



Australian Government

Department of the Prime Minister and Cabinet

Office of Best Practice Regulation

Reference: 17757
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Mr Mike Mrdak
Secretary
Department of Infrastructure and Regional Development
GPO Box 594
CANBERRA ACT 2601

Dear Mr Mrdak

Second Pass Final Assessment Regulation Impact Statement – Western Sydney Airport – Market Access Facilitation

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment which was received by the Office of Best Practice Regulation (OBPR) on 27 January 2015. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The OBPR assesses RISs against the best practice criteria set out in the Australian Government's Guide to Regulation. The OBPR's assessment relates to both the process followed in developing the RIS, and the quality of the analysis contained in the RIS.

The OBPR's final assessment is that the Department of Infrastructure and Regulation Development is compliant with the Government's requirements as:

- the RIS does not contain obvious errors;
- the regulatory costs have been agreed with the OBPR;
- the department has twice submitted the certified RIS for the OBPR's assessment prior to a decision being taken; and
- your letter received on 27 January 2015 certifies that the RIS responds to the OBPR's formal comments on the RIS from 20 January 2015.

However, as outlined in our previous correspondence, the OBPR considers that a higher level of analysis is required for the RIS to be considered best practice. The RIS should have provided the reader with a more comprehensive examination of the problem to be addressed, and the likely net benefit of each option.

In particular, the RIS does not explain the purpose of the cross-ownership restrictions, or the competition problem that they seek to address. In turn, the RIS does not address whether these issues are still present and, if so, how they would be addressed in the absence of cross-ownership restrictions.

That is, the impact analysis lacks a sufficient exploration of the impact of removing the cross-ownership restrictions, including an examination of the extent to which competition would be protected sufficiently by existing competition law.

Publication requirements

The OBPR maintains a RIS website and the Government requires that RISs be posted within five business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in Microsoft Word .doc format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate.

Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is **17757**. If you have any further queries, please feel free to contact me.

Yours sincerely



Jason McNamara
Executive Director
30 January 2015