and a diversity of ownership was achieved; and

- introduced new airport operators that had the appropriate financial strength and managerial capabilities to operate and develop the airports over the lease period, consistent with Australia's international obligations and environmental laws.

Through statutory provisions under the *Airports Act 1996*, airline ownership in airports is restricted and cross ownership restrictions of 15 per cent have been imposed between Sydney (Kingsford Smith) Airport and Melbourne, Brisbane and Perth Airports.

In addition, an economic regulatory regime has also been established, administered by the Australian Competition and Consumer Commission (ACCC), to ensure that there is no abuse of any residual monopoly powers by airport lessees, particularly in the area of pricing. Further details on these arrangements are given below (under 'Airports Operating Environment').

In relation to control of on-airport activities, the aim has been to place on-airport businesses in a competitively neutral regulatory position with respect to businesses operating off-airport. In some cases, it was necessary for the Australian Government to make regulations on these matters in order to ease the transition to the new arrangements under privatisation. The Australian Government is, however, continuing to work with relevant State and Territory agencies to implement arrangements that will allow their removal over time.

The *Airports Act 1996* also contains special provisions designed to promote competition for businesses operating on an airport by declaring airport services to be subject to the third party access provisions under Australia's competition laws.

The New Airport Operating Environment

In 1997, during the course of privatising the airports, the Government also initiated a review of the scope for introducing contestability to some of the functions of Airservices Australia – a Government owned monopoly provider of air navigation, rescue and fire fighting services in the aviation industry. Experienced overseas providers of air traffic control services have a presence in Australia, and some Australian firms are also capable of providing these services. A similar situation applies with respect to rescue and fire-fighting services.
Competitive neutrality in the provision of services to airport operators by air traffic control providers - both Airservices and other parties – was addressed in the review.

The Civil Aviation Safety Authority (a Government statutory body responsible for aviation safety) is preparing a safety regulatory framework for control tower and rescue and firefighting services to facilitate the introduction of competition for such services. En-route air traffic services are expected to remain a natural monopoly provided by Airservices. (Further details are given below.)

The privatisation of the Federal airports has;

(i) resulted in a significant restructuring of airport businesses in Australia:
- for larger airports creating a privately owned, commercially driven and independent businesses in place of a publicly owned airport network; and
- for smaller airports, independent locally owned businesses with closer links to the community that they serve;

(ii) required the establishment of a comprehensive planning and environmental regulatory framework over the major airports to ensure the public interest continues to be adequately protected;

(iii) involved the development of a pricing policy framework for the major airports to ensure that airport users also share in the expected productivity gains from privatisation and the transition from public to private ownership is smooth; and

(iv) required appropriate regulatory and administrative mechanisms to ensure that Australia's designated international airports comply with the Chicago Convention and ICAO Standards and Recommended Practices (SARPs).

The operational framework for air traffic management and safety regulation undertaken by the Airservices Australia and the Civil Aviation Safety Authority, respectively, has not been affected by the privatisation of airport operations. The type of services delivered by these organisations, however, remains under review with a view to improving delivery performance and introducing competition where services are capable of being opened to competition under regulatory controls.

Each of these areas has been addressed briefly below.

(i) ***Airport Operating Environment - Ownership Structure***

Local government operates the majority of general aviation and regional airports in Australia. In respect to the privatised airports, only companies that meet strict ownership criteria can own / operate a Federal airport lease. These criteria are that:

- Australians hold a majority (at least 51%) of the paid-up capital, voting power, and rights to distributions of profits and capital of each company holding an airport; and
- an individual airline together with its associates does not hold more than 5% of any interest in an airport company (this maintains competition policy principles by separating ownership of an airport operator from ownership of airlines); and
- an airport company's head office is located in Australia and a majority of its directors are Australian citizens.

For the major airports, the Government's commitment to majority Australian ownership reflected the need to strike a balance between the strategic role these airports play in Australia's transport network and a desire to permit quality overseas airport operators to participate in the ownership and operation of Australia's airports. Permitting a level of foreign ownership also assisted in ensuring greater diversity of ownership – thereby enhancing competition.

By offering each of the major airports for sale on an individual basis and providing opportunity for local as well as foreign participation, diversity of ownership was encouraged – thereby enhancing 'benchmark' competition between the airports in both quality of service and pricing. The sale of leases to the 17 major airports has attracted 11 different consortia, with a spectrum extending from major Australian (eg AMP, Commonwealth Bank) and international firms (eg BAA, Schipol, Manchester, Serco and AGI) operating the larger airports to smaller, locally owned businesses, for smaller regular public transport airports.

(ii) ***Airport Operating Environment – Planning and Operations and Environmental Regulation***

The Government's decision to sell long term leases to the major airports reflects the strategic importance of the assets and the need to utilise a constitutional authority (making laws in regard to Australian Government places) to apply a consistent national regulatory regime to their operations. The regulatory regime extends across airport planning, environmental and operational matters (including competition policy and pricing issues) and is underpinned by Federal statutes (and regulations made thereunder) that are either:

- aviation industry specific - the *Airports Act 1996*, the *Civil Aviation Act 1988, Air Navigation Act 1920* and *Sydney Airport Demand Management Act 1997*; or

- more general in their application - the *Trade Practices Act 1974*, *Prices Surveillance Act 1983* and *Environment Protection and Biodiversity Conservation Act 1999*.

A brief description of each of the Australian Government statutes that apply to airport operations, and their regulatory intention, is given in Attachment B.

(iii) ***Airport Operating Environment – Competition and Pricing Policy Framework***

Ground Handling at Airports

The term 'ground handling' at Australian airports encompasses a multitude of functions, which are broadly divided into two separate but related streams – 'passenger services' and 'ramp handling'.

These two streams may be described in the following way:

- Passenger services - covers checking a passenger's travel documents, tagging baggage, allocating seats, passenger security matters, general passenger assistance and guidance, etc.

- Ramp handling - covers tasks such as loading and unloading passenger's baggage, freight and mail services, aircraft catering and cabin cleaning and engineering. Aircraft refuelling is also sometimes considered a 'ramp handling' function. In Australia, aircraft refuelling is usually performed by a fuel supplier contracted to the particular airline. Freight (or cargo) terminal operations may be performed by the same company selected for other ramp handling activities; someone with whom the airline has a commercial alliance; or a separate party entirely who specialises in cargo handling.

The principal suppliers of services in Australia are the two major Australian carriers, Ansett Australia and Qantas Airways. Many airlines make their choice of 'ground handler' for a particular requirement based not so much on price but other factors, such as reciprocity of handling at other locations and/or based on commercial alliances. There is, however, a range of companies at Australian airports that supply the various ground handling services to meet airline requirements should an airline not wish to perform the tasks. The choice is a commercial matter and its impact on airport services depends on the particular arrangements adopted at an airport.

Australia has promulgated a national access regime for third party access to services provided by means of significant infrastructure facilities. The *Trade Practices Act 1974* establishes three means by which third parties may seek access to nationally significant infrastructure services – declaration of the infrastructure facility; through an undertaking to the ACCC; or certification of a State or Territory access regime as an 'effective regime'. Airport services in Australia have been 'declared' for the purposes of the *Trade Practices Act 1974* but the regime thereunder provides for minimum intervention by the Australian Government in determining actual terms and conditions of access by third parties. Further details on the operation of the regime are given in Attachment C.

Access to ground handling services is also covered in Australia's bilateral air services arrangements, which state that ground services shall be available on an equal basis to all airlines.

Most of the larger Australian airports have developed a general 'conditions of use' document which sets out physical arrangements, security and other requirements together with commercial conditions (facilities provided, fees, services, indemnities etc) that would apply for potential new

airlines to obtain access to the airport. Similar documents exist, or are being developed by the airports, to facilitate operators wishing to undertake ground handling (including cargo handling) functions at an airport.

In facilitating greater competition at Australian airports in ground handling, some airports will have to undertake infrastructure improvements in the future, for example, construction of common-user by-pass facilities to allow cargo transfer between airside and land side by off-airport cargo operators.

Pricing Policy at Airports

The Australian Government has had prices oversight arrangements for public and private sector business activities in place for nearly two decades. Their objective is to promote competitive pricing, and restrain price rises in those markets where competition is seen to be less than effective.

The ACCC is responsible for administering the *Prices Surveillance Act 1983.* That Act enables the Commission to undertake price surveillance, price inquiries or price monitoring of selected goods and services in the Australian economy. Its powers extend to business activities of the Australian, State and Territory authorities, as well as trading, financial and foreign corporations.

Once the responsible Australian Government Minister formally 'declares' an organisation, good or service subject to prices surveillance, the price of a declared product is not permitted to increase above its endorsed price or its highest price in the previous 12 months without notification to the ACCC.

Prices surveillance is currently applied to:

- aeronautical services of the larger leased airports - Adelaide, Alice Springs, Brisbane, Canberra, Coolangatta, Darwin, Hobart, Launceston, Melbourne, Perth, Sydney and Townsville airports; and

- charges made by Airservices Australia for terminal navigation, en-route navigation and rescue and firefighting services.

Price inquiries involve studies of limited duration into pricing practices and related matters concerning the supply of particular goods and services, following direction from the responsible Australian Government Minister. During the period of the inquiry, the price under examination may not be increased beyond its peak price in the previous 12 months without the approval of the ACCC. The findings of the inquiry are then reported to the Minister.

The responsible Australian Government Minister may also request ongoing monitoring of prices, costs and profits in any industry or business. The ACCC is currently required to undertake prices monitoring of all aeronautically-related charges (eg for car parking and check-in counters) at the larger leased airports.

Findings from prices surveillance and monitoring of the larger leased airports are presented in regulatory reports also covering financial and quality of service reporting.

The pricing framework for larger leased airports currently includes a price cap on 'aeronautical services' and monitoring of 'aeronautically related' charges. Under the price cap arrangements airport operators at the larger airports must reduce prices for 5 years (following leasing) on charges for 'aeronautical services'. The price cap takes the form of 'CPI - X' where:

- CPI is the Australian consumer price index; and

- the X values were set by the Government (5.5% for Perth , 4.5% for Brisbane and Coolangatta, 4% for Melbourne and Adelaide; 3.0% for Darwin, Hobart and Alice Springs; 2.5% for Launceston; and 1.0% for Canberra and Townsville) based on expected productivity improvements.

Within the overall cap, the airport operator is able to introduce new charges and restructure charges and seek to achieve higher profit levels through productivity gains and cost reductions. Price cap compliance is calculated on a revenue weighted average price basis. Under this approach, increases in particular charges are weighted by that component's proportion of revenue for the previous period. Charges for new or varied aeronautical services are also factored into the price cap arrangements and the weighting given to the particular component is derived by determining the share of the expected revenues to the total of all aeronautical revenues. The regulatory framework allows for aeronautical prices to exceed the cap in any given year, provided that the additional revenue is passed back to users within two years (other than in year four when it is to be passed back in one year).

Consistent with international experience, Australian airports typically under recover on the costs of aeronautical assets and cross subsidise those investments from revenues from non-aeronautical assets. At Canberra, Melbourne and Sydney Airports, for example, returns on aeronautical assets are estimated to be -0.4 per cent, 2.8 per cent and 0.7 per cent, respectively. Although the price cap on 'aeronautical services' does not preclude airport operators setting aeronautical charges after taking account of the amount of non aeronautical revenues being generated, the Government has not mandated the use of a 'single till' approach to airport pricing.

Customs, immigration and quarantine (CIQ) services are provided at international gateway airports at no cost to airport operators, although they are required to provide appropriate terminal space and other infrastructure. CIQ agencies operating costs are mainly funded from general revenue of the Federal Government which recovers the costs of passenger processing and short term visas through a nationally determined Passenger Movement Charge ($30 for passengers leaving Australia), collected by airlines/travel agents at the point of sale of tickets.

Attachment D illustrates the aeronautical charges that apply at three Australian Airports, Sydney, Melbourne and Canberra.

Under the pricing framework, airport operators have scope to seek charge increases outside of the price cap to recoup costs associated with necessary new investment. The ACCC assesses such

applications against a set of criteria that guide the Commission in its assessment of proposals. Those criteria are listed in Attachment E.

Airport Market Power

While airports have natural monopoly elements, the degree of any associated power may vary between:

- airports (depending on the proximity of alternative services); and

- the classes of services provided at airports (eg general aviation compared with regular public transport - where the former may have relatively high elasticity of demand).

The level of countervailing power of the user groups may also affect the degree of any monopoly power. At an international airport, for example, airlines with international alliances are expected to have much stronger negotiating power than smaller regional airlines or general aviation users.

The nature of the aviation market and operating environment for an airport can also influence the level of competition. For example, where an airport is endeavouring to establish itself as an alternative hub for regional or international operations, this may strongly influence its pricing decisions. This is particularly the case if an airport is capable of utilising intrinsic operational (such as lack of a curfew) or economic advantages (eg proximity to markets) to attract new business.

The regulatory environment is also a constraint to non-competitive behaviour. In Australia, the pricing oversight framework is intended to promote the operation of the airports in as an efficient and commercial manner as possible. It has also been designed to:

- provide assurance that airport users would be protected from any abuse of market power by airport operators;

- provide a period of price stability for the aviation industry in the transition period to the new airport operating environment;

- provide operators with sufficient incentive to invest in new infrastructure; and

- encourage the development of commercial relationships between airport operators and airport users that has airport operators and their customers negotiating directly on infrastructure provision, service standards and requirements and charges.

Transparency in airport operations is also a means for competitive behaviour. Under the regulatory regime the ACCC reports annually on airport operations to provide transparency in their operations. Those reports cover:

- airport financials (from information supplied by airport operators);

- quality of service (drawn from information supplied by the airports as well as airline and passenger surveys);

- prices monitoring; and

- price cap compliance.

This initiative is designed to improve the transparency of airport operations and assists users in assessing their financial performance and economic efficiency. Being open to public scrutiny also facilitates and encourages competitive benchmark assessment and weighs against taking advantage of any market power. In view of the multiplicity of factors that influence the actual, and perceived, degree of market power held by an airport operator in providing particular services or products, it is a matter not easily capable of being objectively assessed.

The ACCC will review the oversight arrangements towards the end of the first five years of their operation (2001/02). That review will be based on the premise that the price cap applied to aeronautical charges will no longer operate. Instead the aim will be to develop arrangements targeted at those charges for services or products where the airport operator has most potential to abuse market power. As with the initial five year period, the Government will not mandate the use of a single till approach to airport pricing. The review is also intended to provide the operators and stakeholders with the opportunity to suggest alternative oversight arrangements. The outcome of the review will take the form of recommendations from the ACCC for consideration by the Government, allowing decisions to be taken before the end of the initial five year pricing oversight arrangements.

(iv) *Airport Operating Environment – Chicago Convention and ICAO Standards and Recommended Practices (ICAO SARPs)*

Australia ensures that its designated international airports comply with the Chicago Convention and ICAO SARPs through a system of regulatory and administrative mechanisms.

Provision is made in the *Airports Act 1996* to enable the direct enforcement of the Chicago Convention and also bilateral air services agreements but, to date, there has been no need to trigger that power. Certain ICAO SARPs are, however, now enforced through regulations (eg the provisions of Annex 14 relating to construction at airports, and PANS-OPS and OLS).

Australian international airports are open to aircraft flying domestically and internationally on uniform conditions, irrespective of the nationality of the aircraft. Uniform non-discriminatory access is required under the provisions of the leases the Government has with airport operators and also through regulatory controls (for example, the application of Part 10 of the *Airports Act 1996* and regulation 91 of the *Civil Aviation Regulations 1988*).

Australia has a National Facilitation Advisory Committee (National FAL) to oversight implementation of Annex 9 SARPs (facilitation of aircraft, passengers and cargo through CIQ) at international gateway airports. CIQ and other relevant agencies, airport operators and airline

representatives are on the Committee, which is chaired by the Department of Transport and Regional Services. Australia places a high priority on the achievement of improved passenger and cargo facilitation at international gateway airports. National FAL keeps Australia's compliance with Annex 9 under close review and regularly reviews differences lodged with ICAO.

In respect of the generally smaller airports operated by local authorities, uniform and non-discriminatory access (consistent with the physical limitations of the aerodrome) is provided under standard clauses in the relevant Deeds between the airport operator and the Australian Government. Those Deeds also require the airport operators to operate their airport in compliance with the provisions of the *Civil Aviation Act 1988* and *Air Navigation Act 1920*, and regulations made thereunder. The safety of all Australian airports is regulated by the *Civil Aviation Act 1988* and subsidiary legislation under that Act, administered by the Civil Aviation Safety Authority of Australia (CASA). Compliance with ICAO SARPs in relation to safety of airports is largely monitored and enforced by CASA.

Air navigation and aeronautical telecommunication facilities and services in Australia, including those at airports, are currently provided exclusively by Airservices Australia, a commercial statutory authority. Airservices provides these facilities and services in compliance with ICAO SARPs, under the provisions of its enabling legislation, the *Air Services Act 1995*.

As discussed below, since organisations other than Airservices may be permitted to provide terminal control tower and fire fighting and rescue services in the future, legislated standards for the provision of these facilities and services are being developed by CASA with comment and input from affected stakeholders. Any person wishing to provide such facilities and services will be compelled to comply with mandated standards that will reflect ICAO SARPs in the area.

Aviation security at airports is comprehensively regulated under the *Air Navigation Act 1920* and subsidiary legislation. The provisions of the legislation require airport operators to comply with security standards that reflect Annex 17 SARPs.

Air Navigation Services and Safety Regulation

History

Prior to 1988, the provision of air navigation services in Australia was handled by a range of different Federal Government Departments, culminating with the (then) Department of Transport and Communications in 1988. In that year, as part of the microeconomic reform process, the Government established the Civil Aviation Authority (CAA), a Government owned business enterprise to handle what were deemed to be essentially commercially-based activities. The CAA assumed responsibility for both provision of air navigation services and aviation safety regulation.

In July 1995, the Government separated the safety regulator and service provider functions by creating two new statutory bodies:

- Airservices Australia (Airservices) - to provide (for the purpose of giving effect to the Chicago Convention or otherwise for purposes relating to the safety, regularity or efficiency of air navigation): facilities and services that permit safe navigation of aircraft within Australian administered airspace; rescue and fire fighting services; and aeronautical communication services; and

- the Civil Aviation Safety Authority (CASA) - to regulate aviation safety.

Airservices Australia

Structure and Competition

Airservices is established under the *Air Services Act 1995* and is governed by a Board of Directors appointed by the Minister for Transport and Regional Services. The Board is responsible for deciding objectives, strategies and policies, and for ensuring that Airservices performs its functions in a proper, efficient and effective manner.

Airservices manages 11% of the world's airspace and, last year, was named the best provider of air traffic services by the International Air Transport Association. It has completed the implementation of a new air traffic control system, the Advanced Australian Air Traffic System (TAAATS), which unites computers, radars and communications into a single system. TAAATS brings with it enhanced operational features that significantly improve the efficiency and safety of air navigation services.

The Government has stated its intention to corporatise Airservices in the latter half of this year and to introduce some measured competition to the provision of airport based air traffic control services and aviation rescue and fire fighting services. CASA will finalise standards for air traffic control services and the provision of rescue and firefighting services before they are opened to competition. The Government decided to open these services to competition in order to provide the new airport operators with the opportunity to control all on-airport services.

While the majority of the safety regulatory functions were transferred to CASA, Airservices has retained two regulatory functions - airspace and environmental management. The Government is currently reviewing these functions to determine who should have carriage for them post-corporatisation.

Funding Arrangements

Airservices' revenue is primarily obtained from charges levied for the provision of air traffic control (comprising en-route and terminal navigation charges) and aviation rescue and fire fighting services. Until July 1997 all these charges were set on a network basis, with cross-subsidisation between users and within the different charging groups.

In preparing for a future commercial operating environment, Airservices implemented in July 1997 a pricing reform program with the key objectives of: improving the alignment of charges and services; allowing greater choice of services; and improved equity in charging arrangements for all users. Location specific charging was introduced for rescue and fire fighting services in July 1997 and for terminal navigation charges in July 1998.

The move to location specific pricing for terminal navigation services would have required charges at lower activity airports to rise considerably to recover the full costs of service provision. As a mitigation strategy, prices at non-capital city airports were capped at $6.75 per landed tonne with the revenue shortfall being funded by a specific Government subsidy of $29m over the period July 1998 - June 2001. This subsidy is being funded through a temporary increase in the duties on aviation fuels.

Airservices charges are generally levied on the basis of weight (terminal navigation charges) or weight and distance flown by aircraft (en-route charges) in the Australian Flight Information Region. They are set at a level to allow recovery of the specific cost of service provision (plus a profit margin) at each location for the three main services provided (terminal navigation, en-route navigation and aviation rescue and fire fighting). Airservices projected revenue for 1999/2000 is $A567million, of which almost 94% is expected to be raised from charges on aviation users.

Airservices' current pricing strategy is to achieve real reductions in average prices of over 20% in the five years to 2002/3. Real price reductions of 6% have been delivered up to June 2000 and further real reductions of 8% for the following year are planned. Detailsd of current charges are provided in Attachment F. Further pricing reforms of en-route services are planned including the disaggregation of en-route services into specific components to provide customers with greater choice to meet their particular requirements.

Civil Aviation Safety Authority (CASA)

The primary responsibility of CASA is civil aviation safety regulation including the administration of requirements in relation to the operation of aerodromes (and the issue of airport licences) and aircraft safety. In performing its functions CASA is required to give pre eminence to safety and does this by:

- setting aviation standards and rules;
- licensing pilots and aviation engineers;
- certifying aircraft and operators;
- carrying out safety surveillance;
- enforcing safety standards and rules;
- providing regulatory oversight of the national airways system, air traffic services and rescue and fire fighting services; and

- actively assisting the aviation industry to maintain high safety levels through education, training advice and consultation.

The following table sets out the principal legislation by which CASA is governed and the instruments it issues.

Legislation	Description.
Civil Aviation Act 1988	Established the Civil Aviation Authority. Amended by *Civil Aviation Legislation Amendment Act 1995* to provide for separation of the CAA into Airservices Australia and CASA.
Civil Aviation Regulations (CAR)	Made pursuant to the Civil Aviation Act. They set out requirements in relation to aerodromes and safety. Under the CARs: - aerodrome licences are issued on a perpetual basis (subject to suspension or cancellation for infraction of conditions); and - each aerodrome is required to have an operating procedures manual.
Civil Aviation Orders (CAO)	Set out standards.
Rules and Practices for Aerodromes (RPA)	Set out standards.
Civil Aviation Advisory Publications	Set out advisory material.

Funding Arrangements

Since its establishment in 1995, CASA's funding has been broadly based on a beneficiary model. Under this model, the general public, the travelling public and the aviation industry, as beneficiaries of aviation safety regulation in Australia, each contribute to the costs of the aviation regulator. In 1998-99, cash funding for CASA was $78.7m sourced as follows:

- $29.7m from Government;
- $40.3m from fuel excise collections;
- $2.5m from fees and charges for services rendered; and
- $6.2m from miscellaneous sources (including a one-off Government payment of $5.6m to ensure Y2K compliance).

CASA is reviewing its regulatory framework and, as part of that program, requirements and standards applicable to aerodrome licences (currently set out in the RPAs) will be set out more

clearly in the CARs and CAOs. It is intended that, in general, requirements will harmonise with international practice. The Government is also reviewing CASA's long term funding strategy with a view to extending the user pays principle to include reimbursement for a broader range of direct services that CASA provides to the aviation industry.

Attachment A

Former Federal Airports Corporation Airports

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Attachment B

Australian Statutes Applying to Airport Operations in Australia

Airports Act 1996 **(Airports Act)**

The *Airports Act 1996* sets out a comprehensive regime for the regulation of the major airports. The Act places certain restrictions on airport operators and ownership of the leases and covers a number of areas of airport operations, including, implementation of international agreements relating to airports, land use planning and building controls and environmental management on airport. A brief description of the more significant matters is given below.

- The Act requires airport operators to be majority Australian owned and places a restriction on airline ownership and imposes cross-ownership limits to ensure diversity of ownership (see below).

- The Act places on airport operators financial and other transparency reporting obligations, to assist the Australian Competition and Consumer Commission (ACCC) in its pricing oversight role, and provides for the ACCC to monitor quality of service at the airports.

- An airport lessee company must submit for approval of the Minister an airport master plan. This is a 20 year forward looking plan, renewed at least every five years that is intended to:

  - identify development objectives for the airports;
  - assess the future needs of the civil aviation users of the airports;
  - include the airport lessee's proposals for land use and related development;
  - forecast noise exposure levels;
  - identify plans, developed in consultation with the airlines, for dealing with aircraft noise intrusion in areas subject to significant exposure; and
  - assess environmental issues likely to be associated with the implementation of the plan, and propose strategies for dealing with those issues.

- An operator must also submit for approval major development plans for significant constructions. A major airport development, which must not be carried out except in accordance with an approved plan, consists of:

  - constructing a new runway;
  - extending the length of a runway;
  - constructing new buildings that are either wholly or principally for use as a passenger terminal, or where the cost of construction exceeds $10 million;
  - constructing or extending a taxiway, road, railway or rail facility which will significantly increase the capacity of the airport to handle movements of passengers, freight or aircraft; or the cost of construction exceeds $10 million; or

- a development of a kind that is likely to have significant; environmental or ecological impact, or if a final environmental strategy is in force for the airport, a development which affects an area that has been identified as environmentally significant.

These separate approval processes reflect the distinction between longer term strategic planning for the airport as a whole and firm individual development proposals. Both procedures also require formal public consultation to occur before being submitted to the Minister.

- Airport operators are also required to develop and comply with Airport '*Environment Strategies'*. These relate to a five-year period and include specific measures that the operator proposes to adopt to prevent, control or reduce and monitor environmental impacts associated with airport operations. They also require a public consultation process prior to being submitted for Ministerial approval. Additionally, Regulations made under the Airports Act set standards and impose requirements in relation to the prevention or minimisation of environmental pollution (air, water, noise and soil). The requirements are administered by the Department of Transport and Regional Services.

- Airports may be subject to a declared capacity (the number of aircraft movements the airport is capable of handling during an interval of time) by the Minister and where this is in force the Minister may declare the airport is subject to statutory demand management. A demand management scheme may take any one of three or more forms – category exclusion, slot allocation or movement limitation. A demand management scheme is currently in place at Sydney Airport by the application of the *Sydney Airport Demand Management Act 1997* (see below) but no other airport is subject to a declared capacity or demand management.

Air Navigation Act 1920

Australia ratified the Chicago Convention under this statute. It also provides for the designation of international airports and establishes the framework for aviation security (in accordance with Annex 17 of the Convention) and accident investigations (in accordance with Annex 13 of the Convention). Responsibility for designation of international airports rests with the Minister for Transport and Regional Services. Designation only occurs following advice from the relevant agencies involved in safety, airport operational services, passenger facilitation and security provision / oversight at airports.

Aircraft noise emissions generated during landing, take-off or taxiing are also subject to the provisions of the *Air Navigation Act 1920* and associated regulations.

Sydney Airport Demand Management Act 1997

As part of the Australian Government's commitment to improving the operational efficiency of the Sydney (Kingsford Smith) Airport, a slot scheme was implemented (effective from 29 March 1998) at the Airport under the provisions of this legislation and associated regulations. The scheme

establishes a planning mechanism for administering a cap of 80 movements per hour at Sydney Airport.

The Scheme was developed in full consultation with the aviation industry. A company formed by the airlines and the airport operator undertakes the day to day administration of the Scheme. Funding for this is provided by Australian operators (90%) using the airport (in proportion to the number of slots they hold) and the airport operator (10%).

Trade Practices Act 1974

The Act applies generally to the business and commercial activities of most corporations operating in Australia, including those operating Australia's major airports. Its provisions promote competition and fair trading and provide for consumer protection. Part IIIA of the Act deals with third party access to nationally significant essential facilities, such as airports, and Part IV deals with anti-competitive practices. Airport services at the leased Federal airports are 'declared' for the purposes of Part IIIA of the Act. Declaration gives current airport and potential airport users the right to:

- negotiate with an airport operator the terms and conditions of access to 'significant facilities' (ie those that are necessary for operating civil aviation at an airport); and
- have the Australian Competition and Consumer Commission (ACCC) arbitrate if those terms cannot be agreed.

Further details are given in Attachment C.

The ACCC is a national agency that deals with competition and pricing matters with responsibility for enforcing the Trade Practices Act and administering the Prices Surveillance Act. Its objectives include:

- improving competition and efficiency in markets;
- fostering adherence to fair trading practices in well informed markets;
- promoting competitive pricing and restraining price rises in markets where competition is less than effective.

Prices Surveillance Act 1983

This Act enables the ACCC to examine prices of selected goods and services with the objectives of promoting competitive pricing wherever possible and restraining price rises in markets where competition is less than effective. The ACCC has three pricing functions under the Act, to:

- vet proposed price rises for any organisation, goods or services placed under prices surveillance;
- hold inquiries into pricing practices and related matters; and
- monitor prices, costs and profits of an industry, business or service and to report the results.

The responsible Federal Minister determines what organisations, goods or services are selected for prices surveillance, what matters are investigated through an inquiry and what industry, business or service is monitored.

Prices oversight under the Act is based on voluntary restraint. Declaration of services under the Act requires the airport operator to notify the ACCC of a proposal to increase charges for these services. The penalties provided for in the Act relate to failure to notify price increases and are not penalties for price increases per se that have been notified. These arrangements have worked successfully since inception. Should an airport operator attempt to establish charges above those allowed by the terms of the price cap framework, the ACCC has the option of recommending an inquiry (during which the charges for declared services would be frozen). The Minister determines the subject of an ACCC inquiry and its length.

Environment Protection and Biodiversity Conservation Act 1999 **(Environment Act)**

The Environment Act will replace the *Environment Protection (Impact of Proposals) Act 1974* and the *Endangered Species Protection Act 1992* on 16 July 2000. The Environment Act establishes a special assessment process to ensure that environmentally significant actions undertaken on the leased Federal airports are subject to environmental assessment and public consultation processes.

The procedures outlined in the Act specify that, before a Federal (Australian Government) Agency approves an action, the Agency must obtain and consider advice from the Federal Environment Minister. As part of these procedures, the Minister is required to give advice on whether or not the agency should approve a particular project and what conditions may be attached to an approval should it be granted. The advice from the Minister will be based an environmental assessment process, such as an Environmental Impact Statement, a Public Environment Report or a Public Inquiry. The Minister also determines the level and scope of the assessment.

Attachment C

Overview of Part IIIA of the *Trade Practices Act 1974* (the Act)

There is a two-part procedure under Part IIIA of the Act by which third parties may achieve access to services provided by (what are judged to be) 'essential infrastructure facilities', including at Airports.

This two-part procedure, the **declaration process** and **arbitration of access arrangements**, exists in addition to two other methods for achieving access to such services:

(i) **Undertakings:** The operator of an infrastructure service can give a voluntary undertaking to the ACCC, setting out the terms and conditions on which access to that service will be provided. If an undertaking is accepted, this provides a legally binding means by which third parties can obtain access to the infrastructure service. A service that is subject to an undertaking cannot be 'declared'.

(ii) **Certification by the Australian Government Minister:** State or Territory governments may apply through the National Competition Council (NCC) to have an access regime certified as effective in relation to a particular service. The NCC then makes a recommendation to the relevant Australian Government Minister on whether or not to certify the regime. In making this decision, the Minister must consider the NCC's recommendation and apply the relevant principles set out in the CPA. Where an effective State or Territory access regime is in place the relevant infrastructure service cannot be 'declared'.

The Australian Competition and Consumer Commission (ACCC) may only arbitrate on a dispute concerning access to 'essential infrastructure' if the service has been 'declared' by a 'designated Minister'. The 'designated Minister' is the Australian Government Minister or the Premier or Chief Minister of a State or Territory where the provider of the service is a State or Territory body and the State or Territory concerned is a party to the *Competition Principles Agreement*.

Declarations and Arbitration of Access Arrangements

Part IIIA of the Act sets out a declaration process and a subsequent arbitration process which governs arrangements for access to the 'declared' services. The basic steps set out in the Act are as follows:

(a) Upon application (by a Minister, or any other person), the NCC assesses the application (based on criteria set out in the *Trade Practices Act 1974*) and makes a recommendation to the designated Minister on whether the service should be declared.

(b) The Minister decides whether to 'declare' the service and must publish the declaration (or the decision not to declare) and give reasons for the decision to the provider of the service and the third party who applied to the NCC for the declaration recommendation.

(c) A party aggrieved by the decision of the Minister may appeal to the Australian Competition Tribunal. A decision of the Tribunal overrides the Minister's decision.

(d) If the service is declared, the applicant and the service provider are to negotiate the terms and conditions of access in the first instance. If the parties cannot agree on the terms of access to the service (eg terms and /or fee for access), they may notify the ACCC that an access dispute exists. The ACCC can arbitrate the terms and conditions but its determination is subject to certain restrictions (eg it may not deprive the provider of the service of a 'pre-contractual right').

(e) A party aggrieved by the ACCC's determination may apply to the Australian Competition Tribunal for review of the decision. If the ruling of the Tribunal is unfavourable, it may be appealed to the Federal Court, but only on a question of law.

(f) Where necessary, access determinations are enforceable via the Federal Court.

Attachment D

Comparison of Charges* at Sydney, Melbourne and Canberra Airports

	Sydney (Kingsford Smith) Airport	Melbourne Airport	Canberra International Airport
Landing Charge	**Fixed Wing Aircraft - $2.92 per 1000kg MTOW pro-rata, subject to a minimum charge per landing of $100.00.** **Rotary wing aircraft - $2.92 per 1000kg MTOW pro-rata.**	**$5.41 per 1000kg MTOW pro-rata.**	**Regular Public Transport Operators and aircraft weighing more than 10000kg:** • **$2.27 per PAX or** • **$5.72 per landing per 1000kg.** **General Aviation aircraft up to 10,000kg:** • **$5.34 per landing per 1000kg.**
Parking Charge	• General Aviation: $11.00 per day (<2hrs free). • Passenger aircraft which departs on a day following its arrival (there is an exemption for aircraft that arrive in off-peak times and leave early the next day - $350.00 per day or part thereof. • Freighter (and other) aircraft - $350.00 per day or part thereof.	$50 per day (<2hrs free).	• RPT aircraft exempt. • <2500kg parked on grass or hangar: $15 per day (<2hrs free). • 2500kg – 4000kg parked on asphalt or hangar: $30 per day (<2hrs free) • 4000kg – 5700kg parked on asphalt or hangar: $50 per day (<2hrs free) • >5700kg parked on asphalt: $10.50 per 1,000kg per day (<2hrs free)
Passenger Terminal Charge	$7.92 per 1,000kg MTOW pro-rata.	$3.80 per 1000kg MTOW pro-rata.	N/A
Security Charge	$0.42 per 1000kg MTOW pro-rata for all aircraft weighing more than 20,000kg.	$0.30 per 1000kg MTOW pro-rata.	N/A

***** As at 1 January 2000

Attachment E

Assessment of Proposals for Charging Increases Related to Necessary New Investment – Guidelines for the ACCC

These criteria will, where relevant for its purposes, guide the ACCC in its assessment of proposals related to necessary new investment to increase aeronautical charges at a rate in excess of the CPI-X cap:

(a) the operator's plans for new investment or service innovation and the associated costs;

(b) the relationship between the proposed increases in aeronautical charges and the costs (including the level of rate of return) of the new investment or service;

(c) support from airport users with a significant interest in the investment for the operator's proposals, including in relation to charging changes;

(d) contribution of the new investment / service to productivity improvements at the airport;

(e) overall efficiency of the airport's operation;

(f) the particular demand management characteristics of individual airports, including any demand management schemes in place, capacity constraints and any underutilisation of airport infrastructure;

(g) airport performance against quality of service measures, including services under the control of the airport operator;

(h) airport performance *vis a vis* other Australian airports and any comparable international airports; and

(i) the extent to which the proposed investment will facilitate the operations of new entrants to domestic or international aviation.

While the ACCC must take the above into account in deciding whether to approve a proposal to increase charges outside the cap, each proposal will be considered on its merits having regard to the information available to the ACCC. The weight provided by the ACCC to each of the criteria (a) to (i) may vary on a case by case basis.

Consistent with the provisions of the *Prices Surveillance Act 1983*, where the ACCC does not approve a proposal to increase charges outside the price cap, it will provide a statement of reasons for its determination.

Attachment F

Airservices Australia Charges 1999/2000

Prices for Terminal Navigation Services

The price per tonne landed for Terminal Navigation Services is set out in the table below:

	$	$	$
Terminal Navigation	**1998/99**	**1999/00**	Change
Adelaide	$8.18	$8.06	-$0.12
Brisbane - International	$5.05	$4.42	-$0.63
Brisbane - Domestic	$4.69	$4.42	-$0.27
Cairns > 5.7 tonnes	$7.35	$7.24	-$0.11
Cairns < 5.7 tonnes	6.75	6.75	-
Canberra > 5.7 tonnes	$8.34	$7.96	-$0.38
Canberra < 5.7 tonnes	$6.75	$6.75	-
Coolangatta > 5.7 tonnes	$8.61	$8.27	-$0.34
Coolangatta < 5.7 tonnes	$6.75	$6.75	-
Darwin - International	$3.55	$3.01	-$0.54
Darwin - Domestic	$3.19	$3.01	-$0.18
Melbourne - International	$4.01	$3.40	-$0.61
Melbourne - Domestic	$3.65	$3.40	-$0.25
Perth	$6.83	$6.73	-$0.10
Sydney - International	$4.67	$4.08	-$0.59
Sydney - Domestic	$4.31	$4.08	-$0.23
Townsville - International	$4.87	$4.33	-$0.54
Townsville - Domestic	$4.51	$4.33	-$0.18
All other locations	$6.75	$6.75	-

Prices for Enroute Services

	$	$	$
Enroute Services	**1998/99**	**1999/00**	**Change**
> 20 tonnes [1]	$5.41	$5.31	-$0.10
20 tonnes & less[2i]	$1.21	$1.18	-$0.03

Prices for Aviation Rescue & Firefighting Services

	$	$	$
Aviation Rescue & Fire Fighting Services	**1998/99**	**1999/00**	**Change**
Adelaide	$2.40	$2.40	-

Alice Springs	$5.64	$5.64	-
Brisbane	$1.26	$1.26	-
Cairns	$3.32	$3.25	-0.07
Canberra	$3.11	$2.97	-$0.14
Coolangatta	$3.73	$3.73	-
Darwin	$6.07	$5.99	-$0.08
Hobart	$7.05	$7.05	-
Karratha	$10.93	$10.93	-
Launceston	$7.79	$7.79	-
Mackay	$9.20	$8.99	-$0.21
Melbourne	$0.98	$0.93	-$0.05
Perth	$2.18	$2.11	-$0.07
Port Hedland	$15.59	$15.59	-
Rockhampton	$8.54	$8.51	-$0.03
Sydney	$0.67	$0.59	-$0.08

[i] $5.31 x (distance/100) x square root of weight in tonnes

[i]ii $1.18 x (distance/100) x weight in tonnes