

**GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF
THE SENATE RURAL AND REGIONAL AFFAIRS AND
TRANSPORT REFERENCES COMMITTEE REPORT**

Airspace 2000 and Related Issues

The Hon John Anderson MP, Deputy Prime Minister,
Minister for Transport and Regional Services

September 2003

Recommendation 1

The Committee recommends that Airservices Australia ensure that there is an extensive and rigorous consultation process with all sectors of the aviation industry on the provisions of the Lower Level Airspace Plan.

The Government accepts the thrust of this recommendation and agrees that a proper communication process must be conducted with all interested parties before airspace reform is implemented.

The Government would like to draw attention to some significant developments in relation to airspace reform since the Committee tabled its report.

The Special Aviation Reform Group (ARG) was established by the Deputy Prime Minister and Minister for Transport and Regional Services, the Hon John Anderson MP, in February 2002 to consider the most appropriate model for airspace reform in Australia. The current members of the ARG are the Secretary of the Department of Transport and Regional Services, Mr Ken Matthews (ARG Chairman), Chairman of CASA, Mr Ted Anson, Mr Dick Smith, the Chairman of Airservices Australia, Mr John Forsyth and the Chief of the Royal Australian Air Force, Air Marshal Angus Houston. Mr Anson and Mr Forsyth are serving in their individual capacities.

The ARG was asked to examine two proposals for reforming Australia's low level airspace viz. the Airspace Working Group's Low Level Airspace Reform Plan (LAMP), and the National Airspace System (NAS) Australia.

In coming to its recommendations, the ARG considered matters such as:

- cost effectiveness;
- degree of industry support and comments of the industry stakeholders on the merits of LAMP and NAS;
- ability to implement within a reasonable timeframe;
- degree of harmonisation with ICAO airspace classifications; and
- degree of harmonisation with international best practice.

On 13 May 2002, the Government agreed to adopt the National Airspace System (NAS) Australia as the model for reform of Australian airspace.

An Implementation Group (IG) has been established to implement the NAS model. The IG is undertaking an extensive communication and education programme with all affected parties.

Implementation of the first stage of the NAS model was completed on 20 March 2003. It is expected that the NAS will be fully implemented by end-2004.

Recommendation 2

The Committee recommends that Airservices Australia establish clear guidelines how CAGRO services interrelate and operate in conjunction with surrounding air traffic service sectors.

The Government does not accept this recommendation.

The establishment of guidelines is not required as CAGRO services do not interrelate, or operate in conjunction with, surrounding air traffic service sectors.

Recommendation 3

The Committee recommends that Airservices Australia seek formal legal advice on whether CAGRO services constitute an ATC service within the provisions of the Civil Aviation Act 1988.

The Government does not accept this recommendation.

CASA has obtained external legal advice, which supports the view that these services could not be held to be an ATC service.

Recommendation 4

The Committee recommends that the Minister for Transport and Regional Services appoint an independent consultant to assess any impact that the application of competition policy may have had on the delivery of aviation services to rural and regional communities. In particular, the Committee recommends that the independent consultant assess how the net community benefit test has been applied by Airservices Australia.

The Government does not accept this recommendation.

There are currently no Airservices' functions that have been opened up to competition by the Government. Airservices remains a legislated monopoly for its core function- the provision of ATS. However for a number of Airservices' other functions, there is no legislated monopoly, for example in areas such as ATC training and maintenance services.



It would be incorrect to assume that matters such as Location Specific Pricing (LSP), the provision of CAGRO services or the introduction of additional providers for ATC training are results of the implementation of National Competition Policy (NCP).

The point needs to be made that NCP does not require that Airservices contract or compulsorily tender out its services.

Australia's NCP was agreed on between the States/Territories and Commonwealth Governments with the aim of promoting and maintaining competitive forces that increase economic efficiency and community welfare, while recognising other social goals. NCP is not solely concerned with the introduction of competition. Rather, the various Australian Governments adopted a set of principles to facilitate and encourage national competition.

The Government would also take the opportunity to correct the incorrect suggestion that the new safety regulatory framework for the provision of ATC and ARFF services has been established to facilitate the application of competition policy. The Government became aware of the absence of a legislated safety regulatory framework to govern the provision of services provided by Airservices and asked CASA to develop regulations to address this gap. It should also be noted that the development of this framework is consistent with our international obligations pursuant to the Convention on International Civil Aviation 1944.

Having made the point that the matters considered by the Committee, which resulted in this recommendation, are not a result of NCP, the Government wants to dispel any remaining confusion by commenting on the following matters considered by the Committee in Chapter Three of its report titled 'Competition Policy'.

Air Traffic Control (ATC) Services

The Committee's position was that privatisation of ATC services would represent the transfer from one monopoly provider to another monopoly provider of the income stream. The Government must point out that contestability has not been introduced for the provision of ATC services, and therefore there has been no impact at any Australian airport served by Airservices.

Certified Air Ground Radio Operator (CAGRO) Services

The Government notes the position of the Community and Public Sector Union (CPSU) that CAGRO services constitute an Air Traffic Control (ATC) service. However, legal advice obtained by this portfolio is that a CAGRO service is not an ATC service.



The Government's position is that the introduction of CAGRO services at Yulara and Broome enhance safety. The Government has been advised that as the CAGRO service is provided during periods when the nature of traffic is such as not to require an ATC tower service, safety is enhanced by the provision of a CAGRO service.

The introduction of CAGRO services is completely unrelated to NCP. Airservices' core product at airports is the provision of a tower control service. Airservices has never provided CAGRO services and currently has no plans to provide them. The airports themselves arranged for independent, suitably qualified persons to provide these services.

In short, the introduction of CAGRO services does not in any way represent a scaling-back of service provision by Airservices. Rather, it is an enhancement to air safety during hours or at places where an ATC service is not provided at regional and GA airports.

Air Traffic Control Training

The Committee quoted the Minister's statement that the UK-based SERCO may provide an international ATC training centre in Australia. To date, SERCO has not progressed this proposal and it is not clear that SERCO will be doing so in the foreseeable future.

The Government agrees that Airservices' Melbourne-based training college is a world leader in its field. The Committee should note that following the notice of disallowance issued against the new safety regulatory framework by the Opposition last year, regulatory amendments were made to address the Opposition's concerns. In relation to providers of air traffic control training services, an independent provider of these services can only be approved by CASA if it is to provide the service in cooperation with, or by arrangement with Airservices.

Contestability of Maintenance Services

In 1999 Airservices Australia decided to market test a number of internally provided support services. This decision was not made because of NCP.

Market testing provides a means of assessing the relative merits of the current way of doing things versus the alternatives. It does not automatically mean that the service being market tested will automatically be outsourced. The aim was to compare the relative merits of in-house bids with external bids in order to achieve the best result for Airservices.

The most significant proposals concerned the National Airways System support services. Following Airservices invitation to potential providers to register interest in responding to a request for proposal, the Community and Public Sector Union (CPSU) mounted a strong campaign through the Australian Industrial Relations Commission (AIRC) and with staff to stop the process.



After many months of consultation and management deliberations and in light of the events of September 11 and the Ansett collapse, management decided to proceed with an alternative market testing package. This includes an external review of internal value for money, international benchmarking and a review of internal information transfer on the costs of services. Ultimately, however, decisions will be made based on safety, value and the technical merit of the alternatives.

The Committee reported CPSU advice about the lack of any CASA regime for regulating contestability of Airservices Australia's maintenance services. The Government has interpreted this advice as referring to the lack of a safety framework governing the provision of aeronautical telecommunications and radionavigation services. In response, the Government advises that on 26 June 2002, the Governor-General in Council made a new regulation viz. Part 171 of the *Civil Aviation Safety Regulations 1998* – Aeronautical telecommunication service and radionavigation service providers. Part 171 commenced on 1 May 2003 and will address the gap identified by the CPSU.

The Committee should note that following the notice of disallowance issued against the new safety regulatory framework by the Opposition last year, regulatory amendments were made to address the Opposition's concerns. In relation to aeronautical telecommunication service and radionavigation service providers, an independent provider can only be approved by CASA if it is to provide the service in cooperation with or by arrangement with Airservices Australia.

Competition Policy and the provision of services to GA and Regional airports

The Government fully agrees with the Committee's observation there are 'essential community benefits from ensuring that proper ATC services are maintained at GA and regional airports.' However, the Government disagrees with the Committee's position that cross-subsidisation is the most cost-effective way of doing this.

The Government's approach to retaining these benefits is to firstly cap prices at these airports, and secondly to directly subsidise Airservices for losses arising from the capped charges. On 22 May 2001, the Government announced that it would continue to subsidise the provision of Terminal Navigation (Tower) services at 14 regional and GA airports. This subsidy, which was introduced in 1998, was scheduled to expire in June 2001. The Government decided to extend the subsidy for a further two years in recognition of the additional cost burden faced by operators at these 14 airports and the potential effect on regional communities of the Location Specific Pricing policy. The Government announced that the subsidy has been extended until June 2004 as part of the 2003/04 budget package.

The detail of this mechanism is explained in the Government's response to Recommendations 5 and 6.

Competition Policy and air safety

The Government's position is that CASA is responsible for ensuring that aircraft operations are conducted in a safe manner. CASA cannot compromise safety standards, even if complying with them imposes costs that a particular operator may deem high. The Government has every confidence in the performance of CASA in carrying out its responsibilities.

The Government takes the opportunity to address the specific suggestion raised in this chapter that safety was compromised in relation to the granting of a category remission for BAE 146-200 aircraft.

The ARFF category for each airport is determined by CASA, which has adopted the relevant ICAO standards. The determination of ARFF category for a particular airport is based on aircraft length and width. However, movements also have a bearing on the category rating.

The standard starts at the highest category of aircraft determined by length and width. Before the category is set the first 700 movements for the busiest consecutive three months of the year are assessed to identify the number of the highest category aircraft movements at the airport. Should movements of a lower category aircraft be identified in this exercise the ARFF category can be lowered by a maximum of one category from the highest category aircraft movement.

In the case of the BAE 146-200 aircraft (which is a category 6 aircraft since it is around 60 centimetres above the upper limit of category 5 aircraft) CASA gave a dispensation to treat these aircraft movements as category 5 at Mackay and Rockhampton.

On 26 June 2002, the Governor-General in Council made a new regulation viz. Sub Part 139H (Aerodrome Rescue and Fire Fighting Services) of the *Civil Aviation Safety Regulations 1998*, which commenced on 1 May 2003. There is now no provision for the one category remission approach. That is, the ARFF category will be set with regard to the highest category aircraft using the airport.

In conclusion, competition policy has not had any impact on the delivery of aviation services by Airservices to rural and regional communities. The only regulated service that is currently open to competition is the provision of ARFF services at Commonwealth leased airports. Pursuant to amendments sought by the Opposition to Sub Part 139H of the *Civil Aviation Safety Regulations 1998*, ARFF providers who may be approved by CASA are limited to current providers, persons acting on behalf of or under an arrangement with Airservices Australia, or persons providing ARFFS under an arrangement approved by the Minister under s. 216 of the *Airports Act 1996*.

As discussed previously, the new regulation, Sub Part 139H of the *Civil Aviation Safety Regulations 1998* commenced on 1 May 2003.

Recommendations 5 and 6

The Committee recommends that the Government consider funding ARFF and TN services at GA and regional airports through some degree of cross-subsidisation where a demonstrable community benefit can be shown.

The Government does not accept these recommendations.

The Government is particularly sensitive to access and equity issues in regional Australia, and is determined to find ways to alleviate any disadvantages which may exist. The Government was fully aware that Terminal Navigation (TN) and Aerodrome Rescue and Fire Fighting (ARFF) services at several regional and General Aviation (GA) airports would not be affordable to the vast majority of users, if fully commercial rates were charged.

To address this position, the Government introduced capped TN charges, in recognition of the burden that Location Specific Pricing (LSP) would impose at these regional and LSP airports. Currently, this is charged at \$7.42 per tonne Maximum Takeoff Weight (MTOW).

This rate is not commercially sustainable for Airservices, which provides TN services at these locations. The Government has therefore been compensating Airservices directly through a subsidy. The subsidy is funded by a fuel levy of 0.26 cents per litre of aviation turbine and aviation gasoline fuels.

The Government's position is that a direct subsidy is more transparent and is more likely to deliver efficiencies over the long-term than cross-subsidising the provision of these services at regional and GA airports.

The Government does not subsidise the provision of ARFF services at any location. However, ARFF charges are only payable by aircraft with a Maximum Takeoff Weight (MTOW) greater than 2.5 tonnes. ARFF services are provided at only four of the fourteen 'LSP subsidy' airports. Since the vast majority of GA users at these four airports operate aircraft with an MTOW less than 2.5 tonnes, they do not have to pay ARFF charges.

The Government's position is therefore that the impact of LSP for the provision of ARFF services at regional and GA airports is relatively marginal.

Recommendation 7

The Committee recommends that Airservices Australia conduct a detailed costing of services at GA and regional airports, again with the view to possible cross subsidisation of costs where a demonstrable community benefit can be shown.

The Government does not accept this recommendation.

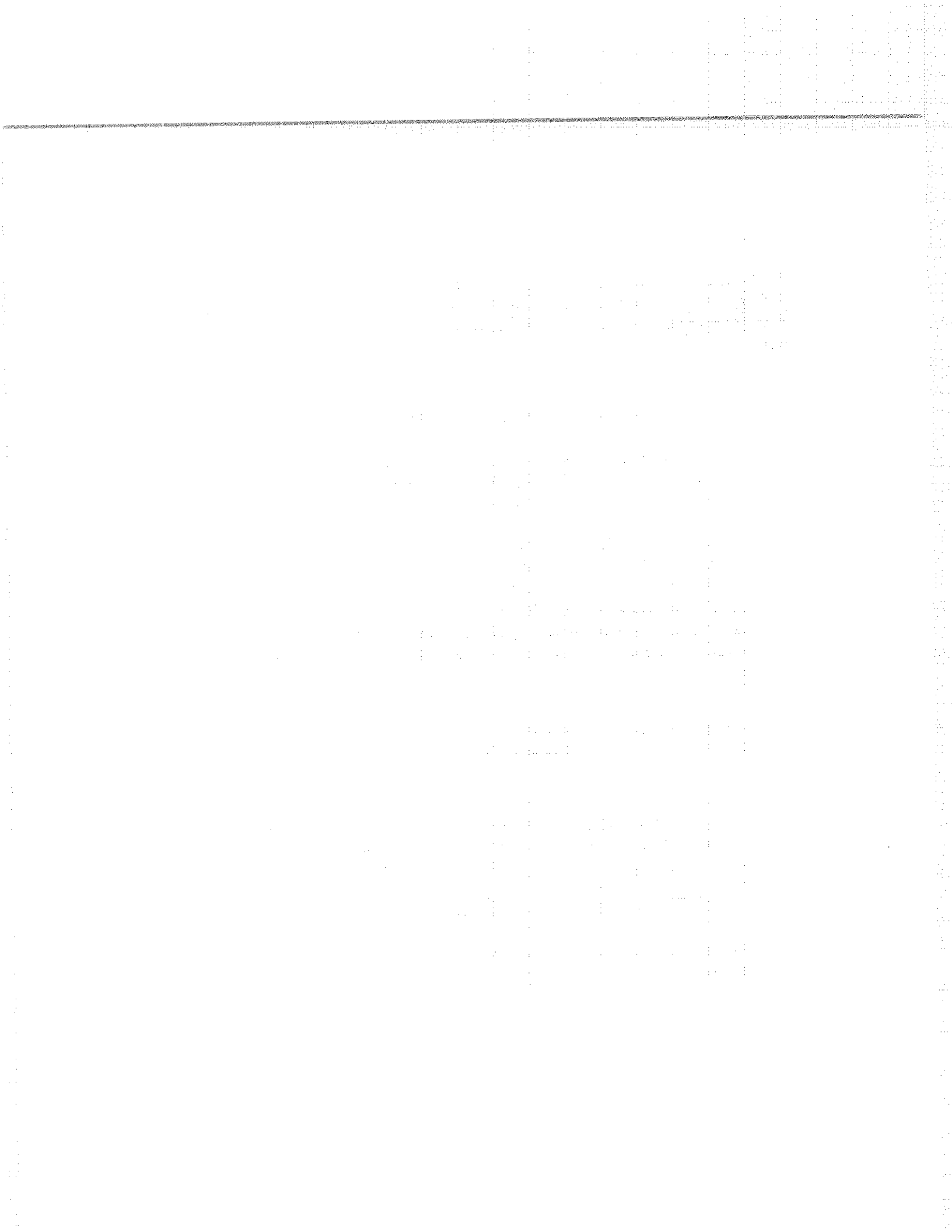
The Government advises that Airservices already conducts a detailed costing of services to General Aviation (GA) and regional airports, in order to determine the Location Specific Pricing (LSP).

Airservices introduced LSP for its Aviation Rescue and Fire Fighting (ARFF) service in 1997 and for its Terminal Navigation (TN) service in 1998. Since the introduction of LSP, Airservices has been calculating prices for TN and ARFF services with regard to the costs incurred in providing those services and the level of aircraft activity at each location. The pricing process therefore, naturally focuses on detailed costings on a location by location basis.

These costings are commercially sensitive and any disclosure of Airservices' detailed costings may undermine its position in any future competitive market.

On 22 May 2001, the Government announced it would continue to subsidise the provision of control tower services at 14 Regional and General Aviation airports until 2002-2003. The Government has paid a subsidy for this purpose since the introduction of LSP (1998/99), and has ensured that charges have been capped at these airports. The subsidy has been further extended until June 2004 as part of the 2003/04 budget.

Airservices provides these services at a price (including Government subsidy) that is less than full cost recovery.



Response to Dissent by Sen. Winston Crane and Sen. Jeannie Ferris

The Government fully agrees with the thrust of the dissenting note written by Senators Crane and Ferris, except for their support of Recommendation 4.

The Government's response to this recommendation is contained in the main response to the recommendations of the Committee.

**Response to Additional Comment by Sen. Kerry O'Brien
and Sen. Sue Mackay**

The Government agrees that the Minister for Transport and Regional Services has a responsibility to ensure the effective delivery of aviation services to regional Australia and the Government is committed to this outcome.

