

**CHRISTCHURCH INTERNATIONAL AIRPORT LIMITED**

**Submission on the Australian and New Zealand Productivity Commissions' Joint Study  
– Issues Paper**

**“STRENGTHENING ECONOMIC RELATIONS BETWEEN AUSTRALIA AND NEW ZEALAND”**

**Thursday 31 May 2012**

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## **INTRODUCTION**

- 1 Christchurch International Airport Limited (*CIAL*) welcomes the opportunity to make a submission on the Issues Paper released as part of the joint study being undertaken by the Productivity Commissions of Australia and New Zealand (the *Commissions*), 'Strengthening economic relations between Australia and New Zealand' (the *Issues Paper*).
  
- 2 *CIAL*'s contact persons in respect of this submission are:

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## EXECUTIVE SUMMARY

- 3 CIAL endorses the Commissions' fundamental premise that increased trans-Tasman integration is to be encouraged for the benefit of the trans-Tasman economy as a whole.
- 4 The trans-Tasman economy is built upon trade and tourism and so is necessarily dependent on:
  - 4.1 effective connectivity via international air services; and
  - 4.2 streamlined border processes.
- 5 These are the focus of CIAL's submission.
- 6 Ease of travel and connectivity between Australia and New Zealand is provided by their Open Skies Agreement. This agreement has opened up the trans-Tasman air services market to competition by removing all capacity, frequency and route restrictions for designated services operating within and between both countries.
- 7 Because the Open Skies Agreement is of treaty status there is no pressing need to have the exclusion of air services from the Australia New Zealand Closer Economic Relations Trade Agreement (*ANZCERTA*) removed. Open competition between Australian and New Zealand airlines is effectively preserved.
- 8 However, both countries can and should take further steps to liberalise access to their respective markets, including by:
  - 8.1 removing 5<sup>th</sup> freedom restrictions to Australia or New Zealand in their respective air services agreements (ASAs) with other countries; and
  - 8.2 relaxing the 'designated airline' criteria in their Open Skies Agreement to enable foreign airlines to fly the Tasman.
- 9 Effective connectivity to New Zealand's regional airports, like Christchurch Airport, should also be addressed by the New Zealand Government by mirroring Australia's open regional air access policy.
- 10 Liberalising ASAs benefits tourism and trade. The benefits to the latter cannot be underestimated. Because most air freight is carried in the bellyhold of passenger flights, the negative effects of air freight capacity constraints caused by restrictive ASAs are significant. This fact was recently acknowledged by the New Zealand Productivity Commission, with the formal recommendation that:<sup>1</sup>

The Government should account for freight-specific costs and benefits whenever it considers changes to air services agreements or new air services agreements.

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<sup>1</sup> New Zealand Productivity Commission "International freight transport services inquiry" (April 2012) at 243 <<http://www.productivity.govt.nz/final-report/1492>>.

- 11 Finally, streamlining trans-Tasman border processes must be put back on the New Zealand and Australian government agendas. Further to this, particular efforts should be made to improve integration between quarantine and biosecurity processes, and the Australian Government should consider reducing its proposed increased passenger departure tax.

## 5<sup>TH</sup> FREEDOM BEYOND-RIGHTS

### Key Points

- 12 In their respective future ASAs with other countries, both governments should commit to granting open 5<sup>th</sup> freedom rights to Australia or New Zealand (as the case may be).
- 13 In their respective existing ASAs with other countries, both governments should commit to removing restrictions on 5<sup>th</sup> freedom rights to Australia or New Zealand (as the case may be).
- 14 Giving international airlines the option of travelling to Australia and New Zealand in one air service will incentivise more international airlines to service both territories.<sup>2</sup> This will increase passenger and freight movements and so benefit the trans-Tasman economy as a whole.

### 5<sup>th</sup> freedom beyond-rights

- 15 The New Zealand Productivity Commission aptly describes 5<sup>th</sup> freedom rights as follows:<sup>3</sup>



The right or privilege, in respect of scheduled international air services granted by one State to another State to put down and to take on, in the territory of the first State, traffic coming from or destined to a third state.

### Why 5<sup>th</sup> freedom rights are economically important

- 16 Foreign airlines will be more likely to service the Tasman if they have the opportunity to land in Australia or New Zealand, and fly on to Australia or New Zealand in one service.
- 17 Incentivising more international services will benefit the trans-Tasman economy by increasing passenger and freight movements.
- 18 The importance of increasing freight movements is not to be underestimated. Most air freight is carried in the bellyhold of passenger flights, meaning ASAs fundamentally determine the access of New Zealand and Australian producers to international markets.
- 19 This fact was most recently acknowledged by the New Zealand Productivity Commission in its recent Inquiry into New Zealand's international freight Transport Services. The Productivity Commission formally recommended that:<sup>4</sup>

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<sup>2</sup> This has point has been echoed in relation to other jurisdictions, like Canada. See InterVISTAS "Draft Report: Regional Airports: A Policy Guide to Viability" (April 2005) at 12.

<sup>3</sup> The Productivity Commission of New Zealand "International freight transport services inquiry – Final Report" (April 2012) at Appendix B <<http://www.productivity.govt.nz/final-report/1492>>.

The Government should account for freight-specific costs and benefits whenever it considers changes to air services agreements or new air services agreements.

**New Zealand ASAs limiting 5<sup>th</sup> freedom rights to Australia**

20 Take the following examples of how New Zealand's ASAs with other countries limit the ability of airlines to travel to or from New Zealand via Australia:

20.1 Fiji – Australia is not available as an intermediate point to, or beyond point from, New Zealand.

20.2 France – Australia is not available as an intermediate point to, or beyond point from, New Zealand.

20.3 Indonesia – Australia is available as an intermediate point via 2 points, but Indonesia has no beyond rights from New Zealand.

20.4 Belgium – Belgium has no 5<sup>th</sup> freedom rights from New Zealand.

**Australian ASAs limiting 5<sup>th</sup> freedom rights to New Zealand**

21 CIAL does not have specific details of 5<sup>th</sup> freedom beyond rights restrictions in Australia's ASAs with other countries – partly because many of these restrictions are contained in confidential Memorandums of Understanding.

22 However, by way of example, CIAL is aware that Australia's ASA with Korea prevents Korean Airlines from carrying on to New Zealand from Australia.

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<sup>4</sup> New Zealand Productivity Commission "International freight transport services inquiry" (April 2012) at 243 <<http://www.productivity.govt.nz/final-report/1492>>.

## **AIR SERVICES EXCLUSION FROM ANZCERTA**

### **Key points**

- 23 The Australian and New Zealand air services market is governed by an Open Skies Agreement between both countries that has treaty status.
- 24 It follows that the exclusion of air services from ANZCERTA does not materially restrict trans-Tasman air services competition. There is no pressing need for it to be removed.

### **Exclusion of air services**

- 25 Air services are generally excluded from free trade agreements, like ANZCERTA, because they are strategically important to States.
- 26 They determine access to markets and raise national safety and security concerns over which States prefer an exclusive mandate.<sup>5</sup>
- 27 Article 6 of the Chicago Convention on International Civil Aviation 1944 (the *Chicago Convention*) recognised this, granting contracting States the sole right to determine air service arrangements operating over or into their territory:

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

- 28 Ever since the Chicago Convention, States have generally governed air services arrangements through bilateral - and increasingly multilateral and plurilateral - agreements.
- 29 The Australian inscription to the ANZCERTA Services Protocol recognises the governing role of the Australia-New Zealand Open Skies Agreement over air services within and between both countries:

Scheduled passenger and freight services within and between Australia and New Zealand are governed by an air services agreement which has treaty status and by the Australia-New Zealand Single Aviation Market Arrangements of 1996.

### **Australia–New Zealand Open Skies Agreement**

- 30 The Open Skies Agreement was entered into in 2002, and reinforces Australia and New Zealand's Single Aviation Market arrangements of 1996.
- 31 The Agreement and has successfully opened up the trans-Tasman air services market to competition, removing all capacity, frequency and route restrictions for designated airlines operating within and between both countries.

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<sup>5</sup> Wolfgang Hubner and Pierre Sauve "Liberalisation scenarios for international air transport" (OECD Directorate for Science Technology and Trade, Paris, 2002) at 1-2.



## **REGIONAL AIR ACCESS POLICY**

### **Key points**

- 32 The New Zealand Government should implement an 'open skies' regional air access policy, mirroring that in Australia.
- 33 Such a policy would increase the South Island's access to international markets, strengthening the South Island economy.
- 34 As New Zealand's (and the South Island's) biggest trading partner,<sup>6</sup> Australia would benefit from a stronger South Island economy. Australia could also benefit in terms of improved connectivity to the South Island, via more international services through Christchurch.
- 35 Introducing a regional air access policy in New Zealand would also be a positive step towards economic policy consistency between both countries.

### **Australia's open regional air access policy**

- 36 Under Australia's regional air access policy, foreign airlines are granted:
- 36.1 unlimited access to regional Australian airports; and
  - 36.2 more capacity to Australia's major gateways (Sydney, Melbourne, Brisbane and Perth) if their air services are linked to Australian regional airports.<sup>7</sup>
- 37 The Australian Government will also endeavour to offer more liberal beyond rights to foreign airlines from regional airports in future ASA negotiations.<sup>8</sup>

### **Benefits of open regional air access policies**

- 38 Open regional air access policies compensate smaller regional economies for the disproportionate economic prejudice they face as a result of the reciprocity and flight restrictions contained in national ASAs.
- 39 This disproportionate prejudice largely results from the fact that regional economies are distant from key aviation hubs, and major gateways are often the designated points in national ASAs.
- 40 The detriment suffered by regional airports because of restrictive national ASA policies is a fact recognised and compensated for by many overseas jurisdictions.<sup>9</sup>

### **The South Island needs an open regional air access policy**

#### ***Demand for air freight capacity is not being met by supply***

- 41 The increased air freight capacity associated with an open regional air access policy would be highly beneficial to the South Island, where current demand for air freight capacity is not being met by supply.

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<sup>6</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 12 and 17.

<sup>7</sup> Australian Government "National Aviation Policy White Paper" (December 2009) at 45.

<sup>8</sup> Australian Government "National Aviation Policy White Paper" (December 2009) at 45.

<sup>9</sup> For an overview of other regional access policies, see InterVISTAS "Draft Report: Regional Airports: A Policy Guide to Viability" (April 2005) at 19-29.

- 42 There is a strong and increasing demand for import and export air freight services through Christchurch:
- 42.1 The South Island produces almost half of New Zealand's primary sector goods,<sup>10</sup> which demand the efficient transportation to overseas markets offered by air freight services.
  - 42.2 South Island importers also require air freight services into Christchurch for other types of time sensitive freight, and high value manufactured goods.<sup>11</sup>
- 43 However, South Island demand for air freight capacity is not being met by supply. Consequently, South Island importers and exporters are having to:
- 43.1 use Auckland International Airport as their main hub (requiring domestic transportation of goods to and from the South Island); or
  - 43.2 not trade internationally.<sup>12</sup>
- 44 This results in Christchurch Airport transporting less than half of its share of air freight,<sup>13</sup> translating into 29,700 tonnes of missed air freight per year - being:
- 44.1 17,700 missed export tonnes; and
  - 44.2 12,000 missed import tonnes.<sup>14</sup>

***Constraints caused by current ASAs***

- 45 The South Island is disproportionately prejudiced by the reciprocity and flight restrictions in New Zealand's ASAs.
- 46 Airlines that would schedule flights to the South Island are prevented from doing so. North Island airports secure  $\frac{3}{4}$  of the volume of international flights under the current ASA framework, and – because Auckland is New Zealand's biggest metropolitan area – Auckland Airport often uses up initial quotas under existing ASAs.
- 47 For example, Auckland Airport is the only allowable destination point under New Zealand's ASAs with Argentina, India, Italy, and several Pacific Island countries.

***South Island is particularly reliant on passenger services***

- 48 The South Island is particularly reliant on passenger services for air freight capacity. Only one dedicated freighter operates out of Christchurch Airport 6 days a week – reducing to 4 services over the summer peak, December to March.

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<sup>10</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 1.

<sup>11</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 21.

<sup>12</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 37.

<sup>13</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 36 – 42.

<sup>14</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 2.

**Australia benefits from a New Zealand open regional air access policy**

- 49 By prompting more international services to the South Island, an open regional air access policy could increase the South Island's connectivity to Australia.
- 50 This has the potential to reduce the current amount of 'missed' import and export tonnes coming from, and destined to, Australia - which should be passing through Christchurch Airport (but are instead being domestically transported to and from Auckland Airport).
- 51 Of the 29,700 tonnes of total missed air freight through Christchurch Airport per year, Australia accounts for:
- 51.1 7,040 tonnes of missed exports;<sup>15</sup> and
- 51.2 3,252 tonnes of missed imports.<sup>16</sup>

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<sup>15</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 37 and 41.

<sup>16</sup> PWC "Opening up the South – A Report to the Canterbury Development Corporation" (12 August 2011) at 37 and 42.

## **STREAMLINING TRANS-TASMAN BORDER PROCESSES**

### **Key points**

- 52 Streamlining trans-Tasman border processes must be put back on the New Zealand and Australian government agendas.
- 53 The importance of efficient border processes cannot be understated. Australia is New Zealand's biggest travel and trading partner.<sup>17</sup>
- 54 The trans-Tasman economy benefits from a streamlined trans-Tasman border. Passengers will flow more freely across the Tasman if duplication of customs, immigration and biosecurity processes is removed, and more effective targeting of security risks is enabled.
- 55 Both governments should focus in particular on integrating biosecurity and quarantine procedures.
- 56 The Australian Government should also consider reducing its planned increased passenger departure tax.

### **Streamlining initiatives have fallen off the agenda**

- 57 Streamlining trans-Tasman border processes was announced as a priority by New Zealand Prime Minister, John Key, and former Australian Prime Minister, Kevin Rudd, in 2009.
- 58 Streamlining initiatives announced, and which are being pursued, include:
- 58.1 SmartGate clearance systems – enabling e-Passport passengers to check themselves through customs and immigration processes.
  - 58.2 Risk-based security screening – enabling low-risk passengers to move through customs faster.
  - 58.3 X-ray image transfer – enabling passenger baggage to be assessed for biosecurity risk and cleared during flight time.
- 59 In 2009 both Prime Ministers also announced the possibility of trans-Tasman flights being classified as 'domestic movements'. This proposal was anticipated to result in a significant reduction in trans-Tasman air fares.<sup>18</sup>
- 60 Unfortunately, the proposed x-ray image transfer initiative for biosecurity screening has not been effectively implemented, and the 'domestic movements' proposal appears to have been abandoned.

### **Integrate biosecurity and quarantine procedures**

- 61 More work needs to be done on integrating biosecurity and quarantine procedures between Australia and New Zealand.

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<sup>17</sup> Border Sector Governance Group "Border Sector Strategy 2008 – 2013 – A Framework for Collaboration from Border Sector Agencies" (June 2008) at 10.

<sup>18</sup> Brook Sabin "Trans-Tasman plane plans stall" *3 News* (online, 3 October 2011) <<http://www.3news.co.nz/Trans-Tasman-plane-plans-stall/tabid/419/articleID/228018/Default.aspx>>.

- 62 One step in this direction would be the implementation of the x-ray image transfer initiative, announced in 2009 – progress on which appears to have been stalled.
- 63 As mentioned, the image transfer initiative would see passenger baggage screened and cleared for biosecurity risk during flight time. This would enable passengers to more efficiently move through airports on arrival.

**Reduce proposed Australian passenger departure tax**

- 64 The Australian Government recently announced that its passenger departure tax will increase by \$8.00 from 1 July 2012.<sup>19</sup>
- 65 This increase has the potential to disincentivise trans-Tasman travel.
- 66 According to the Australian Tourism and Transport Forum, the increased tax will cost New Zealanders travelling to Australia an extra \$12.4 million dollars in 2012- 2013, alone.<sup>20</sup>

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<sup>19</sup> Australian Customs and Border Protection Service "Passenger Movement Charge (PMC)" Customs <[www.customs.gov.au](http://www.customs.gov.au)>.

<sup>20</sup> Australia Tourism and Transport Forum "Australia to New Zealand: We're Sorry" (May 17, 2012) <<http://www.ttf.org.au/Content/mediareleases.aspx>>.

## **FOREIGN-OWNED AIRLINES**

### **Key points**

- 67 The 'designated airline' criteria in the Australia-New Zealand Open Skies Agreement should be relaxed to enable foreign airlines to fly the Tasman.
- 68 This would increase air service supply on the Tasman.

### **Designated airline criteria**

- 69 To fly between Australia and New Zealand an airline must meet the following criteria for 'Designated airlines' in Article 2 of the Open Skies Agreement:
- (a) the airline is incorporated and has its principal place of business in the territory of the Party designating the airline;
  - (b) effective control of that airline is vested in the Party designating the airline, nationals of that Party, or both;
  - (c) the airline is qualified to meet the conditions prescribed under the laws, regulations and rules normally applied to the operation of international air transport by the Party considering the application or applications;
  - (d) the airline holds the necessary operating permits;
  - (e) the Party designating the airline is maintaining and administering the standards set forth in Article 5 (Safety) and Article 6 (Aviation Security).

### **Designated airline criteria should be relaxed**

- 70 When traffic rights are scarce, it makes sense for countries to award those rights to airlines that are connected to the designating country through ownership or control.
- 71 One reason for this is that an unconnected, foreign-owned airline is more likely than a national based airline to withdraw its services for commercial reasons.<sup>21</sup>
- 72 However, CIAL believes that a more relaxed approach to designation criteria can be taken in the Tasman.
- 73 We have open skies, and so no scarcity of traffic rights to ration.
- 74 It follows that the designation criteria under the Open Skies Agreement need to be tested a fresh.

### **Benefits of more relaxed criteria**

- 75 As mentioned, the benefits of a more relaxed approach to designation criteria will be greater air service supply on the Tasman.

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<sup>21</sup> Ministry of Transport "International Air Transport Policy" (May 2012) at [62].