



Sydney Airport Demand Management Amendment Bill 2024

Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee
October 2024

Introduction

Australian Chamber – Tourism (the Chamber) welcomes the opportunity to comment on the Sydney Airport Demand Management Amendment Bill 2024 (the Bill). We thank the Government for the introduction of this legislation to implement reforms to the Sydney Airport regulatory framework, which follows extensive consultation formally commencing from 2020 through the Harris Review.¹

As a peak representative of businesses organisations in the visitor economy, the Chamber recognises the importance of having a competitive aviation sector – without this, travellers to, from and around Australia are significantly disadvantaged by high prices and infrequent travel options.

The Chamber is supportive of measures to increase competition within the aviation sector and, accordingly, urges the Parliament to pass the Bill as soon as practicable.

About the Sydney Demand Management Framework

Sydney Kingsford Smith Airport (Sydney Airport), Australia's largest and busiest airport, operates under a unique framework of operational restrictions and regulations, more stringent than those applied to other Australian airports or other airports globally. The framework was primarily introduced to address community concerns about aircraft noise and to manage airport capacity.

A fundamental feature of the framework is managing the demand for airport infrastructure to mitigate congestion and facilitate the efficient operation of the airport. Effective implementation of the framework is essential to maximise efficiency at one of

¹ Harris AO, P (2021), [Review of the Sydney Airport Demand Management Scheme](#).

Australia's most critical infrastructure assets while balancing noise impact protections for the community.

The Sydney Airport regulatory framework that was introduced in 1997 to address noise concerns restricts the airport to no more than 80 movements per rolling hour. Practically, the airport seldom reaches this 80-movement limit due to the rigidity of the framework, subsequently restricting Sydney Airport's ability to meet airline and passenger demand, which reduces competition amongst airlines, provides less choice and higher airfares for consumers, more noise and emissions, and less economic benefit.

The Chamber and its members have advocated for updates to this arrangement for some time, including through the recent Aviation White Paper process.

The slot regime currently entrenches inefficiency as it is open to manipulation by airlines and permits misuse. Addressing inefficient slot allocation and slot misuse is critical to ensuring competition amongst airlines, efficient use of critical infrastructure, and value for consumers and the Australian economy.

For too long, the current slot regime has operated in an effective duopoly – this has been recognised by the Australian Competition and Consumer Commission (ACCC). This duopoly has become more prominent in recent months with the collapse of Bonza in April this year, followed by Rex which entered voluntary administration in July. Although other external factors were in play for both of these airlines, a duopoly like this inevitably has significant impacts on competition and the viability of smaller competitors. In the short time following their exit from the market, the cost of flights has increased significantly.

Increasing competition

A strong, competitive domestic aviation sector is crucial for tourism and travel. While many travellers come to Australia through international air services, they also travel within the country, with the geography of Australia demanding that this travel occur by air in many circumstances. However, the high and rising costs of domestic airfares are a disincentive to travel, which restricts travellers from moving around Australia once here or, for some, preventing them from travelling to Australia in the first place.

The reforms to be delivered through the Bill are expected to lead to more affordable fares, improved service quality, and greater accessibility for underserved regional communities, ultimately enhancing the overall passenger experience. These are all necessary outcomes to support the recovery of travel and tourism following the COVID-19 pandemic and associated restrictions. While this recovery is progressing, the Chamber welcomes any measures to increase competition and support travel to, from and within Australia.

The introduction of a competitive tender process for slot management will promote transparency and fairness in slot allocation, ultimately delivering benefits for both airlines and passengers. Facilitating entry for new airlines will allow for increased competition through greater choices for consumers and lower costs of air travel.

The measures to introduce civil penalties for slot misuse are welcome. Stamping out poor behaviour and unfair treatment of parties will support a more competitive and reliable aviation industry and will deliver better benefits for travellers.

Another sensible measure in the Bill is to provide for a 'recovery hour'. Where a recovery hour is declared, up to 85 aircraft movements will be enabled, an increase to the ordinary 80, where aircraft movements are significantly disrupted. Although no changes to curfew or the overall number of flights per day will occur through this Bill, the introduction of a recovery hour, when declared, will enable fewer cancellations and some additional reliability for consumers in relevant events, such as bad weather or emergencies.

Ministerial oversight

Without withholding support for the passage of the Bill, the Chamber notes that the Ministerial functions and powers delivered through this legislation are significant in terms of administering the slot regime. We note that these functions and powers were not expressly recommended through the Harris Review. We welcome the ability for the Minister to have increased oversight in some respects than what they do currently, but we do hold some concerns about the exercise of these powers in some instances.

We note the ability for the Minister to delegate any or all of their functions or powers under the legislation – we welcome this ability and recognise Ministerial constraints where time-dependent decisions must be made, for example for a declaration of a recovery hour. However, due to the seriousness of these functions and powers and the impact issues at Sydney Airport have on other airports and transport functions around the country, we caution against this delegation falling to an 'acting SES employee'.²

To address these concerns, it is essential that any delegation of authority is accompanied by clear guidelines to ensure accountability, with delegated powers being exercised only by those with the requisite expertise and experience. This will prevent potential gaps in decision-making that may arise due to a lack of specialised knowledge or experience.

Further, where the Secretary delegates any or all of their functions or powers to another SES or acting SES employee – which again should be removed with respect to the 'acting' capacity – there should be an obligation to advise the Minister of this exercise of powers in writing.³

Next steps

The Chamber welcomes the introduction of this legislation following extensive consultation with industry through multiple processes. Delayed passage of the Bill would prolong operational challenges at Sydney Airport and continue to disadvantage passengers, airlines, and regional communities. We encourage the Committee to

² s71.

³ s71A.

recommend that this Bill be passed as soon as practicable to enable increased competition in the aviation sector promptly.

Few measures to do so were included in the Government's Aviation White Paper. However, the increased transparency that will be delivered through additional reporting from the Bureau of Infrastructure and Transport Research Economics (BITRE), the ACCC's reinstated airline monitoring, and the forthcoming Productivity Commission inquiry into determinants of domestic airfares on routes to and between regional centres, are welcome steps, along with the establishment of the Aviation Industry Ombuds Scheme and Aviation Customer Rights Charter to support consumer's rights. The Chamber will continue to encourage the Government to examine other measures which can support additional competition within the aviation sector to deliver better benefits for travellers.

About Australian Chamber – Tourism

Australian Chamber – Tourism (the Chamber) is a peak body representing Australian businesses engaged in the visitor economy. It brings together key participants in the tourism and travel sector to advocate better policies, including tax, regulation, tourism marketing, research, labour supply, visas and infrastructure. The Chamber is a part of the Australian Chamber of Commerce and Industry (ACCI), Australia's largest and most representative business network.

ACCI facilitates meaningful conversations between our members and federal government – combining the benefits of our expansive network with deep policy and advocacy knowledge. It's our aim to make Australia the best place in the world to do business. ACCI membership list can be viewed at www.australianchamber.com.au/membership/current-members/

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