

**SYDNEY AIRPORT PRICE NOTIFICATION FOR REGIONAL AIR SERVICES
2010 REGIONAL EXPRESS SUBMISSION TO THE ACCC**

30 JULY 2010

1. Introduction

1.1. On 24 June 2010 Sydney Airport Corporation Limited (SACL) submitted a price notification to the Australian Competition and Consumer Commission (ACCC) under Part VIIA of the Trade Practices Act 1974 (TPA) proposing to increase terminal, runway and passenger security charges applicable to regional air services at Sydney Airport by 2.9%. SACL and the ACCC have agreed that the applicable period for the ACCC to make its decision on this price notification be extended to 17 September 2010.

1.2. This submission is provided to the ACCC by Regional Express Holdings Ltd in response to the ACCC's Issues Paper of 9 July 2010 seeking comments from interested parties. Rex (a subsidiary of Regional Express Holdings Ltd) is the largest independent regional airline operating at Sydney airport, and as such Rex is the airline most affected by the proposed increase in aeronautical charges.

1.3 This is a public version of the submission by Regional Express. Confidentiality has been claimed over commercially sensitive information provided to the ACCC which has been redacted from this public version.

1.4 Regional Express summarises its position in this submission as follows:

- The notified 2.9% price increase is part of a much larger overall price increase SACL is seeking to impose on regional air services which had already been officially communicated to Rex. The notified price increase should be considered in the light of this much larger overall price increase. The other aspects of this much larger overall price increase have not been

notified to the ACCC but should be as all charges for aeronautical services to regional air services are covered by Part VIIA.

- Increasing charges to regional air services cannot be justified by economic efficiency. Increased prices will not operate as signals for regional air services to change their behaviour to make more efficient use of airport resources. They will just increase cost to regional air services.
- Increasing the cost to regional air services will threaten the viability of independent regional airlines and distort competition between regional airlines (favouring regional airlines that are part of larger domestic operations at the expense of independent regional airlines).
- Increased charges to regional air services do not reflect any increased level of service nor any net increased cost (after deducting increased revenue) to service regional air services. Indeed, service levels to regional air services have decreased reflecting the fact that regional air services are a low priority use for SACL while revenue to SACL from regional charges has increased (due to efficiencies brought about by Rex) without a commensurate increase in cost to serve. It is a matter of SACL “giving less and charging more”.
- The rationale for regulating charges to regional air services under Part VIIA is to protect investment and employment in regional communities recognising *“Sydney Airport’s role as an essential transport hub for regional New South Wales”*¹ (Sydney airport as an essential facility) and the fact that: *“Without government action to cap prices and protect New South Wales regional slots, smaller regional airlines would suffer as commercial pressures tend to favour*

¹ National Aviation Policy White Paper December 2009 at page 58.

the use of larger aircraft which service domestic trunk routes and international services”².

- The regional ring-fence and accompanying price cap were one of the conditions of sale of the airport and Macquarie Bank, the eventual purchaser, would have factored in this constraint in their offer price.
- In light of the statutory criteria in Part VIIA, all price increases SACL is seeking to impose on regional air services (including but not limited to the notified increase) should be opposed by the ACCC.

2. Background about Regional Express

2.1. Regional Express was formed in 2002 out of the collapse of the Ansett group, which included the regional operators Hazelton and Kendell, in response to concerns about the economic impact on regional communities dependent on regular public transport air services previously provided by Hazelton and Kendell.

2.2. Regional Express Holdings Limited was listed on the ASX in 2005. It is the parent company of Regional Express Pty Limited (Rex), the largest independent regional airline in Australia and the largest independent regional airline operating at Sydney airport. All Rex services operated at Sydney airport are “regional air services” as defined in Declaration 92 made under Part VIIA (and its predecessor Declaration 91).

2.3 Rex’s philosophy towards regional air services is summarised in the following public statement on its website:

“Rex has its roots firmly in the bush and in country Australia. Its tagline boldly affirms that ‘Our Heart is in the Country’. Rex believes that the bush needs and deserves an air service of quality that provides good connectivity with capital

² Press release by Transport Minister Anthony Albanese 2 June 2010 in relation to Declaration 92 and Direction No. 32.

cities at affordable prices. Rex seeks to fulfill these expectations. Since its formation, Rex has steered a course balancing the needs of regional communities for extensive and affordable air services and to be economically viable and sustainable.”

2.3. Rex has regularly won customer service awards for its regional air services and in February 2010, Rex was awarded “Regional Airline of the Year 2010” by Air Transport World. This is only the second time that an Australian regional airline has won this prestigious international award, the previous occasion being in 1991 when this award was won by Kendell. It was also ranked (second year in a row) as the Top Performing Regional Airline 2010 by PriceWaterCoopers in a survey of all listed carriers in the world based on 19 financial indicators. Domestically it has been rated by Choice magazine as the best or second best Australian carrier in terms of customer satisfaction in the last 4 surveys conducted.

2.4 Rex is an efficient competitor in regional aviation. The average Rex ticket price paid by passengers traveling through Sydney Airport has fallen by 7% over the last 7 years.

2.5 Rex’s use of Sydney airport needs to be seen in the context of the vital role it plays in serving regional communities and the economic impact of regional air services on investment and employment in regional communities.

2.6 Other Regional Express subsidiaries include Air Link Pty Limited (which provides passenger charter services out of Dubbo NSW), Pel-Air Aviation Pty Limited (whose operations cover specialist charter, defence, medivac and freight operations) and the Australian Airline Pilot Academy Pty Limited (which provides airline pilot training and the Rex pilot cadet programme). The Pel-Air services operating at Sydney airport are not “regional air services” and so are not discussed in this submission.

3. Charges to regional air services at Sydney Airport

3.1. Historically, prices for aeronautical services at Sydney Airport were declared under the Prices Surveillance Act 1983³. In **May 2001** the ACCC approved a complete rebasing of pricing for aeronautical services at Sydney Airport. These included:

- increases to runway charges, international terminal charges and helicopter charges;
- moving from an MTOW-based charge to a passenger-based charge for the international terminal⁴;
- the introduction of a new time-based charge for the use of aprons (at the rate of \$35 per 15 minutes) and a bussing / stand off discount for airline operators who do not use an aerobridge; and
- an increase in the daily GA parking charge from \$11 to \$60.

3.2 In July 2002, following the report of the Productivity Commission, pricing at Sydney Airport was deregulated except in relation to regional air services (which were covered by Declaration 90 and Direction No.28 made under the Prices Surveillance Act in June 2002). Around this time SACL acquired the former Ansett domestic terminal from Ansett's administrators and shortly thereafter moved regional services from the old Domestic Express Terminal (DET) to this common user terminal (which was renamed Terminal 2 or T2).

3.3. As part of the new T2 arrangements, SACL notified to the ACCC a proposal to offer a passenger-based charge for regional services as an alternative to the charges approved by the ACCC in 2001. The proposed \$4.50 per passenger charge was described by SACL as follows:

³ The Prices Surveillance Act was repealed in 2003 and replaced with Part VIIA of the TPA.

⁴ Domestic charges were subsequently changed from an MTOW basis to a per passenger basis in 2003, as discussed in detail in Virgin Blue [2005] ACompT 5.

*SACL Price Notification for Regional Air Services 2010
Regional Express Submission to ACCC 30 July 2010*

“The proposed Terminal 2 Passenger Facilitation Charge (PFC) for regional users will cover:

- Terminal use, on a common use basis
- Aircraft apron parking
- Check-in counter use

Attachment A provides a list of the services and facilities covered by the proposed PFC.

The PFC equivalent of the current charges is \$4.50 per arriving and departing passenger, excluding GST.

In addition to the PFC:

- weight-based runway charges will continue to be levied, along with counter-terrorist first response charges and recovery of additional security measures.
- passenger screening costs will continue to be recovered through a separate charge, up to a maximum of \$1.79 per departing passenger, excluding GST.
- airlines will directly meet their own costs of apron bussing.

Attachment B provides a summary of the components and derivation of the charge.”⁵

3.4. In **October 2002**, the ACCC approved SACL offering this all inclusive \$4.50 per passenger charge for regional services using T2 (referred to as “Option B”) as an alternative to paying separate charges for terminal facilities, apron parking and check-in counters (“Option A”). SACL explained the per passenger charge and the basis on which it was calculated in 2002 as follows.

⁵ Attachments A and B from SACL’s notification are attached to this submission as Annexure 1 for reference.

*SACL Price Notification for Regional Air Services 2010
Regional Express Submission to ACCC 30 July 2010*

“The basic terminal charge of \$1.74 is directly transferable as a basis for the new PFC. The parking and check-in charges, however, are not directly based on passengers and assumptions must be made on their conversion to a per passenger basis.”

3.5. SACL arrived at a \$2.50 component for parking in the new charge, which was based on \$105 per aircraft for a typical parking event assuming a 45 minute turnaround, 2 aircraft movements per turnaround and an average 21 passengers per aircraft (35 seats per aircraft and a 60% load factor). The typical parking event of 45 minutes was justified on the basis of historical analysis by SACL which showed an average parking time of 60 minutes with the single most frequent stay being 30 minutes.

3.6 It was recognised by the ACCC in its 2002 Statement of Reasons that Option B may result in an airline paying more or less than it would under Option A, depending on whether its stay was shorter or longer than 45 minutes or its load factor meant it carried more or less than 21 passengers. Alternatively, SACL would make less money under Option B if an aircraft parked for more than 45 minutes but more money if that aircraft carried more than 21 passengers.

3.7. This was the context in which Rex started operating at Sydney airport in the second half of 2002 (namely Option B) and the basis on which Rex has been charged to date.

3.8 In summary, Rex has been paying

- (i) the \$4.50 PFC charge approved by the ACCC in 2002 as well as
- (ii) the runway charges and
- (iii) security charges

which were expressly stated to be additional to the \$4.50 per passenger charge in 2002. In addition, Rex has had to bear two further costs that have increased

since it started operations due to the way SACL manages T2 and its aprons (see discussion later in this submission). These are

(iv) the \$60 per day GA parking charge approved by the ACCC in 2001 because SACL had no apron space for Rex aircraft at certain times and directed Rex to park on the GA apron instead, and

(v) the greatly increased cost of apron bussing as a consequence of not being allowed to park at aerobridges or at walk down/walk out parking bays⁶.

3.9. Last year charges (i) –(iii) described above resulted in Rex paying SACL \$4.5M (of which \$2.62M was for PFC charges, \$1.37M was for runway charges and \$0.51M was for security charges); item (iv) resulted in Rex paying \$0.05M for GA parking and item (v) resulted in Rex bearing \$0.8M in apron bussing costs. Previous years saw bussing costs at up to \$0.9M. In other words, Rex had to bear nearly \$1M in further costs that were not applicable when regional air services operated out of the DET due to the way SACL manages T2 and its aprons. (All figures quoted exclude GST.)

4. SACL's 2010 price increases

4.1. SACL's 2010 price notification proposes a 2.9% (CPI equivalent) increase to the \$4.50 PFC charge, the runway charges and the security charge applicable to regional air services. SACL has described this as a "modest" fee increase. Moreover, there are two other increases SACL is seeking to impose on regional air services which are not covered in this notification.

⁶ These have greatly increased. At the DET there was no bussing. Initially, at T2, arriving passengers had to be bussed although most departing passengers, not all, could walk down from gate 35. Now all arriving and departing passengers are bussed – as shown on the map attached as Appendix 5.

4.2 Attached as Appendix 2 is a copy of SACL's current published table of charges with the three areas of price increase circled. These are as follows:

- the 2.9% increase to the \$4.50 per passenger charge, runway charges and passenger security charge shown in the "Regional" column;
- the imposition of additional time-based apron parking charges after 45 minutes shown in the "Regional" column; and
- the increase in the GA parking rate from \$60 per day to \$100 per day shown in the "Freight, Helicopter & GA" column.

4.3. The financial impact of these increased charges on Rex is shown on Appendix 2 and the supporting calculations are set out in Confidential Appendix 3. In summary Rex estimates that based on current operational assumptions:

- the 2.9% increase to the \$4.50 PFC charge, the runway charges and passenger security charge would **add \$130,000** per annum;
- the imposition of additional time-based apron parking charges after 45 minutes would **add almost \$3.1M** per annum; and
- the increase in the GA parking rate from \$60 to \$100 per day would **add \$34,000** per annum.

4.4. Rex's position is that all three areas of price increase relating to regional air services are covered by Declaration 92 (and its predecessor Declaration 91) and subject to the CPI price cap in Direction No.32 (and its predecessor Direction No.30). SACL's 2010 price notification should therefore cover all three areas of price increase relating to regional air services and the notified 2.9% price increase should be considered in the light of the much larger overall price increase SACL is seeking to impose on regional air services.

4.5 In relation to the imposition of time-based apron parking charges after 45 minutes, SACL's position seems to be that the \$4.50 per passenger charge only

covers 45 minutes worth of parking so it remains open for SACL to impose a time-based charge of \$35 per 15 minutes after 45 minutes. However, that position is inconsistent with the basis on which the \$4.50 per passenger charge was approved by the ACCC in 2002 (discussed in paragraphs 3.3 to 3.6 above). There was no mention in either SACL's 2002 notification or the ACCC's 2002 Statement of Reasons that time-based apron parking charges would apply after 45 minutes of apron parking and in practice this has never been charged. Indeed the specific mention of additional charges besides the PFC like the runway and screening charges clearly supports the view that parking charges were aggregated in the PFC.

4.5. In relation to the increase in the GA parking rate from \$60 to \$100 per day, SACL's position seems to be that this is a "GA apron" charge and not a charge in the "Regional" column of its published charges, so therefore it is not covered by declaration or subject to the CPI price cap. This is inconsistent with the way Declaration 92 (and its predecessor Declaration 91) are cast.

4.6. Declarations 91 and 92 are expressed to apply in relation to: "the provision of aeronautical services and facilities to regional air services" (regional air services being defined as "regular public transport air services operating wholly within the State of New South Wales"). "Aeronautical services and facilities" are defined by reference to the definition in Part 7 of the *Airports Regulations 1997*, as it stands from time to time. For completeness, Regulation 7.02A (which defines aeronautical services and facilities following amendments to these regulations in 2007) has been attached as Appendix 4.

4.7. The provision by SACL of any of the services or facilities listed in Table 1 or Table 2 of Regulation 7.02A to a regional air service is covered by Declarations 91 and 92. This unequivocally includes all "aprons" and "aircraft parking sites" which would include the GA apron. The decision to park at the GA apron rests entirely with SACL and as far as Rex is concerned it would rather be parked on the normal apron due to the proximity. Hence it is nonsensical for

SACL to claim that there is an additional charge just because it had failed to provide parking at the normal apron. If anything, it should provide a rebate for the added inconvenience and cost to Rex.

4.8 SACL's increased charges raise the following issues:

- the imposition of a time-based parking charge for regional air services after 45 minutes is a price increase and should be notified to the ACCC;
- requiring regional air services to park on the GA apron is a deliberate decision of SACL to accord low priority to regional carriers for apron parking and is a degraded level of service which should result in a rebate instead of additional charges; and
- in any event, increasing the GA parking charge from \$60 to \$100 is a price increase and should be notified to the ACCC.

4.9. Given the magnitude of the additional charges discussed above, and SACL's misleading and mischievous public statements that it is merely pursuing "modest" price increases, Rex believes it is in the public interest for the ACCC to clarify:

- (a) the basis of its 2002 decision regarding the \$4.50 per passenger charge and its relationship to time-based parking charges; and
- (b) the coverage of Declarations 91 and 92 in relation to regional air services and in particular GA parking charges.

5. The policy framework for regional air services

5.1. An examination of the policy framework behind the regulation of regional air services at Sydney airport is set out below. This is relevant to the regulatory approach to assessing SACL's economic arguments for, and Rex's objections to, the increased charges described above.

5.2. Prior to 1997, Australia's major airports were operated and managed by the Federal Airports Corporation. The first wave of privatisation in 1997/98 saw price regulation of aeronautical services in the form of CPI-X price caps at privatised airports and the application of the Prices Surveillance Act to aeronautical services at Sydney airport (which was corporatised but had not yet been privatised). The rationale for price regulation was an acknowledged concern about the market power of major airports and the potential for airports to use their market power.

5.3. In 2000, the Federal Government announced its policy decision not to build a second major airport for Sydney and to keep regional air services at Sydney airport with New South Wales regional ring-fenced slots under the Sydney airport slot management scheme (established under the Sydney Airport Demand Management Act 1997).

5.4. In May 2002, the Productivity Commission recommended that airport pricing be deregulated in favour of light-handed price monitoring. Although the Productivity Commission found that 4 airports (including Sydney airport) had substantial market power, it believed that if prices were deregulated the scope for airports to use this market power would be constrained by commercial pressures and opportunities to benefit from increased passenger traffic (particularly in relation to non-aeronautical income).

5.5. By July 2002, only pricing to regional air services at Sydney airport remained regulated under the Prices Surveillance Act. Declaration 90 (made in June 2002) listed the aeronautical services which were regulated and accompanying Direction No.28 imposed a CPI price cap (the starting point for which was prices as at 30 June 2002⁷). The rationale for maintaining regulation

⁷ The only approved change to prices as at 30 June 2002 being those approved by the ACCC in October 2002 (discussed in paragraphs 3.3 to 3.6 above).

in relation to this pricing was to ensure that regional airlines would not be priced out of the slots reserved for regional air services.

5.6. In April 2007, the next Productivity Commission review acknowledged that light-handed price monitoring had produced some important benefits, but also identified some growing market power concerns. The Productivity Commission acknowledged that some of the commercial constraints on the behaviour of airports had not turned out to be as strong as the Productivity Commission had assumed they would be when it advocated deregulation in 2002. Thus the Productivity Commission saw the need for a strengthened process for investigating and dealing with misuse of market power by airports (including the threat of re-regulation).

5.7. Relevantly to the issue at hand, one of the areas of market power concern identified by the Productivity Commission was the behaviour of airports in relation to terms and conditions such as the allocation of gate and aircraft parking positions, and the unilateral variation of conditions of use.

5.8. The Productivity Commission also commented on the arrangements for regional air services at Sydney airport⁸. The Productivity Commission recognised the importance of continued regional access to Sydney Airport (particularly at peak periods) but suggested that there needed to be further analysis of how to lessen the economic impact or “efficiency cost” of maintaining the regional ring-fence over slots (recognising that the smaller aircraft used for regional services carry fewer passengers than the larger aircraft used for domestic or international services). Finding the right balance, said the Productivity Commission, is not straightforward.

5.9. The Productivity Commission also took the view that, while *“to date neither the benefits nor the costs of price notification have been large”* continuation of

⁸ See chapter 6.1 of the Productivity Commission’s 2007 report.

Declaration 90 and Direction No.28 after 2007 could “*potentially drive a larger wedge between charges for regional and other carriers*”.⁹

5.10. The Productivity Commission’s view was that Declaration 90 and Direction No.28 should be allowed to lapse (because the Productivity Commission thought it was not clear SACL would treat regional airlines less favourably than other users), but if these were continued then they should be subject to review at the next Productivity Commission review in 2012.

5.11. Given that the ring-fence protection over New South Wales regional slots was a condition of the sale of Sydney airport, and the role of Declaration 90 and Direction No.28 in protecting the slots reserved for regional air services, in 2007 the Government extended price regulation to 2010 via Declaration 91 and Direction No.30.

5.12. In the meantime, in December 2009 the Government released its National Aviation Policy White Paper. In this, the Government articulated its policy goal that: “*Australians in regional and remote communities have reasonable access to air services to major cities and other key centres, including on routes that are not commercially viable*”¹⁰ and outlined a range of measures for regional air services including “*maintaining ring-fencing of regional slots which guarantees regional airlines access to Sydney Airport at existing levels; and continuing with the current regulatory regime which caps pricing for regional airline aeronautical charges at Sydney Airport to CPI levels.*”¹¹

5.13. In relation to regional air services at Sydney airport, the White Paper (at pages 58-59) made the following statements as to Government policy:

⁹ See page 129 of the Productivity Commission’s 2007 report.

¹⁰ See page 53 of the December 2009 National Aviation Policy White Paper.

¹¹ See page 59 of the December 2009 National Aviation Policy White Paper.

“Sydney Airport is a critical hub in the Australian regional aviation network. Nearly a million passengers flew into Sydney Airport on regional airlines in 2008. Many of these passengers would have been connecting to the broader domestic or international airline network or accessing the services that are only available in large cities like Sydney.

Sydney is the only Australian airport with legislated caps on the allowable number of hourly runway movements and a demand management scheme to allocate the limited number of runway slots. Without government action, commercial pressures would tend to favour the use of large capacity jet aircraft which service domestic trunk routes and international services at the expense of services operated with smaller regional aircraft. The Government recognises Sydney Airport’s role as an essential transport hub for regional New South Wales and will ensure access and reasonable pricing for regional airlines. This will be done through a combination of:

- > maintaining slots held by regional airlines at Sydney Airport, including during peak periods, at levels available in 2000, prior to privatisation; and*
- > capping airport charges for regional airlines – these charges may not be increased by more than the annual Consumer Price Index.*

The Productivity Commission is to undertake a full review of Australia’s airport economic regulatory regime in 2012 which will include all arrangements at airports including special arrangements for regional airlines at Sydney Airport. The Government will respond to the Productivity Commission’s recommendations in 2013.”

5.14. In light of this policy position, in May 2010, the Government extended price regulation to 2013 via Declaration 92 and Direction No.32.

6. Regulatory approach

6.1. In exercising its functions under Part VIIA, the ACCC is to consider price notifications (locality notices) and to take, in relation to such notices, such action in accordance with Part VIIA as it considers appropriate (s95G(5)). However,

under section 95ZH(2) the ACCC must comply with the directions given in Direction No.32.

6.2. In addition, the ACCC must (subject to Direction No.32) have particular regard to the matters listed in s95G(7). These are (a) the need to maintain investment and employment, including the influence of profitability on investment and employment; (b) the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices; and (c) the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

6.3. The policy framework discussed above raises a number of issues as to the appropriate regulatory approach to be undertaken in this instance.

6.4. The most obvious is that pricing to regional air services at Sydney airport cannot be assessed using one-dimensional economic efficiency. It may well be inefficient from an airport economic point of view to have small regional aircraft operating at Sydney airport, but the intent and effect of the regional ring-fence slot protection and Direction No.32 is to balance this local inefficiency against the impact on regional economies in not having an air service and the consequent loss of investments and employment (Rex is the sole operator to 11 regional cities served by Sydney airport). The regional ring-fence was put in place prior to privatization, was a condition of the sale of the airport and has been a consistent feature of Government policy ever since. By definition, a price signal aimed at efficient use of Sydney airport that prices out small regional aircraft undermines the regional ring-fence and this is precisely why price regulation has remained in place since 2002 and why Direction No.32 was given.

6.5. Rather, pricing to regional air services at Sydney airport needs to be assessed having regard to the rationale for the regional ring-fence and the CPI price cap that has been in place since 2002. That rationale seeks to protect the viability of regional air services at Sydney airport against outcomes driven by

economic efficiency, while at the same time giving Sydney airport the possibility to recover part of its net cost increases through an eventual CPI-capped annual increase.

6.6. To quote the comment from the National Aviation Policy White Paper repeated in the 2 June 2010 press release by Transport Minister Anthony Albanese (announcing Declaration 92 and Direction No. 32): *“Without government action, commercial pressures would tend to favour the use of large capacity jet aircraft which service domestic trunk routes and international services at the expense of services operated with smaller regional aircraft.”* That would have an adverse impact on investment and employment in regional communities recognising *“Sydney Airport’s role as an essential transport hub for regional New South Wales”* (as per the White Paper).

6.7. The underlying market power concerns that run through the policy framework also need to be taken into account. This includes considering how SACL’s charges impact on the ability of independent regional airlines like Rex to compete with regional airlines that are part of larger domestic operations. In particular, do the charges have a discriminatory impact, favouring the latter at the expense of independent regional airlines?

6.8. Further, do the charges SACL is seeking to impose (and the manner in which SACL has behaved) raise the type of market power concern identified in the Productivity Commission’s 2007 report and paragraph 5.7 above.

6.8. Finally, given the baseline originally set by Direction No.28, the question under Part VIIA is not whether this baseline is appropriate or requires readjustment, but whether any increases to the baseline (even if capped at CPI) reflect an increased level of service for regional air services or an increase in net cost. On the other hand, are any increases a matter of SACL “giving less and charging more”?

7. SACL’s justification for increasing charges

7.1. SACL has provided the following six justifications for increasing its charges (at page 12 to 16 of its supporting information), each of which is addressed in the following sections of this submission:

- the volume parameters used to derive existing equivalent based charges are outdated and have encouraged an inefficient use of scarce airport assets;
- increasing charges will improve incentives and encourage an efficient use of scarce airport assets;
- the current pricing for regional airlines does not reflect the changing aviation environment and results in cross-subsidisation;
- the proposed changes will not have an appreciable impact on passengers or the general business of airlines;
- the proposed changes will not have an appreciable impact on competition between regional airlines; and
- there are constraints on SACL's behaviour so prejudicial increases would be unlikely.

7.2. Rex's position is that, on examination, none of these provide any justification for the increases SACL is seeking.

8. Outdated parameters and inefficient use of scarce assets

SACL Justification #1: The volume parameters used to derive existing equivalent based charges are outdated and have encouraged an inefficient use of scarce airport assets.

8.1. On the issue of outdated parameters, SACL argues that: *"The structure of the combined PFC calculated on a per passenger basis has encouraged an inefficient use of scarce airport assets, as asset allocation requirements (use of*

check-in and aircraft parking facilities) have increased at a greater rate than passenger volumes, thus reducing asset utilisation.”

8.2. The current parameters stem from the 2002 notification discussed earlier in this submission. The main parameter change in 2002 was to move check-in and parking charges to a per passenger basis. In 2002 SACL understood that moving to a per passenger charge would provide it with inherent revenue growth from increases in the average number of passengers carried by regional airlines per aircraft due to the prospect of larger aircraft and increasing load factors (as has occurred significantly).

8.3. Meanwhile, the costs to SACL do not increase linearly with passenger numbers or indeed with increased aircraft movements (noting that runway charges for regional air services are still referable to aircraft movements). Both increased passengers and increased aircraft movements provide increased economies of scale. (Thus, there is in fact an argument for having a sliding scale of charges that decrease with passenger volumes, as many airports that Rex services have in place.)

8.4. In the case of Rex, steadily increasing passenger numbers over the last 7 years have greatly increased the revenue paid to SACL without a commensurate increase in cost to SACL. During this period, Rex has expanded its passenger numbers through Sydney Airport by 74% which has resulted in an increase in the per passenger PFC charge revenue to SACL of 8% p.a. which far exceeds CPI over the same period. At the same time the number of Rex aircraft movements during this period has only increased by 35% reflecting greater load factors in addition to Rex phasing out the 19 seat Metro 23 aircraft and moving to the larger single fleet type with the 34 seat Saab 340 that it now operates. These increased Rex efficiencies have resulted in the average Rex ticket price paid by Rex passengers travelling through Sydney Airport falling by 7% over the last 7 years. Rex has directly passed back these efficiencies to its customers and as a result SACL has benefited through increased total airport revenue. This pattern is

reflected in other regional operators with QantasLink moving from 36 seat aircraft to 74 seat aircraft and Virgin Blue introducing jet aircraft with between 68 and 180 seats into regional operations. This has meant a great increase in revenue per movement and in overall efficiency when compared to the position assumed in 2002.

8.5. With regard to usage of common-user facilities, SACL's assertion that regional air services have expanded their use of such facilities out of proportion to passenger numbers is pure fabrication as far as is applicable to Rex. When Rex moved to T2 in 2002 Rex was allocated 3 check-in counters with a fourth shared counter. This is the same today. As for the departure gate, Rex's 74% increase in passenger movements are still serviced by the one solitary departure gate. Overall it means that \$2.00 (for check in and terminal use) of the total \$4.50 aeronautical charges have been given a 74% increase through efficiency brought about by Rex. Instead of an increase of charges, SACL should have rebated the efficiency savings back to the carrier which was a course of action responsible organizations like Air Services Australia took.

8.6. SACL's figures may well be distorted by domestic operators introducing jet equipment onto regional routes over the last few years. In 2002 there were no jet aircraft operating to country NSW whereas jet services now exist for Albury, Ballina, Coffs Harbour and Port Macquarie. However the inefficiency of jet users should not be a reason to raise charges for Rex.

8.7. SACL also maintains that the \$4.50 per passenger charge was based on the inferior facilities of the DET which was a low cost facility. It was also a low use facility having been put into commission in the wake of the Ansett collapse and it did not enjoy the sheer volume of passenger numbers now being accommodated at Terminal 2.

8.8. Rex points out that the facilities of higher quality and cost mentioned by SACL at T2 are mainly to accommodate the jet operators. For example, SACL does not allow Rex to use the passenger fingers with their expensive aerobridges

(discussed further below). Rex acknowledges that T2 has been upgraded and is a better facility than it was in 2002. However, from an operational perspective, for Rex the level of service is arguably less than the DET given that Rex has the considerable added expense of having to provide a bus service for all its passengers whereas at the DET this was not required. Rex also notes that much of the improvement has been involved with the provision of shopping areas and food halls which are profit centres in their own right (and for which SACL should be sharing some of the economic benefits with the airline as it is the latter's passengers that contribute to the profits of these amenities).

8.9. In the circumstances, it is not clear why SACL asserts that charging on a per passenger basis is now outdated (and necessitates a price increase) when these parameters have so far delivered SACL the benefit of increased revenue in excess of CPI from Rex and other operators due to increased regional passenger numbers and related efficiencies of scale.

8.10. SACL's argument about "*inefficient use of scarce airport assets*" seems to come down to parking (and the increases which have not been included in the price notification). SACL states that the average stay for regional aircraft has increased and that it wishes to discourage this to achieve a more efficient use of airport resources. This is discussed in the next section.

9. Encouraging efficient use of airport assets

SACL Justification #2: increasing charges will improve incentives and encourage an efficient use of scarce airport assets.

9.1. SACL argues that: "*A purpose of increasing charges in the terms proposed to the Commission is to signal to regional air services providers the need to operate more efficiently.*"

9.2. The general 'minimum' turnaround time for Rex aircraft parked on terminal bays at Sydney has changed from 30 min to 45 min since 2002. However, this

is not due to Rex inefficiency or responding to an inefficient price signal (eg parking being perceived as “cheap”) but rather the result of SACL deliberately placing low priority on regional operations (to achieve efficiencies in its overall airport operations) resulting in inefficiencies for Rex.

9.3. In part it is due to SACL’s operational management of parking, which reflects SACL’s assessment of the most profitable way to allocate use between users. This has seen Rex aircraft pushed further away from its single departure and arrival gate including being moved out to the GA area. Increasing parking charges will not operate as an economic signal for Rex to change this (it has no control over SACL’s operational management) and it won’t result in a more efficient use of airport resources; it will just increase Rex’s costs (potentially to the point of making regional air services no longer viable).

9.4. In addition, the increase in Rex’s Sydney aircraft turnaround times have been necessary to maintain high on-time-performance standards that are publicly reported by the BITRE and importantly in order to achieve slots compliance under the Sydney Airport slot management scheme. Failure by any airline to achieve slots compliance under the Government legislated slot management scheme will result in a significant financial penalty and in a practical sense, the failure to achieve slots compliance under the parameters of the slots legislation leads to inefficient use of SACL assets that the slot management scheme is designed to achieve.

9.5. In practical terms, Rex’s parking usage at Sydney airport is determined by its scheduled services and slot constraints (not SACL’s charges). Rex services 15 regional airports in NSW out of Sydney airport and to provide the service level necessary for a viable regional air service requires a significant fleet of aircraft and the associated slots to do so. The number of aircraft required to provide these services cannot be utilised more efficiently during periods of reduced demand as the demand cannot even support the variable operating costs. (If it could we would fly and this would improve the economies of scale) So for Rex’s

scheduled services and slots, at any time, around 16-17 aircraft would be required to be at Sydney airport. Not many of these will be sitting there overnight. Regional schedules tend to be oriented around the peak hours reflecting demand for business related travel to Sydney for the day (or from Sydney to a regional centre for the day)¹². Accordingly Rex's aircraft tend to stay overnight at regional airports for early morning flights into Sydney as this schedule reflects the preference of regional customers, in addition to opening up on-carriage opportunities to other regional, domestic and international services that directly benefits SACL.

9.6. As mentioned above, SACL has an operational system for deciding where aircraft park each day. As part of this system, Rex is given designated parking bays but these are all common user bays and usage is subject to SACL's daily directions. Rex and other users are required to give SACL a one day ahead notice of which aircraft they will be using for which services. SACL then manages aircraft parking throughout the day according to what is most efficient and profitable for the airport (even if it is less efficient for Rex or adds cost or reduces the quality of service to Rex's passengers).

9.7. For example, as shown on the map attached as Annexure 5, the bays marked as 'Regional Stand Off Parking' are where Rex aircraft are typically parked for turnarounds. Passengers and bags need to be moved out to these areas for boarding. Rex's crew room is below Gate 39 and Gate 47 is where all Rex passengers are bussed to and from. However, if SACL requires the terminal bays used by Rex for another more profitable use, it will direct Rex to park

¹² The lifeblood of regional aviation is to provide an air service that allows passengers to spend a full day in the city or the bush. This creates peak periods of demand in the morning and evening for regional services with services during the middle of the day and on weekends (when there is just no demand from core regional business traffic) experiencing much lower and in some cases non-existent demand.

aircraft in the GA area (marked on the map). This necessitates towing the aircraft between the bays and the GA area. It requires 2 engineers and can take up to an hour to move a plane between the GA area and the terminal bays.

9.8. Rex's commercial driver is to make money from flying its planes; it doesn't make money having them sitting on the ground. Rex tries to turn around aircraft as quickly as possible, but as indicated above, the operational constraints on doing this are very different from, say, domestic flights boarding at an aerobridge. The way SACL manages parking makes it increasingly harder for Rex to achieve a quick turn around, because Rex is being pushed further away from its single departure and arrival gate. The single departure and arrival gate also creates further aircraft turnaround time constraints due to the necessity of managing departure and arrival clashes for the efficient flow of passengers and coordination of remote passenger bussing. In addition, some parking bays designated for regional services are being upgraded to 737 aircraft bays and so will no longer be as available for regional services.

9.9. In short, service levels to regional air services for parking have decreased reflecting the fact that regional air services are a low priority use for SACL. At the same time, the revenue paid to SACL has increased in excess of CPI without a commensurate increase in SACL's cost to serve regional air services. Accordingly it is difficult to see how increases in parking charges can be justified on the basis of being a price signal; they are just "giving less and charging more".

10. Cross-subsidisation

SACL Justification #3: The current pricing for regional airlines does not reflect the changing aviation environment and results in cross-subsidisation.

10.1. SACL states that: *"The security and necessary new investment cost recovery process excludes regional airlines and results in a cross subsidisation of costs between international and domestic users. This means that the substantial costs associated with the aviation industry are borne inequitably by*

users.” SACL argues that the proposed increases will help improve cost recovery and reduce cross subsidisation.

10.2. SACL makes these claims without concrete evidence and Rex refutes these assertions a pure fabrication just as the case for increased usage of terminal facilities. Be that as it may, Rex believes that the critical point here is that the regulatory regime for regional air services recognises that regional users cannot afford to pay what larger users can pay. Capping all increases to CPI clearly shows an intention by the Government to ensure that the baseline charges of 2001/2002 be preserved and permitted to creep only by amounts that allow regional carriers to maintain their regional air services.

10.3. The Government was mindful that regional air services would preserve investment and employment in the regional cities which are of tangible and substantial economic benefit to the community. It was equally aware that left unchecked, airport operators would not hesitate to sacrifice regional interests for commercial gain. This was why the conditions of sale enshrined the special status of regional carriers so that the potential buyer could price their offer accordingly. This condition of privatisation was not concerned about the theoretical economic cost of the aeronautical services nor was it concerned about equity with other domestic carriers. The Federal government was in effect saying that it was prepared to accept a lower sale price in exchange for the special concession to regional carriers. Thus, to the extent that there was any subsidy, the Federal Government bore that subsidy via a lower sale price in return for these concessions. Having accepted this condition of sale, it is morally reprehensible for SACL to raise objections of equity, subsidy and economic efficiency to justify its price increases.

10.4. Further, the lower level of service provided to regional air services already allows SACL to achieve improved cost recovery from users who are able to pay and reduces any cross subsidisation. In particular, pushing regional air services out from the finger in favour of larger aircraft (discussed above) allows SACL to

make additional revenue from the aerobridges by utilising them for these higher paying users (it is estimated that SACL earns 10 times more revenue per movement from the domestic jets compared to Rex) at the detriment of Rex which has to spend up to \$1m p.a. for bussing

10.5. In relation to security charges, SACL argues that: *“the proposed changes relating to security charges will slowly rebalance the charges between regional airlines and other airlines”*.

10.6. Rex notes that, although regional passengers using jet aircraft as operated by Jetstar and Virgin Blue are required to undergo screening, and after 1 July 2012 the larger turbo prop aircraft of over 30 tonnes (MTOW) will also be subject to screening, the smaller turbo prop aircraft as operated by Rex are not required to have their passengers screened and it is not envisaged that this will be introduced. Consequently the only reason that Rex’s passengers undergo screening is because they are sharing a terminal with operators of jet aircraft. If the terminal and apron parking areas were designed such that regional passengers and the smaller regional aircraft were kept separate from domestic operations then no screening would be required at all.

10.7. On this basis, Rex should not have its passengers security costs assessed on a per head basis. The screening at terminal 2 is in place for domestic operators and given the combined volume of passengers traveling on Jetstar and Virgin Blue compared to the volume of Rex passengers, it is doubtful that the incremental cost of processing the Rex passengers is anywhere near the \$500,000 p.a. paid by Rex under the current charging regime. If anything Rex believes it is subsidizing the jet operators for security costs.

10.8. With regard to existing facilities, Rex notes Sydney airport has facilities that are far in excess of those required by regional air services in terms of runways, taxiways and aprons. The annual fees currently paid by Rex of around \$4.5m are far more than received by most regional airports and would more than adequately provide for the infrastructure required for efficient regional operations.

10.9. In terms of new investment, SACL argues that: *“The present regulatory regime acts as a disincentive to invest in specific regional infrastructure and airport services because a reasonable rate of return on capital can not be achieved”*. However, it is not clear what improvements regional air services would receive in return for increased charges, and there is no process for providing accountability in this regard.

10.10. For example, SACL’s Airport Master Development Plan (MDP) provides no certainty as to timing or projects and Rex’s experience in trying to (unsuccessfully) obtain SACL’s approval to build its own hangar has shown how opaque SACL’s processes are. Rex has been told by SACL for over 7 years through the MDP process that its existing maintenance facility located at the GA parking area must be demolished and a new, re-located, facility must be provided at Rex’s expense. In 2005 Rex provided a proposal in partnership with a third party, at SACL’s invitation, for a large facility that met all of SACL’s criteria as acknowledged by SACL at the time. However due to changes in the MDP this did not proceed. Rex is prepared to build a large hangar as the existing hangar (shown on the map in Annexure 5) cannot fully accommodate even a single SAAB aircraft and this severely constrains its maintenance activity at Sydney Airport¹³. Not only will a large hangar make the maintenance of Rex’s aircraft more efficient it will negate the need for aircraft to be parked in the GA area, attracting SACL GA parking charges, while awaiting maintenance. After 7 years Rex still has no clear idea of when, where, or even if, it will be allowed to build a new maintenance facility.

10.11. As outlined earlier in this submission, Rex has not seen any change in the infrastructure for its regional operations and is still operating out of one gate with extensive bussing required to increasingly remote standoff bays. In fact the

¹³ Rex does its heavy maintenance at Wagga (which is less efficient for Rex) as it has been unable to build this facility. However, there is a certain amount of line maintenance which needs to be undertaken at Sydney airport.

infrastructure that Rex is currently using at gate 47 for its passenger departures is not as convenient or efficient as that available in its previous T2 locations at gate 39 and gate 35. In the main the investment in infrastructure at Sydney airport is driven by the demands of the large operators with the introduction of the A380 being a case in point.

10.12. SACL mentions some \$166.7m spent on upgrading shared airfield, apron, runway and taxiway works but does not state how this actually benefits regional operators. It is hard to comment when no detail has been provided by SACL but Rex contends that the infrastructure spending has been dictated by large aircraft including the airfield modifications needed to accommodate the A380. Rex does not see this as a justification to increase regional charges.

10.13. The \$100m runway safety project mentioned is an example of investments that do not benefit regional operators. The runway safety areas provide for an aircraft overrunning or landing short of a runway and are so expensive because they must be able to support aircraft of up to 600 tonnes in the case of the A380. (as referred to on SACL's website). This type of safety area is not needed for small regional aircraft like those operated by Rex where being able to support massive weights is not a problem. Additionally an overrun area is not required when operating on a runway that is far longer than that needed for safe and compliant operations for Rex's aircraft.

10.14. SACL also states that \$44m has been spent on refurbishments and infrastructure at T2 including security upgrades and parking arrangements. As mentioned earlier, regional air services like Rex are not required to undergo security checks and Rex does not accept the argument that it should pay on the same basis as domestic operators.

11. No appreciable impact on passengers

SACL Justification #4: The proposed changes will not have an appreciable impact on passengers or the general business of airlines.

11.1. SACL asserts that its charges are a very small component of typical regional airfares and that: *“The proposed changes represent a de minimus component of average passenger fares charged by regional airlines. SACL’s understanding is that the proposed increase is less than 1% of typical regional fare.”* This is not really a justification; it’s more an assertion that regional airlines can afford to pay SACL more because they can pass on increased charges to regional passengers.

11.2. Presumably SACL is only referring to the proposed 2.9% “CPI equivalent” increase. As explained earlier, this notified price increase is part of a much larger overall price increase SACL is seeking to impose on regional air services. The impact of that overall price increase is certainly more than *de minimus*. It is so large that it may threaten the viability of independent regional airlines at Sydney airport.

11.3. Furthermore SACL is raising a red herring here. Under the existing price regulation, there is no entitlement to automatic CPI price increases. Even a 1c increase needs to be justified. Not only has SACL failed to justify its price increase, over the 7 years SACL has had a net increase of revenue (over cost) while at the same time providing a deteriorated level of service and forcing Rex to incur considerable additional expenses (over \$1m a year).

11.4. SACL also makes a point of stating that Rex is a profitable airline with a PBT of \$27.5m (and so presumably can pay SACL more). This is again a red herring but for the record we would like to state that Rex has achieved profitability by growing its business and providing better value and not by charging its passengers more. In fact, its average fare today is even less than when it started operations 7 years ago notwithstanding a tripling of oil prices and the continued CPI increases of many of its cost components.

12. No appreciable impact on competition

SACL Justification #5: The proposed changes will not have an appreciable impact on competition between regional airlines.

12.1. SACL puts forward the argument that: *“The commercial robustness, especially of unregulated regional routes, will not diminish as a result of the proposed changes. Similarly, existing incentives for regional air services operators to expand and compete will not diminish as a result of implementation of the proposed changes.”*

12.2. SACL attempts to place significance on its stated figure that only 13% of regional passengers travel on regulated routes into Sydney Airport. Presumably SACL believes that only these passengers should be protected. Rex does not agree that only the regulated routes are vulnerable. Notwithstanding that, the percentage of regulated customers traveling on Rex through Sydney Airport is 31%, not 13%. The figure has been distorted with the introduction of jets onto a few popular regional routes over the last few years but this does not mean that the smaller essential service regional routes should somehow be discounted.

12.3. As noted above, the notified price increase is part of a much larger overall price increase SACL is seeking to impose on regional air services. That overall price increase is so large that it may threaten the viability of independent regional airlines at Sydney airport.

12.4. In addition, it could distort competition between regional airlines by favouring regional airlines that are part of larger domestic operations at the expense of independent regional airlines. There are two reasons for this.

12.5. The first reason is that regional airlines that are part of larger domestic operations, such as QantasLink, have a greater ability to minimise the impact of SACL’s proposed increased charges, such as the time-based parking charge. This is because, for such airlines, the regional operations have access to facilities that exist for the larger domestic operations (such as hangars).

12.6. The second reason is that such airlines have greater leverage to negotiate commercial deals with SACL (due to their other operations which are more profitable to SACL). Indeed it has been announced on 28 July that QantasLink received a price reduction on its PSC instead of an increase.

12.7. Of the six airlines mentioned by SACL as being actual or potential regional operators, only two (Rex and QantasLink) have significant regional operations through Sydney airport and Tiger does not have any. Jetstar operates only 16 flights per week to one regional centre and Virgin operates 102 flights per week to four regional centres. In contrast Rex operates 550 flights per week to 15 regional destinations. QantasLink has significant regional operations but, like Jetstar and Virgin, is able to leverage off the fact that it is part of a larger group and is able to enjoy the economies of scale that offers, particularly with regard to unregulated charges.

12.8. SACL notes that of the six actual and potential regional operators at Sydney, four have concluded confidential commercial arrangements with SACL. These four are the larger operators that also fly domestic routes or are owned by a domestic operator and have far more leverage when dealing with SACL than small regional operators. In relation to these, the 7 July statement on SACL's website states that: *"The full increase would not apply to QantasLink, Virgin Blue or Jetstar as these airlines have negotiated commercial agreements on a normal business to business basis with Sydney Airport"*.

12.9. The commercial arrangements that SACL reaches with the larger operators are shrouded in secrecy so Rex is unable to comment on the competitive disadvantage it may suffer as a result. However, Rex notes the following warning by the Australian Competition Tribunal from December 2005:

"We accept the proposition that, while a monopolist would ordinarily have no incentive to deny access to its facilities to downstream customers where there is strong competition between its customers, this situation does not hold where the market is characterized by relatively few large customers and strategic behaviour

is possible. The relevant issue was cogently summarised by Professor Oum, who opined: ... “each of the airlines might want to cut a special deal with SACL, and SACL may be able to use a divide-and-conquer strategy. This is particularly the case when a generic airside service charge increase has a different degree of impact on Qantas and Virgin Blue”. ”

13. Constraints on SACL’s behaviour

SACL Justification #6: There are constraints on SACL’s behaviour so prejudicial increases would be unlikely.

13.1. SACL does not produce evidence of what these constraints are but relies on comments by the Productivity Commission that:

“SACL’s pricing behaviour for regional air services providers is constrained and, in the absence of regulation, would be unlikely to result in prejudicial increases to regional air services providers given:

- public criticism would be likely were regional airlines to be treated less favourably; and*
- increases in SACL’s total revenue arising from even large, and therefore contentious, rises in charges for regional airlines would still be modest.”*

13.2. These comments were made in the context of the Productivity Commission’s view that Declaration 90 and Direction No.28 should be allowed to lapse in 2007 (discussed earlier in this submission). However, as discussed in paragraphs 5.11 to 5.14, the Government did not share the Productivity Commission’s views on this. In part this was because the Productivity Commission acknowledged it had over-estimated the strength of the commercial constraints on the behaviour of airports in 2002 when advocating deregulation of airport pricing (see paragraph 5.6 above) and that there remained some concerns around the market power of airports.

13.3. Further, the behaviour of SACL in relation to the other proposed increases suggests that it has both the ability and the incentive to charge excessive prices. The ACCC, in its annual airports monitoring report released in March 2010, stated that its analysis *“potentially indicates that Sydney Airport has increased profits by permitting service-quality levels to fall below that which could be expected in a competitive environment over a sustained period”*.

13.4. The heavy-handed way SACL sought to introduce increased parking charges earlier this year, and the way that SACL responded to Rex’s concerns about the magnitude of those charges, has made Rex very wary of any argument that commercial constraints will keep SACL’s behaviour in line. Rex will continue to negotiate in good faith with SACL but feels at a distinct advantage when dealing with a large monopoly service provider like SACL that holds all the cards.

13.5 Furthermore we have seen an example of how SACL sought to achieve its objective by stealth by publicly announcing an apparently reasonable price increase while hiding from the public and the ACCC an incredibly mammoth increase at the same time, hoping to avert the public outcry the Productivity Commission assumed would constrain its behaviour.

14. Conclusions

14.1. The notified 2.9% price increase is part of a much larger overall price increase SACL is seeking to impose on regional air services and should be considered in this light. The other aspects of this much larger overall price increase have not been notified to the ACCC but should be as all charges for aeronautical services to regional air services are covered by Part VIIA.

14.2. Increasing charges to regional air services cannot be justified by economic efficiency. Increased prices will not operate as signals for regional air services to

change their behaviour to make more efficient use of airport resources. They will just increase cost to regional air services.

14.3. Increasing the cost to regional air services will threaten the viability of independent regional airlines and distort competition between regional airlines (favouring regional airlines that are part of larger domestic operations at the expense of independent regional airlines).

14.4. Increased charges to regional air services do not reflect any increased level of service for regional air services. Indeed, service levels to regional air services have decreased reflecting the fact that regional air services are a low priority use for SACL while revenue to SACL from regional charges has increased without a commensurate increase in cost to serve. It is a matter of SACL "giving less and charging more".

14.5. The rationale for regulating charges to regional air services under Part VIIA is to protect investment and employment in regional communities recognising "*Sydney Airport's role as an essential transport hub for regional New South Wales*" ¹⁴ (Sydney airport as an essential facility) and the fact that: "*Without government action to cap prices and protect regional slots, smaller regional airlines would suffer as commercial pressures tend to favour the use of larger aircraft which service domestic trunk routes and international services*" ¹⁵. Rex is the sole operator to 11 regional cities serviced by Sydney airport.

14.6. Regional Express notes that SACL has made much of the "negative impacts" of the regulatory regime for regional air services and it is important to make a number of points about this:

¹⁴ National Aviation Policy White Paper December 2009 at page 58.

¹⁵ Press release by Transport Minister Anthony Albanese 2 June 2010 in relation to Declaration 92 and Direction No. 32.

*SACL Price Notification for Regional Air Services 2010
Regional Express Submission to ACCC 30 July 2010*

- Government policy (pre-dating privatisation) is to keep regional air services at Sydney and to cap prices for regional air services. This recognises (i) the essential role of Sydney airport for regional communities and in particular to their employment and ability to attract investments; (ii) the reality that regional air services cannot afford to pay what other users (such as international and domestic services) can pay; and (iii) the fact that investment necessary to support these higher paying users pushes up the costs of Sydney airport.
- The issue is, as the Productivity Commission commented in 2007, finding the right balance that protects regional air services at Sydney airport while minimising the impact of the regional ring-fence on SACL.
- SACL has been achieving its own balance by reducing service to regional air services (eg pushing them further away from the aerobridges, making them tow aircraft to park in the GA area). This increases revenue to SACL from higher paying users but it also increases costs to regional air services (eg the approximately \$1m additional cost of bussing passengers, the \$60 per day GA parking charge etc). It also places independent regional airlines at a disadvantage to regional services operated by Qantas (which has its own facilities at Sydney airport and minimise those costs).
- Now SACL wants to increase charges to regional air services as well (“giving less and charging more”). There is a serious risk that this will defeat the regional ring-fence, squeeze independent regional air services out of Sydney airport and increase the market power of the dominant domestic carrier (which is a major user of the airport) in regional aviation.
- This is the type of negative impact that the regulatory regime for privatised airports (and in particular Sydney airport) was designed to avoid.

14.8 We submit that the ACCC should make the following findings with regards to the matter at hand:

- All aircraft parking charges to regional air services (regardless of the length of parking and the location of parking) are covered by Declaration 92 and as such all attempts to increase these charges are subject to approval from ACCC and the CPI price cap in Direction No.32.
- Imposing time-based parking charges is an increase and should be notified to the ACCC. Requiring regional air services to park on the GA apron (and thus incur GA parking charges) is a degraded level of service which should result in a rebate instead of additional charges . In any event, now that regional air services are required to park on the GA apron, increasing the GA parking charge applicable to regional air services from \$60 to \$100 is an increase and should be notified to the ACCC.
- Where a regional carrier is directed to park at the GA apron because the normal apron is not available, no additional parking charges should be imposed.
- Any unilateral attempt by SACL to increase aircraft parking charges without notification is an offence under Part VIIA.
- In light of the statutory criteria in Part VIIA, all price increases SACL is seeking to impose on regional air services (including but not limited to the notified 2.9% increase) should be opposed by the ACCC.

Attachments

Appendix 1: Attachments A and B from SACL's 2002 notification

Appendix 2: Annotated copy of SACL's table of charges

Confidential Appendix 3: Rex's calculation spreadsheets

Appendix 4: Regulation 7.02A (aeronautical services and facilities)

Appendix 5: Map showing T2, parking bays and the GA apron

Facilities and Services Included Within the Interim Regional Passenger facilitation Charge for Terminal 2

Services provided on a common use basis:

- airside aprons that are contiguous with Terminal 2 and the foxtrot bays 1 - 6
- aerobridges, stand off/remote aircraft parking positions/nose-in guidance system
- CUTE (Common Use Terminal Equipment network)
- holding/gate lounges (not premium lounges)
- public address systems, management of closed circuit surveillance/security systems (excluding PAX security screening)
- baggage make up/handling, oversize baggage facilities/reclaim units
- public areas/amenities/air conditioning/lifts/escalators and moving walkways
- FIDS
- airside lighting/landside lighting (excludes JUHI and GSE storage);
- check-in-counters
- kerbside and traffic management
- terminal waste removal (not including aircraft waste removal)
- terminal cleaning (excluding leasehold areas for concessions, airlines or agencies)

Derivation of Regional Passenger Charge for T2

Charge Type	Existing Charge (excl GST)	Justification	Passenger-Based Equivalent	Justification
Terminal Charge	\$1.74 each way per passenger	ACCC approved charge for use of the Domestic Express Terminal, 25 May 2000	\$1.74 each way	
Apron Parking	\$35 per 15 minutes	ACCC approved charge for aircraft parking on designated Sydney Airport aprons during non-curfew hours	\$2.50	Conversion based on: <ul style="list-style-type: none"> • Average turn-around (excluding lay-overs) apron charge of \$105, using airport ops data of a most common stay of 30 min and a median stay of 40 min. • Ave aircraft capacity of 35 seats • Pax load factor of 60% (from BTRE 2001 data).
Check-in counter	\$17 per counter per hour	Current SACL charges, not subject to price control	\$0.26	Conversion based on: <ul style="list-style-type: none"> • Pax load factor of 60% • CIC use of 1 counter for 1 hour per 2 regional flights • Cost halved to exclude arriving pax.
Charge excluding passenger screening			\$4.50	

Appendix 2

Sydney Airport Aeronautical Charges* from 1 July 2010

Charge	International PSC (International Agreement)	Domestic (COU)	Regional (within NSW)	Freight, Helicopter & GA
Terminal	\$25.58 (ex GST) \$28.14 (incl GST) per pax arrive & depart, excl transfer, transit, infants and positioning crew ⁽²⁾ <i>(Terminal = \$13.42 (ex GST) per pax)</i>	\$7.41 (ex GST) \$8.15 (incl GST) per pax arrive / depart ⁽³⁾ (Terminal 2 only)	\$4.50 (ex GST) \$4.93 (incl GST) per pax arrive / depart ⁽³⁾ (Terminal 2 only)	
Terminal 2 New Investment Charge		\$0.40 (ex GST) \$0.44 (incl GST) per pax arrive / depart		
Runway charges	<i>Included in PSC (Runway charge = \$7.36 (ex GST) per passenger)</i>	\$3.46 (ex GST) \$3.81 (incl GST) per arriving and departing pax ⁽²⁾	\$3.44 (ex GST); \$3.78 (incl GST) per tonne take-off/landing ⁽¹⁾	\$4.29 (ex GST) \$4.72 (incl GST) per tonne take-off/land ⁽²⁾ Helicopter (Rotary wing): \$30.00 (ex GST) \$33.00 (incl GST) per movement
Common User Check-in Equipment	<i>Included in PSC (\$0.19 (ex GST) per chargeable passenger)</i>			
Passenger and Airfield Security	<i>Included in PSC (\$4.61 (ex GST) per passenger)</i>	\$1.99 (ex GST) \$2.19 (incl GST) per arriving / departing pax	\$0.87 (ex GST) \$0.96 (incl GST) per arr & dep pax (Terminal 2)	
Apron parking (non-curfew)	\$35.00 (ex GST) \$38.50 (incl GST) per 15 minutes	45 min included in terminal charge \$35 (ex GST) / 15 min	45 min included in terminal charge \$35 (ex GST) / 15 min	Designated Apron: \$35.00 (ex GST) \$38.50 (incl GST) per 15 min ⁽⁴⁾ GA Apron Per Calendar Day: \$100.00 (ex GST) \$110.00 (incl GST) MTOW up to 20 tonne ⁽⁴⁾ \$150.00 (ex GST) \$165.00 (incl GST) MTOW 20-40 tonne ⁽⁴⁾ \$240.00 (ex GST) \$264.00 (incl GST) MTOW above 40 tonne ⁽⁴⁾
Bussing/Stand-off Discount	\$3.00 (ex GST) per chargeable pax Code C or smaller; \$2.00 (ex GST) per chargeable pax above Code C aircraft			

notified 2.9% increase to these charges adds \$130,000 pa

additional time based charges after 45 mins parking adds almost \$3.1M pa

raising GA parking from \$60 to \$100 per day adds \$34,000 pa

*Based on current operational assumptions

* This table is intended to summarise Sydney Airport's aeronautical charges. Full conditions of use, including applicable charges, are contained in the Sydney Airport Conditions of Use, Version 2.21, 1 July 2010 or as signed with customers. This Table is subject to any separate agreements that SACL has with individual airlines.

⁽¹⁾ Subject to \$50 minimum charge against runway charge, Regional Service minimum \$20 for 0-5 tonne & \$41.25 for 5-10 t (all excl GST).

⁽²⁾ Subject to \$60 minimum charge against runway charge.

⁽³⁾ Includes 45 minutes apron parking and check-in counter use.

⁽⁴⁾ Apron charges also payable during curfew hours for operational use by curfew exempt aircraft.

Appendix 4

AIRPORTS REGULATIONS 1997 - Regulation 7.02A

Meaning of aeronautical services and facilities

- (1) For this Part, aeronautical services and facilities means those services and facilities at an airport that are necessary for the operation and maintenance of civil aviation at the airport, and includes each service or facility that is:
- (a) mentioned in an item in Table 1 (aircraft-related); or
 - (b) mentioned in an item in Table 2 (passenger-related).

Table 1 Aircraft-related services and facilities

Item	Services and facilities
1	Runways, taxiways, aprons, airside roads and airside grounds
2	Airfield and airside lighting
3	Aircraft parking sites
4	Ground handling (including equipment storage and refuelling)
5	Aircraft refuelling (including a system of fixed storage tanks, pipelines and hydrant distribution equipment known as a Joint User Hydrant Installation or JUHI)
6	Airside freight handling and staging areas essential for aircraft loading and unloading
7	Navigation on an airfield (including nose-in guidance systems and other visual navigation aids)
8	Airside safety and security services and facilities (including rescue and fire-fighting services and perimeter fencing)
9	Environmental hazard control
10	Services and facilities to ensure compliance with environmental laws
11	Sites and buildings used for light or emergency aircraft maintenance

Table 2 Passenger-related services and facilities

Item	Services and facilities
1	Public areas in terminals, public amenities, lifts, escalators and moving walkways
2	Necessary departure and holding lounges, and related facilities
3	Aerobridges and buses used in airside areas
4	Flight information and public-address systems
5	Facilities to enable the processing of passengers through customs, immigration and quarantine
6	Check-in counters and related facilities (including any associated queuing areas)
7	Terminal access roads and facilities in landside areas (including lighting and covered walkways)
8	Security systems and services (including closed circuit surveillance systems)
9	Baggage make-up, handling and reclaiming facilities
10	Space and facilities, whether in landside or airside areas, that are necessary for the efficient handling of arriving and departing aircraft (eg airline crew-rooms and airline operations centres)

- (2) In this regulation, airside area and landside area have the respective meanings given in section 9 of the Aviation Transport Security Act 2004.
- (3) To avoid doubt, aeronautical services and facilities does not include services or facilities:
- (a) relating to the provision of a high-quality service to certain passengers; or
 - (b) that are not necessary for the efficient operation of civil aviation.

SYDNEY AIRPORT DOMESTIC TERMINAL PRECINCT

