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Submissions
Commerce Commission
WELLINGTON



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To whom it may concern,

Draft report on how effectively information disclosure regulation is promoting the purpose of Part 4 for Auckland Airport

Introduction

1. Vector welcomes the opportunity to submit on the Draft report to the Ministers of Commerce and Transport on how effectively information disclosure regulation is promoting the purpose of Part 4 for Auckland Airport, dated April 2013. This submission should be read in conjunction with our submission, dated 29 June 2012, in response to the Commerce Commission's Process and Issues Paper "Airport Services – s 56G Reports", dated 29 June 2012.
2. No part of our submission is confidential and we are happy for it to be publicly released.
3. Vector's contact person for this submission is:

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Vector's views

4. Vector agrees with the Commission that it will take time to determine the effectiveness of Information Disclosure (or Part 4 economic regulation, more generally).
5. It takes a number of years to identify the extent to which adequate investment is occurring, whether incentives to innovate and improve efficiency are resulting in improved cost/service quality outcomes, and efficiency gains that are occurring are being (appropriately) shared with consumers.
6. Whether a return is "excessive" depends, in part, on the extent to which a supplier has innovated and improved efficiency and service quality. The greater the improvements in efficiency (e.g. reductions in costs) the higher the returns that should be acceptable. Determining whether returns are excessive would require a longer period of time than provided by the current Airport reviews.
7. We agree the Commission's statement that "it is unlikely to be in consumers' long-term interests to attempt to fully eliminate all excess returns"¹ and "the faster the rate of sharing efficiency gains with consumers, the weaker the incentive for

¹ Commerce Commission, 2010-15 Default Price-Quality Path for Electricity Distribution: Draft Decisions Paper, July 2011, para 1.48.

businesses to make efficiency gains".² Consistent with the Commission's statement, our view is that suppliers need to be meaningfully rewarded for efficiency gains to ensure they have incentives to improve efficiency.

8. The Commission has not provided guidance on the distinction between excessive returns and above WACC returns. This means suppliers have no clear way of knowing what level of returns above WACC the Commission would consider justifiable or reasonable.
9. It would not necessarily be a failure of Information Disclosure if the Commission formed an ex post view that returns were excessive, but rather could simply reflect that the Commission has not provided adequate guidance on what is acceptable.
10. Vector cautions that the Commission's assessment of whether Auckland Airport's (and Wellington Airport's) returns are excessive, based on a comparison of returns against the Commission's view on what WACC is, can serve to reinforce the perception that the Commission is operating Part 4 of the Commerce Act as de facto rate of return regulation. It does not necessarily matter whether this perception is correct or not. If suppliers perceive that the Commission is operating de facto rate of return regulation, their incentives to innovate and improve efficiency will be dampened, contrary to the purpose of Part 4 of the Commerce Act. This is a concern that has been raised about the Commission's operation of Part 4 that is not specific to Airports and has been raised by both access seekers and access providers.

Concluding remarks

11. In summary, Vector is of the view that:
 - a. It will take time to determine how effective Information Disclosure would turn out to be; and
 - b. The Commission should widen its consideration of supplier returns, beyond a comparison of returns against the Commission's determination of WACC; and
 - c. The Commission should be clearer about the distinction between excess returns and returns above WACC.

Kind regards



Bruce Girdwood
Regulatory Affairs Manager

² Commerce Commission, Regulation of Electricity Lines Businesses: Discussion Paper, 21 March 2002, para 8.63.