



## **Submission to National Competition Council of Australia on the Draft Recommendation on the Application for Declaration of Jet Fuel Supply Infrastructure Services at Sydney Airport**

The International Air Transport Association (IATA) represents some 240 airlines comprising 84% of total air traffic. All the major scheduled airlines operating to Sydney Airport are members of IATA.

IATA fully supports the applications for declaration of services provided by jet fuel supply infrastructure and endorses the submissions made by the Board of Airline Representatives of Australia Inc (BARA) with regards to:

1. **Caltex pipeline** - the service provided by the Caltex pipeline facility, which transports jet fuel from interconnection points with off-site jet fuel storage facilities at Port Botany to the Sydney airport Joint User Hydrant Facility (JUHI); and
2. **Jet fuel storage and pipeline network / JUHI facility** - the services provided by the jet fuel storage facility (including facilities for refueling trucks) and jet fuel hydrant pipeline network facility provided by the JUHI at Sydney airport.

IATA welcomes the opportunity to provide this submission on the National Competition Council's (NCC) draft recommendations on the Caltex pipeline and Sydney JUHI. IATA notes the draft findings of the NCC that: (i) it would be uneconomic to develop another facility (ii) the facilities are of national significance (iii) there is no application of an effective access regime.

However, IATA is disappointed that the NCC's draft position is to not recommend declaration of the Caltex pipeline and the Sydney JUHI. NCC's explanation in its draft recommendations is that it is not satisfied that:

- (i) access would promote a material increase in competition in at least one market other than the market for the service.
- (ii) access to the service would not be contrary to the public interest.

IATA's submission will focus on these two aspects of the draft recommendations.

(i) **Access would promote a material increase in competition in at least one market other than the market for the service**

- Lack of competition among jet fuel suppliers: As noted in IATA's initial submission, the market for the supply of jet fuel to Sydney airport is highly concentrated, with an estimated Herfindahl-Hirschman Index of over 4000. While IATA agrees with the NCC that this in itself does not allow for definitive conclusions, it is still a characteristic that raises serious concerns. The jet fuel supply market is dominated by a vertically integrated company whose strong market power is derived by virtue of its ownership of a key piece of infrastructure that is economically unfeasible or impractical to duplicate. The conditions that prevail in the jet fuel supply market at Sydney airport raise serious concerns that competition may not be at a sufficiently effective level.
- Lack of access on commercial terms: IATA agrees with the draft recommendations of the NCC that existing arrangements requiring equity participation in the JUHI JV as a necessary step to access mean that a third party cannot expect to access and use the Sydney JUHI immediately. IATA also agrees with the assessment of the NCC draft recommendation that trucking jet fuel to Sydney airport is best viewed as a complementary mechanism to the use of pipelines rather than as a competitive substitute or alternative. IATA accepts that Caltex should be able to price access to its pipeline on a commercial level that allows it to earn a fair return. However, given the dominant position of Caltex, IATA is of the view that there is incentive and ability to restrict the total volumes of jet fuel competitors can supply to Sydney Airport through the Caltex pipeline. Further evidence of the lack of competition in the provision of services in the jet fuel supply at Sydney airport is supported by submission of international airlines to the declaration application (i.e. Emirates, Korean Air, UPS). The submissions stress the difficulties faced by airlines in securing multiple bids during the tendering process which may suggest the difficulties suppliers face in accessing the Sydney jet fuel supply market. IATA has been informed that BARA has requested a number of its members to provide additional information on a confidential basis to the NCC through a legal representative about the extent of competition between suppliers when they tender for jet fuel at Sydney airport. This information should further aid the NCC to assess

the level of competition and whether fair access on a commercial basis is being made available through the Caltex pipeline.

- Consideration of dependent markets: The NCC focused its assessment of criterion (a): Promotion of competition on:
  - (i) the market for the supply of jet fuel at Sydney airport
  - (ii) the market for into plane services at Sydney airport.

However, the NCC did not take into account the impacts on the international and domestic markets for the carriage of passengers and freight to and from Sydney airport. This is particularly so if restrictive access enables fuel users involved in self-supply the ability to extract significant cost advantage in this key component of an airline's operating cost. Additionally, the NCC may wish to consider whether access can promote material increase in competition in upstream dependent markets, particularly how increasing access may impact competition between domestic jet fuel refiners and importers of jet fuel.

- Significant volumes open to competition: IATA sees increased access to have a significant impact on competition on fuel supplied through the Caltex pipeline and Sydney JUHI, particularly due to this year's expected increased capacity of the Caltex pipeline coupled with the increasing proportion of jet fuel imports being used to meet demand.

**(ii) Access to the service would not be contrary to the public interest**

As highlighted above, IATA considers access would promote a material increase in competition in dependent markets as well as the market for the service. The increase in access is likely to promote competition across several dependent markets, which include downstream and upstream markets. Given the volume of jet fuel being supplied and potential gains from competition, the benefits in the downstream market alone would be of significant scale. For example, based on jet fuel purchase in 2010 in the dependent market for air transport, if fuel differentials for airlines were to reduce by just 1 USD cent per gallon due to more effective competition, it would result in tangible benefits of over 7 million USD per year.