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Attn:- Nevenka Codevelle

Dear Deborah,

I write in response to your letter of 28 November 2002 inviting submissions in response to an application by Virgin Blue for the declaration of Airside Service at Sydney Airport.

In our submission we have addressed the associated issues paper of November 2002 and provided our input to the matters that the Council sought comment on.

1 DEFINING THE SERVICE

1a The nature of the specific facilities and assets required to provide the Airside Service.

The nature of the specific facilities and assets required to provide the airside service are provided by three separate agencies but which are combined to ensure that the service can be delivered:-

<table>
<thead>
<tr>
<th>Agency</th>
<th>Facilities and Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airport Operator</td>
<td>Runways Taxiways and Aprons including lighting, markings and guidance lines; Access controls and security services; Airside vehicle control and licencing; Movement area lighting and guidance signs; Aircraft parking guidance; Navigational aids; Emergency Response and Management; Nose in Guidance; Refueling operator leases; Environment management Wildlife management and control.</td>
</tr>
<tr>
<td>Airservices Australia</td>
<td>Air Traffic Control; Rescue and Fire Fighting Services; Movement Area Control; Navigational Aids.</td>
</tr>
<tr>
<td>Airline Operator</td>
<td>Aircraft Refueling contract; Aircraft cleaning and servicing contracts; Ramp handling services (either contract or own staff); Aircraft security.</td>
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The provision, maintenance and management of these facilities is mandated by various Commonwealth Legislation including:- The Airport Act; Air Navigation Act; and Civil Aviation Act

Mandated by Commonwealth Legislation
1b Should the components making up the Airside Service be considered to be ‘services’ in their own right for the purposes of Part 111A?

Those ‘services’ provided by the Airport Operator and Airservices Australia that are mandated should not be considered under Part 111A as they are ‘services’ required by and audited under relevant existing legislation – however, the services provided by the Airline Operator that are not directly related to the operator could be considered under Part 111A particularly where they are conditional on receiving airside and airport access by the airport operator – cleaning, catering and refueling for example.

1c To what extent is the definition of Airside Service generally understood and accepted within the aviation industry in commercial and regulatory contexts?

The term “Airside” while not clearly defined in legislation is generally accepted and understood by the ICAO definition viz: “The movement area of an aerodrome, adjacent terrain and buildings or portions thereof, access to which is controlled.” Service in this context then would apply to permitting the controlled activities associated with the access, movement and processing of an aircraft within this area.

We would recommend that the Commonwealth identify and promulgate following consultation a suitable definition based on the above.

2 THE FACILITY PROVIDING THE SERVICE

2a What is the minimum bundle of assets required to provide the Airside Service?

Refer to 1a above.

2b The extent to which passengers and freight can be loaded and unloaded from points at Sydney Airport other than directly to/from the passenger terminals?

The safe, secure and efficient operations of aircraft and airports is dependent on compliance to the mandated controls of aircraft persons and freight to and from the airside, providing that compliance to these mandated requirements is able to be met then the loading and unloading of passengers and freight could be conducted at points other than passenger terminals. However, this would require additional assets and operating procedures than those currently in situ and at a cost. The efficiency and service standards of passenger transfers can be compromised by remote and fragmented terminal facilities – common user terminals are therefore recommended.

3 PROVIDER OF THE SERVICE

3a The nature of lease arrangements between Qantas and SACL for use of land at Sydney Airport

We are unable to comment on this request other than to say that at Adelaide Airport those agreements are in accord with the requirements of the South Australian Landlord and Tenancies Act.

4 S44G(2)(b) – that it would be uneconomical for anyone to develop another facility to provide the service.

4a Have there been any developments in the aviation and airports sectors since the Sydney Airport decision in 2000 that may lead to the conclusion that Sydney Airport no longer exhibits natural monopoly characteristics?

When discussing “Airside Services” no matter how many airports could be operated in competition to Sydney to avoid this monopoly phobia the fact of the matter is that the mandated requirements as detailed in 1a above would be required at the same standard and therefore offer no competitive advantage. In fact Airport operators are required by the Airports Act to ensure that on airport business enjoys no competitive advantage over off airport businesses. Sound planning applies equally to an airport as it does to railway and bus terminals and associated monopolistic characteristics.
4b Are there any other reasons why the Sydney Airport decision finding that it would be uneconomic to develop another such airport should not be applied in the case of Virgin Blue’s application?

See 4a above.

5 S44G(2)(a) – that access (or increased access) to the service would promote competition in at least one market (whether or not in Australia), other than the market for the service

5a Which passenger and freight transport city pair markets (if any) would most likely see a promotion of competition as a result of declaration of the Airside Service and why?

The broader community has always got an option to utilize some other form of transport other than air. There is of course rail, road or sea and while these may be seen to be less costly than air, the time factor must be given due and proper consideration as a value in assessing any comparisons.

Accordingly, Virgin Blue’s commercial assessment of using Sydney Airport is perhaps they believe that they can provide a more efficient and economic passenger and freight movement than other modes of transport from terminals that could be perceived to have a monopoly characteristic.

5b For each such market:
- to what extent does SACL have the ability and incentive to exercise market power?
- what is the nature of the barriers to entry?
- what is the degree of effective competition?
- do the airlines have any countervailing market power?
- what substitution possibilities are there for the Airside Service?

SACL and any regulated airport, is limited to the capacity of the aerodrome to permit access and maintain the mandated standards for safety and security of the airport and aircraft assets. Some airline operators are notorious for wanting to “pick and choose” the facilities they want and then not want to pay for the provision of them. To be effective, these airside services must be of a generic nature shared by all

5c How does the price charged for the Airside Service compare with the actual cost of providing the service?

The cost of providing the Airside Service is by law a transparent cost that is only able to be recovered at cost – most if not all regulated airports would be covering some associated administrative costs at their own expense.

6 S44G(2)(c) - that the facility is of national significance etc.

6a Whether there are any reasons why Sydney Airport as a whole should not be considered of National Significance in satisfaction of criterion (c).

There is no doubt that Sydney Airport is of national significance being a major economic driver for the Sydney Metropolitan Area, New South Wales and Australia. However, this has been brought about by the Sydney centric aviation policies of respective governments.

The decision to apply this criterion to Airside Service is questionable as these services in the main are mandated across all regulated airports.

7 S44G(2)(d) – that access to the service can be provided without undue risk to human health or safety

7a Will access or increased access to the whole of Sydney Airport for the purpose of providing the Airside Service involve any risk to health and safety?
Provided that compliance to mandated standards is adhered to and audited in a competent manner controlled airside access should not have any undue risk to health and safety. Associated off airport access and traffic management will need to be assessed by other competent authority.

7b To the extent that access may give rise to health and safety concerns, what (if any) regulation of such health or safety matters currently exists?


7c If access may give rise to increased health or safety risks, could these risks be satisfactorily addressed through the terms and conditions of access between SACL and the access seeker?

Yes.

8 S44G(2)(e) – that access to the service is not already the subject of an effective access regime

8a The nature and operation of existing access arrangements for Airside Services at Sydney Airport including the slot management scheme, access provisions of the Sydney Airport site lease and general aviation conditions of use.

Unable to respond effectively

8b Do any of these arrangements amount to an effective access regime for the purpose of criterion (e) taking into account the three factors noted above?

Logic would indicate that this is so.

9 S44G(2)(f) – that access (or increased access) to the service would not be contrary to the public interest

9a The net impact on efficiency of declaration of the Airside Service taking into account competitive gains as well as the regulatory costs which would flow from declaration

Airside Service once clearly defined may need to be re-considered but given that we accept the lists at 1a then Airside Service is already critically legislated and protected at cost to industry any further regulation would seem to be overkill.

9b Whether the approach to price regulation taken by the Productivity Commission and the Government suggests that declaration of the Airside Service may be contrary to the public interest.

The current regulated and proposed Quality of Service measures would seem to be satisfactory regulations to ensure that the public interest is protected.

9c Whether there are any other reasons why the declaration of the Airside Service may be contrary to the public interest.

None - other than placing an additional regulatory requirement with associated costs that eventually will be passed on to the public as a traveler on air services.

10 Duration of Declaration

10a What is an appropriate duration for any declaration of the airside service and why?

If a declaration is deemed necessary, the declaration could coincide with the Airline Operators Certificate. The airline will presumably require the Airside Services while they continue to operate on their airline operators certificate. It is our view that there be no fixed time limit.
10b  Are there any reasonably foreseeable factors which may materially affect the Council’s assessment of Virgin Blue’s application? What is the time frame for the realization of such factors?

Given the dynamic nature of the industry and the necessary requirement and ability for airlines to rationalize fleet scheduling and aircraft size, there would need to be a mandated requirement on behalf of Virgin Blue and any airline that requires Airside Service declarations to commit to providing the airport operator with the airlines respective business plans and forecasting outcomes to ensure a team approach to the requirement for and provision of Airside Service.

Thank you for the invitation and opportunity to provide input to the Council’s assessment process. We are available to provide any clarification on the above and can be contacted at the address or phone numbers on the letterhead or by e-mail airport@aal.com.au

Yours sincerely

Phil Baker
Managing Director
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