Civil Aviation Bill Submission

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This submission seeks to retain Section 4 (3) of the current Airport Authorities Act 1966 as that act is subsumed into a new Civil Aviation Act for the reasons stated below.

Prior to 1985 the largest 24 airports in New Zealand were operated under the Joint Venture Airports Scheme that had been in place for some 30 years. While initially successful in developing a comprehensive domestic and international airport network for New Zealand the scheme was by then proving clumsy in relation to commercial developments at major airports as it required the Crown and its local authority partners to agree on all developments and expenditure of funds. It also required that any surpluses generated by the various airports must be retained within the joint venture airport account for future development, rather than potentially being dispersed to the respective parties. This latter requirement results in the larger airports holding significant cash reserves.

In 1985 the then Minister of Civil Aviation issued a document called **Airports – A New Partnership.** It advocated forming most joint venture airports into companies with a clear commercial focus, while retaining the current ownership structures between the crown and the one or more existing local authorities as shareholders. At the time this proposal was made it was not also government policy to privatise the airports but rather to operate them on a commercial basis, which would allow both appropriate developments to be undertaken and any operating surpluses to be returns as dividends to the respective shareholders.

This proposal was actioned as government policy and the Airport Authorities Act was amended accordingly, including the insertion of section 4 (3) to clearly state that airports should now be operated or managed on a commercial and business like fashion. Soon after the first airport companies were established from 1986. This policy placed New Zealand as one of the leaders in the field of airport commercialisation as most other countries airports at that time continued to be operated as either government departments or by states or individual local authorities. Section 4 (3) provided clear direction that from 1985 onwards airports were to be considered as commercial entities that required both the freedom to operate commercially and had the potential to pay a dividend to their owners. The commercialisation of airports commenced with the largest airports

and over the ensuing years the number of joint venture airports declined steadily until they were limited to a few of the minor airports supporting smaller communities.

The decision to allow the privatisation of some airports was undertaken by a subsequent government and subsequently Auckland International Airport was the first airport company to be listed on a stock exchange in the Asia Pacific region. A trade sale of 66% of the shareholding in Wellington subsequently took place and the minority crown shareholding in some regional airports companies was sold by the Crown e.g. Palmerston North, was sold to a private party before the Palmerston North City Council bought out that shareholding to gain 100% ownership of the airport company. New Zealand did not follow a wholesale move to privatisation and the second largest airport whilst commercialised has remained in total public ownership split between the Crown (25%) and the Christchurch City Council (75%).

Most other airports have similarly remained in public ownership while operating commercially as companies in accordance with Section 4 (3) of the current act. In the case of Tauranga Airport it has not been corporatized but rather operated as a business unit with the Tauranga District Council since that entity bought out the Crown and the Western District Council shareholding in the former joint venture. These two parties remain joint owners of some of the land upon which the airport is operated, as it had been purchased by them as joint venture partners, and it seems reasonable that they could expect a financial return on behalf of the taxpayers or ratepayers for this ongoing investment. Airports should not be operated as breakeven or loss making enterprises unless there are clear social reasons for sustaining airports servicing scheduled air transportation operations in specific locations. To adopt such a philosophy would revert to an approach that is incongruent with developments worldwide that in many regards have followed the lead of New Zealand in commercialising its airport system, such as occurred in Australia well after the initiative taken by New Zealand. In the case of Australia there is actually less freedom for airports to operate commercially as despite the larger airports having been leased to private entities they must gain Ministerial approval for their master plans each five years and similarly for major development plans exceeding specified financial limits.

Since the clear policy statement in 1985 by the then Minister of Civil Aviation New Zealand has very successfully operated a commercialised airport model that is distinctive internationally and allows for a sound business-like approach to be taken to developing and operating air transportation infrastructure to facilitate the air transport of both passengers and freight. Given that the majority of these companies are in public ownership it is my contention that section 4 (3) of the Airport Authorities Act 1966 has underpinned this successful development and operation of our airport system, and the relationship with substantial customers, such as airlines, who require both effective airport operations but also substantial future airport investment in order to ensure that airports both develop to meet future requirements of them, and to also ensure an appropriate rate of return for the private parties, the Crown, and the local authorities that are the owners of this important aspect of the transportation network.

It is further argued that the current proposed sections of the Civil Aviation Bill adequately protect the interests of airlines as substantial customers of the airports and the means by which aeronautical charges are set and levied.

Airlines consistently argue that airports are monopolies and should be regulated. The removal of section 4 (3) will support this argument by airlines as they could potentially then argue that airport charges should be on a breakeven, or even a loss making basis, to provide an essential service if the current section within the Airport Authorities Act is deleted. Since the worldwide deregulation of the

airline industry, which is generally recognised as following the passage of the Airline Deregulation Act of 1978 in the United States of America, airline operational models have altered significantly. One major change has been the development of a hub and spoke approach such as is operated by Air New Zealand from Auckland Airport. Such developments have meant that airlines concentrate their major operations at such airports and then argue they are being charged monopoly rents. It is interesting to note that an airline such as Air New Zealand no longer chooses to operate from former international airports at Hamilton and Palmerston North despite such independent airport companies providing the opportunity for such airlines to negotiate with multiple parties on airport charges and then act accordingly. Similarly it is difficult for airlines to sustain an argument that airports such as Auckland make excessive charges while at the same time via industry organisations such as the Board of Airline Representatives and Airlines for Australia and New Zealand they argued that proposed extensions to the runway at Wellington Airport were unnecessary. Such extensions would have provided airlines with enhanced capacity and increased their opportunity to negotiate aeronautical charges with multiple independent airport companies.

Additionally the recent approval of code sharing within New Zealand by Air New Zealand and Qantas has reduced the competitive landscape for many airport companies within New Zealand. This is because both airlines can now sell tickets on flights operated by the other party and the incentive for the two airlines to compete aggressively within the domestic market is reduced. It is also recognised in the aviation literature that such arrangements make it more difficult for a third airline to commence operations and consequently the outcome is a reduced ability of the airport company to make a sound financial return in a competitive airline environment. For these reasons it is very important that airports retain the legal right and obligation to operate commercially to protect the interest of the private investors, the Crown and the various local authority owners in airport infrastructure.

In summary New Zealand has been at the forefront of airport commercialisation since it was formally established as government policy from 1985 onwards and supported by ensuing governments. As commercialised entities airports, like airlines, have both the right and obligation, to make a sound financial return on the equity invested in them by the various owners. This also allows for future investment in airport infrastructure by such entities rather than relying on central government or local authorities to do so, which then places a potential burden on such public bodies. As stated above New Zealand has developed a unique mix of private and public ownership of airports which has served the country well and provided the investment necessary to develop and evolve the airport network to meet current and future air transport needs.

A cornerstone of the Airport Act has been the requirement that they operate on a commercial and business like fashion and the removal of this from the new act has the potential to take New Zealand backwards in terms of air policy and delivery. As such it is requested that section 4 (3) be retained in the new Civil Aviation Act.

In Schedule 8 of the draft Civil Aviation Bill Section (2) makes reference to the proposal to remove Section 4 (3) as *Modernising provisions relation to Airport Authorities.* New Zealand has one the most modern airport systems in the world that has been well served by the existing provision. There is no clear rationale for removing the Section 4 (3) and doing so has the has the potential for reversion to a former state of airports being viewed as public utilities rather than entities that can both act commercially and return economic benefits while ensuring that New Zealand retains a world class airport system.

Please feel free to contact me regarding and aspect of this submission. Regards David Lyon