TO:        Ms Deborah Cope
           NCC

DATE: 17 March 2003

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PAGES:     6 (Including Cover Sheet)

FROM:      WARREN BENNETT

SUBJECT:   APPLICATION BY VIRGIN BLUE FOR DECLARATION OF AIRSIDE SERVICE
           AT SYDNEY AIRPORT

Please refer attached.
Our Ref.: Let.1590

17 March 2003

Ms Deborah Cope
Acting Executive Director
National Competition Council
GPO Box 250B
MELBOURNE VIC 3001

Dear Ms Cope

APPLICATION BY VIRGIN BLUE FOR DECLARATION OF AIRSIDE SERVICE AT SYDNEY AIRPORT

Supplementary Submission by BARA on delineation of services provided by Sydney Airport

1 Background

(a) We refer to Virgin Blue’s application for declaration of "Airside Service" at Sydney Airport and to BARA’s Submissions dated:

- February 2003; and
- 5 March 2003.

(b) This Supplementary Submission on delineation of services should be read with BARA’s prior two Submissions.

2 The relevant services

(a) The application, and any consequent declarations, should not be confined to services for aircraft carrying domestic passengers but also international passengers.

(b) Generally, services for aircraft carrying passengers, whether domestic or international, involve the whole of Sydney Airport (as the relevant facility).

(c) The substance of BARA’s earlier Submissions is that the Virgin Blue application should not be limited to services for aircraft carrying domestic passengers only, but also extend to international passengers.

(d) It is noted that Virgin Blue is a member of BARA. Virgin Blue supports BARA’s Submissions.

(e) This further submission as to delineation of services categorises other services (Including Virgin Blue’s "associated facilities") provided by Sydney Airport as either "aeronautical" or "aeronautical related" services.
(f) BARA submits that the "aeronautical services" and "aeronautical related services" approach is an appropriate categorisation for the delineation of services.

(g) These categories are well known and understood by the Australian Competition and Consumer Commission, the operator of Sydney Airport and all significant stakeholders. These expressions and their understood meaning have been referred to since the beginning of the airport price oversight arrangements in 1996.

(h) BARA refers to the following:

(1) Transport and Regional Development "Pricing Policy Paper" dated November 1996 - Attachment A defines aeronautical services;

(2) Direction Number 27 of the Treasurer dated 26 June 2002 - in particular the definitions of "aeronautical" and "aeronautical related" services. This Direction applies specifically to Sydney Airport; and

(3) ACCC quality of service monitoring indicators - (airside indicators, terminal indicators and ground access indicators) - these reflect a similar approach.

3 Aeronautical Services and Aeronautical Related Services

(a) These are set out in Schedules A and B hereto. They are taken directly from Direction No 27 of the Treasurer dated 26 June 2002.

(b) Schedules A and B provide universally applicable industry and regulator accepted descriptions of airport services on an aeronautical and aeronautical related basis.

(c) Given their well understood application, the earlier Sydney International Terminal decision and the Virgin Blue Submission, BARA submits that further detailed submissions on the particular services is not likely to advance the issue at this stage; however BARA would be pleased to provide further detailed reasoning on the inclusion of the particular services if required in due course.

(d) BARA refers to the ACCC publication titled "Draft Guide - Section 192 of the Airports Act - Declaration of Airport Services", dated October 1998.

(1) In particular BARA refers to the table of "Airport Services" (p. viii) which sets out whether certain services are likely to satisfy the criteria set out in Section 192(5) of the Airports Act.

(2) While not directly applicable to Sydney Airport (due only to the definition of "core regulated airport"), and while the tests in Section 192(5) of the Airport Act may not be precisely the same as under Part IIIA of the Trade Practices Act, BARA submits that they are substantially similar and provide a most useful guide for this application under Part IIIA.

(3) Crucially, it is noted that "Airside facilities (including runways, taxiways, aprons etc)" are considered likely to satisfy the criteria in section 192(5), and therefore BARA submits, Part IIIA.
(4) These "Airsìde facilities" services substantially correspond to the "Aircraft movement facilities and activities" set out in Schedule A under "Aeronautical Services".

(5) See further under the heading "Services provided in terminal buildings", pages 20-21.

(6) Further, the Draft Guide notes that the following services are also likely to satisfy the tests in Section 192(5), and therefore BARA submits, Part IIIA:

- Land for providing refuelling services;
- Land for providing ground service and freight handling equipment storage facilities;
- Sites for light/emergency maintenance facilities;
- Landside vehicle facilities.

(e) BARA would also submit that refuelling facilities at Sydney Airport are likely to satisfy the tests in section 192(5) and Part IIIA.

(f) "Aeronautical services" - includes the entirety of Virgin Blue's "Airsìde Facilities" (including "other associated facilities").

4 Conclusion

(a) BARA submits that the "aeronautical" and "aeronautical related" services set out in Schedules A and B hereto are an appropriate delineation of airport services which should be declared.

(b) As stated above, BARA has not prepared further detailed individual submissions in relation to each service, but acknowledges that the Council may require further information in the consideration of this application. In that event BARA would be pleased to provide further particulars.

(c) BARA is conscious of the Council's time restraints and as requested in the Council's letter dated 12 March 2003 wishes to respond promptly.

(d) We thank the Council for its indulgence in providing an extension of time for BARA's Submissions.

Yours sincerely

Warren Bennett
Executive Director
Schedule "A"

Aeronautical Services

(a) Aircraft movement facilities and activities:
   (i) airside grounds, runways, taxiways and aprons;
   (ii) airfield lighting, airside roads and airside lighting;
   (iii) airside safety;
   (iv) nose-in guidance;
   (v) aircraft parking;
   (vi) visual navigation aids; and
   (vii) aircraft refuelling services.

(b) Passenger processing facilities and activities:
   (i) forward airline support area services;
   (ii) aerobridges and airside buses;
   (iii) departure lounges and holding lounges (but excluding commercially
         important persons lounges);
   (iv) immigration and customs service areas;
   (v) security systems and services (including closed circuit surveillance
       systems);
   (vi) baggage make-up, handling and reclaim;
   (vii) public areas in terminals, public amenities, public lifts, escalators and
         moving walkways; and
   (viii) flight information display and public address systems.
Schedule "B"

Aeronautical Related Services

(a) landside vehicle access to terminals;

(b) landside vehicle services, including:
   (i) public and staff parking (but not valet parking); and
   (ii) taxi holding and feeder rank services on airport;

(c) check-in counters and related facilities; and

(d) aircraft light and emergency maintenance sites and buildings.