



Australian  
Competition &  
Consumer  
Commission

# **Airservices Australia price notification**

## **ACCC decision**

**June 2013**



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# Glossary

ACCC	Australian Competition and Consumer Commission
Airservices	Airservices Australia
ARFF	aviation rescue and fire-fighting
ATM	air traffic management
CCA	Competition and Consumer Act 2010 (Cth)
en route	en route navigation
KPI	key performance indicator
LTPA	long-term pricing agreement
MTOW	maximum take-off weight
TN	terminal navigation
PCC	Pricing Consultative Committee
WACC	weighted average cost of capital

## ACCC's decision

The Australian Competition and Consumer Commission (ACCC) has decided to **not object** to Airservices Australia's (Airservices) proposed 2013-14 prices for terminal navigation (TN), enroute and aviation rescue and fire-fighting (ARFF) services.

The price increases proposed by Airservices are consistent with those accepted by the ACCC in 2011 as part of Airservices' long-term pricing agreement (LTPA). In addition, Airservices has included prices for out of ordinary hours charges for TN and ARFF services and has also added a charge for a new ARFF service at Port Hedland. The new charges are proposed to take effect from 1 July 2013.

This decision responds to a price notification submitted to the ACCC on 30 May 2013 by Airservices pursuant to subsection 95Z(5) of the *Competition and Consumer Act 2010* (CCA). The details of Airservices' prices are set out in its price notification and are reproduced in Appendix A of this decision document.

# 1 Summary

- 1.1 In 2011, Airservices submitted for the ACCC's consideration a long-term pricing agreement (LTPA) that outlined a path of prices for TN, en route and ARFF services for a five-year period (from 2011 to 2016). The ACCC undertook a detailed assessment of Airservices' LTPA and released a decision to not object to the proposed price increases in September 2011.
- 1.2 In reaching its decision, the ACCC noted the importance of commitments made by Airservices to improve its consultation with stakeholders on capital expenditure and to improve its internal drivers of efficiency. These initiatives were to be implemented through a Pricing Consultative Committee (PCC) that includes representatives from both Airservices and industry (such as airlines and airline representative bodies).
- 1.3 The ACCC's 2011 decision formally related only to the first year of Airservices' LTPA. Airservices is required to submit a price notification before increasing prices for each of the subsequent years of the LTPA. In its decision, the ACCC noted that Airservices' progress on its LTPA commitments would be an important consideration for the ACCC in assessing these subsequent price notifications.
- 1.4 The current price notification submitted by Airservices is the second of these subsequent annual price notifications and relates to price increases that are proposed to take effect from 1 July 2013 until 30 June 2014. Airservices has proposed price increases that are the same as those proposed in its LTPA.
- 1.5 In addition, in this price notification, Airservices has included prices for out of ordinary hours charges for TN and ARFF services and has also added a new charge for a new Category 6 ARFF service at Port Hedland. A Category 6 ARFF service involves providing the facilities, equipment and personnel to operate an ARFF service that includes 2 fire fighting vehicles and a minimum fire crew of 5 people.
- 1.6 The out of ordinary hours fees are charged on a cost recovery basis for staff costs on overtime rates only. The new charge for a Category 6 ARFF service was factored into the LTPA forecasts for growth in regional locations. The price proposed at Port Hedland is consistent with the prices for Category 6 ARFF services in the LTPA. The principles underlying ARFF prices reflect a combination of incremental cost pricing with larger aircraft bearing greater costs as well as network-based pricing for category 6 ARFF services such that the same prices for this service are levied at each airport with an ARFF capability.
- 1.7 In support of its price notification, Airservices has outlined the progress it has made in the last 12 months relating to its LTPA commitments. The ACCC has consulted with members of the PCC to test the extent to which Airservices has made reasonable progress on its commitments. In general, the PCC members noted continuing improvement in Airservices' timeliness, quality and level of

consultation on capital expenditure in the last 12 months. The ACCC has observed that Airservices has made solid progress against its LTPA commitments. This progress is important in ensuring Airservices operates and invests efficiently. However, there are further improvements that Airservices can make to its consultation processes and there is significant work still to be done to develop suitable internal drivers of efficiency.

- 1.8 Taking into account these considerations, the ACCC does not object to the price increases proposed in Airservices' current price notification.

## 2 Airservices' long-term pricing agreement

- 2.1 The LTPA sets out a path of prices for TN, en route and ARFF services for a five-year period (from 2011 to 2016). The price path in the LTPA was agreed after the ACCC undertook a detailed assessment of Airservices' proposed prices. In assessing Airservices' LTPA proposals, the ACCC aimed to ensure that Airservices was recovering only the efficient level of costs required to provide its price-regulated services, through a combination of price increases for ARFF services and some TN and price reductions for the en route service.
- 2.2 During its assessment of the LTPA, the ACCC noted the importance of commitments made by Airservices to improve its consultation with stakeholders on capital expenditure, particularly given its planned large increase in capital expenditure over the five-year period, in addition to improving internal drivers of efficiency through the setting of benchmarks and explicit efficiency targets in the LTPA. These initiatives were to be implemented in consultation with Airservices' Pricing Consultative Committee (PCC), which includes representatives from Airservices and a range of industry stakeholders (including airlines and airline representative bodies). The ACCC's view was that the implementation of these initiatives would help to ensure that Airservices continues to invest prudently and efficiently manage its costs.
- 2.3 As the LTPA includes price increases over a number of years, in 2011 the ACCC conducted a detailed assessment of the proposed prices over the full period covered by the LTPA. However, the ACCC's 2011 decision to accept the LTPA formally related only to the first year of Airservices' LTPA. Airservices is still required to submit to the ACCC price notifications for each of the subsequent years. For those subsequent years, the ACCC may consider it appropriate to conduct a short-form assessment process, which provides scope for the ACCC to conduct an expedited assessment.
- 2.4 The ACCC's decision to accept Airservices' LTPA noted that Airservices' progress on its LTPA commitments would be an important consideration in assessing subsequent price notifications.
- 2.5 The full details of the ACCC's assessment of Airservices' LTPA are available on the ACCC's website.<sup>1</sup> The ACCC's process of assessment is explained in further detail in section 4.

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<sup>1</sup> [www.accc.gov.au/aviation](http://www.accc.gov.au/aviation) > Airservices Australia > Price notifications

### **3 Airservices' 2013 price notification**

- 3.1 Airservices submitted a price notification to the ACCC on 30 May 2013 proposing prices for TN and ARFF services for the period 1 July 2013 to 30 June 2014. The prices proposed by Airservices are the same as those proposed in the LTPA that was assessed by the ACCC in 2011. In addition, this price notification includes prices for out of ordinary hours charges for TN and ARFF services and a charge for a new Category 6 ARFF service at Port Hedland. A full schedule of the notified prices is included in Attachment A.
- 3.2 In support of its 2013 price notification, Airservices has provided the ACCC with an update of its progress against commitments made as part of the LTPA in 2011. These are outlined in its draft price notification in section 5 of this document and relate to Airservices' consultation with PCC members on capital expenditure and internal drivers of efficiency.
- 3.3 Airservices has illustrated its consultation processes to the ACCC by providing examples of project business case information and capital expenditure program quarterly reports that have been presented to PCC members. In addition, Airservices provided the ACCC with the minutes of PCC meetings held in May 2012, August 2012, November 2012 and February 2013.

## 4 ACCC's assessment process

- 4.1 Airservices provision of TN, en route and ARFF services are declared to be notified services under section 95X of the CCA.<sup>2</sup> The relevant declaration, Declaration No. 66, is available on the ACCC's website at: [www.accc.gov.au/aviation](http://www.accc.gov.au/aviation).<sup>3</sup> Airservices is a declared person under subsection 95(X)(2) of the CCA. This means that, under section 95Z of the CCA, Airservices is required to notify the ACCC prior to increasing the prices for these declared services by submitting a price notification. Further detail of the legislative framework is included in Attachment C.
- 4.2 In assessing price notifications, the ACCC is required to have particular regard to the statutory criteria set out in subsection 95G(7) of the CCA. The statutory criteria broadly relate to the promotion of economically efficient investment and employment throughout the economy. The ACCC applies this legal framework according to the concepts and procedures outlined in the ACCC's Statement of regulatory approach to assessing price notifications.<sup>4</sup> The ACCC's approach to applying this framework in the context of the current price notification is outlined under 'ACCC's view' in section 5 of this decision document.
- 4.3 Further, as set out in the ACCC's *Statement of regulatory approach to assessing price notifications*, where a declared firm submits a price notification that proposes price increases over a number of years, the ACCC conducts a detailed assessment of the substance of the proposed prices over the full period covered by the LTPA. The ACCC then makes a decision on the proposed prices covering the first year of the period. The declared firm is required to submit to the ACCC price notifications for each of the subsequent years. For those subsequent years, the ACCC may consider it appropriate to conduct a short-form assessment process, which provides scope for the ACCC to conduct an expedited assessment.
- 4.4 Airservices' 2013 price notification notifies prices for the third period of its LTPA. The proposed prices are consistent with those outlined in its LTPA (see section 3) and Airservices appears to have made reasonable progress against its LTPA commitments. The inclusion of a Category 6 ARFF charge for Port Hedland is consistent with the assumptions built into the LTPA regarding new ARFF services. The inclusion of out of ordinary hours TN and ARFF services was not considered as part of the LTPA and is considered in section 5 of this

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<sup>2</sup> The declaration originally had effect under section 21 of the *Prices Surveillance Act 1983* (PS Act). On 1 March 2004, the PS Act was repealed and the declaration was taken to have effect under Part VIIA of the *Trade Practices Act 1974* (TPA). On 1 January 2011, the TPA was renamed the *Competition and Consumer Act 2010*.

<sup>3</sup> [www.accc.gov.au/aviation](http://www.accc.gov.au/aviation) > Airservices Australia > Declaration No. 66.

<sup>4</sup> The *Statement of regulatory approach to assessing price notifications* is available on the ACCC's website at [www.accc.gov.au](http://www.accc.gov.au) and has been partly reproduced in Appendix C of this decision document.

decision. The ACCC has considered it appropriate to conduct a short-form assessment process in this instance.

- 4.5 The ACCC has consulted with members of Airservices' PCC as part of its short-form assessment of the 2013 price notification. This consultation was used as a method of substantiating Airservices' reported progress against commitments made in the LTPA and to identify areas where further progress is required.

## 5 Assessment

### *Assessment of Airservices' proposed prices for 2013-14*

- 5.1 Airservices' 2013 price notification proposes new prices for TN, ARFF and enroute services that would apply from 1 July 2013 to 30 June 2014. The prices proposed by Airservices are the same as those proposed in the LTPA that was assessed by the ACCC in 2011.
- 5.2 Noting that these notified prices were considered in detail by the ACCC in its assessment of the LTPA, the ACCC does not object to Airservices' proposed prices for 2013-14. These assessed prices ensure that Airservices continues to receive sufficient revenue to cover the efficient costs of providing services.

### *Assessment of Airservices' progress against its LTPA commitments*

- 5.3 In undertaking this assessment, the ACCC has sought to establish whether Airservices has made reasonable progress against its LTPA commitments. This progress is important in ensuring that Airservices operates and invests efficiently.
- 5.4 The ACCC's view, outlined below, is that Airservices has, to date, taken reasonable steps to progress its LTPA commitments. Importantly, these improvements promote economic efficiency by providing incentives for Airservices to manage its costs prudently and efficiently.

### *Airservices' view*

- 5.5 Airservices submitted that it had undertaken reasonable progress in its LTPA commitments as outlined in table 5.1 and table 5.2 below. In particular, Airservices noted that it had implemented a number of its LTPA commitments through its PCC meetings that were held in May 2012, August 2012, November 2012 and February 2013.

**Table 5.1: Airservices’ report on its LTPA commitments and progress – consultation on capital expenditure**

Consultation element	Commitment by AsA	Further progress achieved in 2012-13
Program Baseline	<p>A more detailed program baseline will be provided to establish major delivery milestones to enable improved program performance monitoring. The baseline will detail planned project benefits, project costs and project milestones as they were incorporated into the draft price notification. It will be the original record against which delivery will be measured and risk sharing triggers monitored.</p>	<p>Airservices measures investment performance and monitors risk sharing thresholds against a rolling five-year capital program.</p> <p>Each year Airservices updates the program to reflect the progress of projects across the year and the impact of the changing operating environment on the investment priorities. From this review, a revised annual plan is developed to establish the resourcing and funding requirements for that year.</p> <p>Revised project milestones for major projects are provided along with a reconciliation of the updated program for that year against the baseline established for that year in the original LTPA. Where there are major variations to original LTPA assumptions, commentary and analysis is provided.</p> <p>The 2012-13 update was provided to the Pricing Consultative Committee (PCC) in November. Updated project milestones for major projects 2012-13 were also provided to the PCC as part of the 2012-13 Services Charter. The PCC was also provided with information on current and projected capital expenditure levels over the LTPA, up until 2015-16.</p>
Major Project Business Case Options	<p>Project business case information will be presented to the PCC for all projects greater than \$10m. This information will be provided prior to Airservices Board endorsement to improve transparency over, and industry input to, the determination of a preferred option.</p> <p>At this time, the business case information will be more mature, with refined information on project objectives, scope, benefits, costs and schedules.</p> <p>The final format of this business case</p>	<p>In the last 12 months Airservices has presented and discussed eight business cases and investment proposals with the PCC.</p> <p>Some of the projects presented have been brought to the PCC based on their high monetary value whilst some lower value projects have been presented because of their importance to industry.</p> <p>In presenting project business cases the PCC has continued to engage strongly with Airservices with discussions involving such things as:</p> <ul style="list-style-type: none"> <li>• The validation of project cost estimates</li> <li>• The extent of the project scope</li> <li>• The schedule of asset delivery</li> <li>• The impact of unprogrammed projects on the overall program</li> </ul>

	<p>information was agreed at the PCC meeting on 16 August 2011 and the formal reporting will commence from the PCC meeting scheduled for 16 November 2011.</p>	<ul style="list-style-type: none"> <li>• The priority of industry important projects</li> </ul> <p>During discussions with the PCC it is evident that interests have begun to shift with focus increasing on key industry priorities and areas which improve service delivery.</p> <p>Whilst industry still wants to maintain oversight of asset replacement programs for ageing assets and non-airways asset programs, it has been acknowledged that their involvement in justifying business cases and investment priorities in this area is more related to an assurance and governance role in relation to the management of the program and efficacy of the process.</p>
Project Baseline	<p>Following the approval of the preferred option, a final project baseline will be provided to the PCC. This baseline will include a final scope, cost/benefit analysis and schedule that will form the basis against which project delivery performance will be measured. Formal reporting will commence at the PCC meeting scheduled for 16 November 2011.</p>	<p>A major projects performance report has been provided to the PCC as part of the quarterly projects reporting pack over the last 12 months. The report provides information on projects which have an approved business case and baseline and provides commentary on the health of the project and forecasts spend and schedule comparisons to the project budget/baseline.</p> <p>In improving reporting in this area, Airservices has provided additional information to industry showing longer term project performance and forecasts in comparison to the original 5-year LTPA capital program delivery assumptions. This shows industry where project funding is being allocated as well as providing transparency where programs and schedules are reviewed and spending forecasts and delivery times are adjusted.</p> <p>Revisions to reporting to separately identify industry important projects, as distinct from asset renewal programs and upgrades has also helped focus discussions on key areas of interest.</p>
Quarterly Reporting	<p>As part of the quarterly service charter performance reports to the broader industry, high level capital program performance will continue to be reported. These reports will provide indicators on program health against annual targets.</p> <p>More detailed information will be provided to the PCC including a financial analysis and delivery</p>	<p>Airservices continues to provide a detailed project report pack to the PCC. The content of the report continues to evolve as reporting discussions mature. Reflecting this, revisions to some of the structure and content of the report have been incorporated based on feedback received from the PCC over the last 18 months.</p>

	<p>schedule management, as well as information on deviations from the LTPA program baseline.</p> <p>This reporting commenced at the PCC meeting on 27 May 2011, with enhanced reporting scheduled to commence at the PCC meeting on 16 November 2011 following agreement to the elements above.</p>	
Benefits Realisation	<p>Airservices will report on the benefits realised from capital works projects. The benefits identified will be reported annually and measured against original project baseline benefits realisation plans. Measurement of the benefits will be monitored on an ongoing basis to provide a cumulative picture of the benefits yielded.</p>	<p>Airservices has continued to engage with the PCC in discussions on the realisation of benefits from investment in its capital program. Airservices ascribes benefit statements to all new major project business cases to measure the realisation of benefits that underpin the business investment decision.</p>

**Table 5.2: Airservices’ report on its LTPA commitments and progress – internal drivers of efficiency**

<b>Internal driver of efficiency</b>	<b>Commitment by Airservices</b>	<b>Further progress in 2012-13</b>
Development of efficiency measures	Airservices proposed to develop, in consultation with the PCC, a set of measures of unit cost efficiency.	<p>In consultation with the PCC, Airservices has formulated efficiency measures for Air Traffic Measurement and ARFF services. These measures have been incorporated into the Services Charter.</p> <p>Airservices has continued to provide the PCC with business performance information and established target rates of performance for the 2012-13 financial year based on the trend in the previous year. Against these targets Airservices has reported its actual and forecast results to the PCC each quarter.</p> <p>Airservices continues to optimise its cost base through business improvement programs and projects to improve unit cost efficiency.</p>
Longer term performance incentives	<p>Airservices stated its intention to explore with industry the possibilities for a more sophisticated form of cost benchmarking in the longer term, including how specific financial rewards and penalties for performance against a suite of KPIs might be implemented.</p> <p>Airservices also stated its intention to refine efficiency targets based on analysis of the historical trends, forecast outcomes and international benchmarking over the course of the next 12 months.</p>	<p>Using the Services Charter as a foundation, the PCC has identified three key performance areas of interest to industry: Capacity Cost Efficiency, Cost Effectiveness and Flight Efficiency.</p> <p>The PCC has acknowledged that the Services Charter KPIs in their existing form are not yet fit to support a performance incentive regime. To address this, a special PCC workshop was held in February 2013.</p> <p>The performance indicators are now being reviewed and revised to reflect discussion from the workshop and to determine the availability of relevant data. The outcome is expected to be presented to the PCC in July in the form of a new Services Charter for 2013-14.</p>

### *PCC members' view*

- 5.6 The ACCC sought comment from PCC members on Airservices' 2013-14 price notification (see Appendix B). Of the 17 PCC members, 11 responded to the ACCC's request for consultation. Of those 11 members, one provided written comments, two declined to comment and eight participated in telephone interviews with ACCC staff.
- 5.7 There was a broad representation of users in the consultation process, with the ACCC receiving feedback from major domestic airlines, international airlines, regional airlines and a number of industry representative bodies. Nine of the 11 PCC members who responded were identified as having attended at least one PCC meeting in the 12 month period since the ACCC's last short-form assessment. Two members did not attend any PCC meetings, however they were still able to provide comments on the PCC process.
- 5.8 Overall, PCC members noted considerable improvement in Airservices' consultation processes within the last 12 months in terms of timeliness, quality of information provided and responsiveness to PCC input on capital expenditure issues. Examples include improved quality of minutes and increased transparency of detail in Airservices' business cases and quarterly reports. There was also a high degree of satisfaction with the level of staff representation from Airservices at PCC meetings.
- 5.9 However, there were also a number of suggestions to improve the meetings, including earlier circulation of materials to ensure sufficient time for members to review and discuss internally and improving accessibility of PCC meetings. The absence of a dial-in option for PCC members who are unable to attend meetings was also raised as a general concern, particularly by overseas and interstate PCC members. The option for members to dial-in to meetings in future could help to maximise representation of members at meetings.
- 5.10 In relation to project business cases, a number of PCC members would like to see Airservices include more detailed analysis of the range of options for each project, rather than just focusing on the primary option. A view was also expressed that PCC members should have the opportunity to be involved earlier in the development of options to ensure that projects are progressed efficiently and that proposed solutions are fit for purpose. These measures would provide increased information and transparency over project decision-making as well as an adequate explanation of why certain options are or are not adopted.
- 5.11 With regard to the development of internal drivers of efficiency, it was generally noted that progress remains slow in terms of developing a financial rewards/penalties system for measuring Airservices' performance against Key Performance Indicators (KPIs). A number of PCC members attributed this to difficulty in translating Airservices' Services Charter KPIs into measurable outcomes or agreeing to an alternative set of metrics. Some members suggested that Airservices would achieve a better result by adopting a different

approach such as a 'productivity target' or benchmarking against competitive markets. In addition, a number of members, while acknowledging improvement in capital expenditure transparency, expressed desire for Airservices to also increase transparency in its operational expenses over the next year.

- 5.12 The ACCC also consulted with PCC members in relation to the introduction of a new Category 6 ARFF service at Port Hedland. A number of PCC members held strong views both for and against the concept of network pricing (due to issues of cross-subsidisation between locations) rather than any matters specific to Port Hedland.
- 5.13 In relation to charges for TN and ARFF services provided out of ordinary hours, the majority of members expressed no view. However, one member supported the use of an out-of-hours pricing structure as it ensured that costs would be borne by those parties that incur them, rather than increasing cost pressures on other services.

#### *ACCC's view*

- 5.14 In reaching its decision to not object to Airservices' price notification, the ACCC has assessed Airservices' progress against its commitments made in 2011. The ACCC is satisfied that Airservices has made solid progress in improving its consultation on capital expenditure. However, the consultation process has revealed a number of areas for Airservices to focus on improving in 2013-14. In addition, the ACCC encourages Airservices to focus on developing the work done to-date on internal drivers of efficiency in advance of its next annual price notification.
- 5.15 Based on PCC members' comments received during the 2012-13 consultation process, Airservices has improved the timeliness of its reporting, and the effectiveness of its consultation with PCC members by ensuring appropriate staff attend PCC meetings.
- 5.16 While Airservices has provided the PCC with detailed business case information on its capital expenditure program, it was noted during consultation that some stakeholders require several weeks to review information internally and develop input and comments. This is particularly important as the business case information often includes complex technical information that takes a considerable amount of time to review within organisations.
- 5.17 The ACCC would encourage Airservices to provide an opportunity for PCC members to be involved earlier in the development of options where there is a view that they could assist with relevant technical and operational expertise. As part of its capital expenditure consultation, the ACCC would also encourage Airservices to respond to the view, expressed by a number of PCC

members, that they would benefit from being provided with more detailed analysis of alternative options in business cases.

- 5.18 PCC members appear generally satisfied with the response they receive to input and questions in relation to the business case information as well as quarterly reporting, which occurs at each PCC meeting. Several PCC members noted difficulties with attending PCC meetings in person due to location or time issues and would value the opportunity to participate in PCC meetings by video or teleconference rather than attending meetings in person.
- 5.19 The ACCC notes the work Airservices has undertaken to develop measures to assess its performance against KPIs. This includes Airservices' development of a set of efficiency measures in consultation with the PCC, which have been incorporated into Airservices' 2012-13 Services Charter. The ACCC also notes Airservices' hosting of a workshop in 2013, which included working with users to develop performance metrics, streamline reporting frameworks and ensure Airservices continues to meet its LTPA commitments. The ACCC will continue to monitor Airservices' work to improve its internal drivers of efficiency and performance measures.

***Assessment of out of ordinary hours TN and ARFF charges***

- 5.20 Airservices' notified charges for out of ordinary hours TN and ARFF services are based on the overtime rate for an air traffic control (ATC) or ARFF crew to be available to maintain the relevant category of service.
- 5.21 Airservices provided its methodology for calculating charges for out of ordinary hours TN and ARFF services. They are based on the costs of making ATC staff available to provide TN services and the necessary number of staff to provide an appropriate ARFF service.
- 5.22 While the minimum fire vehicle water carrying requirements, foam discharge rates, response times and other safety measures required for each category of ARFF service are set out in Civil Aviation Safety Regulation 139H, staffing requirements are not. The minimum level of staff required to provide an adequate ARFF service has been determined by Airservices using a risk based assessment of personnel required to respond to an incident, given the number of vehicles required to be operated and the category of aircraft involved. These levels are set out in Table 5.3, below.

**Table 5.3: Airservices' after-hours staffing for ARFF services**

	<b>Category 6</b>	<b>Category 7</b>	<b>Category 8</b>
Fire Commander	1	1	1
Station Officer	-	1	1
Fire Fighter	4	4	6

- 5.23 For services extending on from normal operating hours the rates are charged in 15 minute units for ARFF or hourly increments for ATC. Where an ARFF crew is required to be called back after normal hours, a minimum of 3 hours overtime is required to be charged. Out of ordinary hours charges for ARFF services at Category 9 and 10 aircraft are not required because the airports that service these aircraft operate on a 24 hour basis.
- 5.24 PCC members were largely indifferent when asked for views on the out of ordinary hours charges. However, those that did comment were positive about the charges, seeing them as a necessary safety expense that is efficiently charged on a 'user pays' basis.
- 5.25 Based on this information, the ACCC does not object to the prices notified relating to out of ordinary hours TN and ARFF services. Given that the proposed charges are solely based on the overtime rates for an ATC or ARFF crew to be available to maintain the relevant category of service, the ACCC is satisfied that such prices are not likely to be above the level of efficient prices.

#### ***Assessment of new Category 6 ARFF charges at Port Hedland***

- 5.26 The ACCC is satisfied that the proposed Category 6 ARFF charges for Port Hedland in 2013-14 are consistent with the LTPA. These ARFF services are a necessary safety measure as mandated by the Civil Aviation and Safety Authority (CASA) and were factored into the level of service charges projected within the five-year timeframe of the LTPA.
- 5.27 The requirement to provide ARFF services is governed by CASA regulations. CASA's requirement to establish an ARFF service includes a criterion for passenger traffic at an airport to exceed 350,000 passengers. According to Airservices' 2013 price notification, passenger numbers at Port Hedland Airport exceeded 400,000 during 2011-12.
- 5.28 The highest level of Category of an aircraft for which ARFF services need to be supplied is determined by the number of movements of the highest Category of aircraft that uses the airport. The threshold currently used by CASA is 700 movements in the busiest rolling three-month period. During the three months to September 2012, the number of Category 7 aircraft movements at Port Hedland exceeded 1,000. The growth in passenger numbers and aircraft size at Port Hedland is attributed to the resurgence of the resources sector and supporting industries in the region.
- 5.29 The Port Hedland ARFF service is planned to commence by 1 July 2013 as a Category 6 service and Airservices proposes to levy the Category 6 network charge of \$2.25 from that date. Category 7 services are expected to commence later in the calendar year 2013 and following further price consultation and

forecast traffic volume analysis. Airservices is required to notify the ACCC of its proposed Category 7 incremental charge prior to levying new charges<sup>5</sup>.

- 5.30 In reaching its decision, the ACCC also recognised that the LTPA factored the addition of two new Category 6 ARFF services into cost base changes that were projected to occur over the five-year LTPA period. In addition to Port Hedland, the LTPA envisioned the possibility of new ARFF services being added at Ballina or Coffs Harbour when passenger numbers at those airports meet required thresholds. The ACCC will consider the addition of any new Category 6 ARFF charges proposed by Airservices at the relevant time.
- 5.31 In summary, the ACCC is satisfied that Airservices' proposed prices are the same as those proposed in the LTPA and will ensure that it continues to receive sufficient revenue to cover the efficient costs of providing services, noting that the notified prices were considered in detail by the ACCC in its assessment of the LTPA. For these reasons, the ACCC considers that the Airservices' 2013 price notification meets the criteria under subsection 95G(7), and the ACCC does not object to the price notification.

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<sup>5</sup> Airservices' provision of TN, en route and ARFF services are declared (within Declaration No. 66) to be notified services under section 95X of the CCA. As the levying of a Category 7 charge at Port Hedland was not assessed as part of the LTPA, Airservices is required to notify the ACCC prior to increasing the prices for this declared services by submitting a price notification under section 95Z of the CCA.

## 6 ACCC's decision

- 6.1 The Australian Competition and Consumer Commission has decided to **not object** to Airservices Australia's (Airservices) proposed 2013-14 prices for terminal navigation (TN), aviation rescue and fire-fighting (ARFF) and enroute services.
- 6.2 The price increases proposed by Airservices are consistent with those accepted by the ACCC in 2011 as part of Airservices' long-term pricing agreement. In addition, Airservices has included prices for out of ordinary hours charges for TN and ARFF services and has also added a charge for a new ARFF service at Port Hedland. The new charges are proposed to take effect from 1 July 2013.
- 6.3 This decision responds to a price notification submitted to the ACCC on 30 May 2013 by Airservices pursuant to subsection 95Z(5) of *the Competition and Consumer Act 2010*. The details of Airservices' prices are set out in its price notification and are reproduced in Appendix A of this decision document.

# Appendix A: Airservices Australia's current and proposed prices

## A.1 En route navigation services

Charging formula for en route navigation (en route) services:

- For IFR aircraft with an MTOW of 20 tonnes or more:

$$price \times \frac{distance}{100} \times \sqrt{MTOW}$$

- For IFR aircraft with an MTOW up to 20 tonnes:

$$price \times \frac{distance}{100} \times MTOW$$

**Table A1: Airservices' current and proposed prices for en route services**

En route service	Current price	Proposed price (from 1 July 2013)
20 tonnes or more	\$4.07	\$4.04
Up to 20 tonnes	\$0.91	\$0.90

## A.2 Terminal navigation services

Charging formula for terminal navigation (TN) services:

- For all aircraft:

$$price_{location} \times MTOW$$

Note: MTOW shall not exceed 500 tonnes.

**Table A2: Airservices' current and proposed prices for TN services**

TN service location	Current price	Proposed price (from 1 July 2013)
Adelaide	\$11.72	\$11.78
Brisbane	\$6.15	\$6.18
Cairns	\$11.84	\$12.20
Canberra	\$12.03	\$11.91
Coolangatta (Gold Coast)	\$9.77	\$9.28
Melbourne	\$5.47	\$5.49
Perth	\$8.03	\$7.87
Sydney	\$5.59	\$5.60
Albury	\$13.73	\$14.21
Alice Springs	\$13.73	\$14.21
Avalon	\$4.86	\$5.03
Broome	\$13.73	\$14.21
Coffs Harbour	\$13.73	\$14.21
Hamilton Island	\$9.95	\$10.30
Hobart	\$9.68	\$9.68
Karratha	\$13.73	\$14.21
Launceston	\$13.22	\$13.68
Mackay	\$12.31	\$12.19
Rockhampton	\$13.20	\$13.33
Maroochydore (Sunshine Coast)	\$13.73	\$14.07
Tamworth	\$13.73	\$14.21
Archerfield	\$13.73	\$14.21
Bankstown	\$13.73	\$14.21
Camden	\$13.73	\$14.21
Essendon	\$13.73	\$14.21
Jandakot	\$13.73	\$14.21
Moorabbin	\$13.73	\$14.21
Parafield	\$13.73	\$14.21
Darwin	\$2.04	\$1.94
Townsville	\$2.65	\$2.52

**A.3 Aviation rescue and fire-fighting services**

Charging formula for aviation rescue and fire-fighting (ARFF) services:

- For all aircraft greater than 15.1 tonnes and target aircraft between 5.7 and 15.1 tonnes:

$$price_{category,location} \times MTOW$$

Note: MTOW shall not exceed 500 tonnes.

**Table A3: Airservices' current and proposed prices for ARFF services**

<b>ARFF service location</b>	<b>Current price</b>	<b>Proposed price (from 1 July 2013)</b>
<b>Category 6 aircraft and below</b>		
Brisbane	\$2.14	\$2.25
Melbourne	\$2.14	\$2.25
Sydney	\$2.14	\$2.25
Perth	\$2.14	\$2.25
Adelaide	\$2.14	\$2.25
Cairns	\$2.14	\$2.25
Darwin	\$2.14	\$2.25
Coolangatta (Gold Coast)	\$2.14	\$2.25
Canberra	\$2.14	\$2.25
Hobart	\$2.14	\$2.25
Karratha	\$2.14	\$2.25
Townsville	\$2.14	\$2.25
Alice Springs	\$2.14	\$2.25
Avalon	\$2.14	\$2.25
Ayres Rock	\$2.14	\$2.25
Broome	\$2.14	\$2.25
Hamilton Island	\$2.14	\$2.25
Launceston	\$2.14	\$2.25
Mackay	\$2.14	\$2.25
Rockhampton	\$2.14	\$2.25
Maroochydore (Sunshine Coast)	\$2.14	\$2.25
Port Hedland	-	\$2.25
<b>Category 7 aircraft</b>		
Brisbane	\$2.34	\$2.45
Melbourne	\$2.29	\$2.40
Sydney	\$2.25	\$2.36
Perth	\$2.43	\$2.61
Adelaide	\$2.82	\$2.96
Cairns	\$2.77	\$3.05
Darwin	\$4.10	\$4.51
Coolangatta (Gold Coast)	\$3.93	\$3.89
Canberra	\$8.51	\$8.73
Hobart	\$8.14	\$8.96
Karratha	\$7.96	\$8.16
Townsville	\$10.25	\$11.27
<b>Category 8 aircraft</b>		
Brisbane	\$3.17	\$3.33
Melbourne	\$2.77	\$2.91
Sydney	\$2.52	\$2.64
Perth	\$3.64	\$4.01
Adelaide	\$7.22	\$6.50
Cairns	\$5.76	\$6.34
Darwin	\$19.43	\$20.40
Coolangatta (Gold Coast)	\$4.85	\$5.34
<b>Category 9 aircraft</b>		
Brisbane	\$4.58	\$5.04
Melbourne	\$3.75	\$4.12
Sydney	\$3.03	\$3.34
Perth	\$6.29	\$6.92

#### A.4 Airservices' prices for out of hours TN and ARFF services

Out of hours charges are based on the overtime rate for Air Traffic Control (ATC) or ARFF crew to be available to maintain the relevant category. For services extending on from normal operating hours the recovery is made in 15 minute units for ARFF or hourly increments for ATC. Where an ARFF crew is required to be called back after normal hours a minimum of 3 hours overtime is required to be covered.

**Table A4: Airservices' proposed prices for out of ordinary hours TN services**

<b>Before or after normal hours (inc GST)</b>	<b>1 July 2013</b>
Up to 15 minutes	n/a
Over 15 up to 60 minutes	\$202
Each additional hour or part hour	\$202

**Table A5: Airservices' proposed prices for out of ordinary hours ARFF services**

<b>ARFF Category of Service (inc GST)</b>	<b>Greater than 15 minute before/after normal hours &amp; every 15 minutes thereafter (or part thereof)</b>	<b>Recall of Staff Flat Charge*</b>
6	\$90	\$1,081
7	\$110	\$1,317
8	\$114	\$1,730
9/10**	n/a	n/a

\* Recall of Staff Charges apply only where the timing of the out of hours service requires staff to be called in from home to work.

\*\* These are 24 hour locations

## **Appendix B: Pricing Consultative Committee members**

Airservices holds Pricing Consultative Committee (PCC) meetings with industry stakeholders every quarter.

The industry representatives that comprise the committee membership are listed below. These include domestic and international airlines, airline representative associations, airport representative associations, general aviation and recreational flying associations and international airline representative associations.

### **PCC members**

Australian Airports Association (AAA)  
Air Canada  
Air New Zealand  
Aircraft Owners and Pilots Association of Australia (AOPA)  
Board of Airline Representatives of Australia (BARA)  
Cathay Pacific  
Emirates  
Etihad  
International Air Transport Association (IATA)  
Jetstar  
Qantas  
Regional Aviation Association of Australia (RAAA)  
Regional Express (REX)  
Royal Federation of Aero Clubs of Australia (RFACA)  
Singapore Airlines  
United  
Virgin Australia Group of Airlines (VAA)

## Appendix C: Legislative framework and the ACCC's approach

The provision of TN, en route and ARFF services by Airservices are declared to be notified services under section 95X of the *Competition and Consumer Act 2010* (CCA).<sup>6</sup> Airservices is a declared person under subsection 95(X)(2) of the CCA.<sup>7</sup> The relevant declaration, Declaration No. 66, is available on the ACCC's website at: [www.accc.gov.au/aviation](http://www.accc.gov.au/aviation).<sup>8</sup>

### C.1 The ACCC is responsible for assessing Airservices Australia's price notifications

A declared firm cannot raise the price of declared services beyond its peak price of the previous 12 months unless it first notifies the ACCC of a proposed price increase and the terms and conditions of supply. Following the lodgement of the price notification, there is a price-freeze period of 21 days. The ACCC is then responsible for assessing the proposed price increase.

The price-freeze period ceases when:

- the ACCC advises it does not object to the proposed price increase
- the declared firm agrees to implement a lower price specified by the ACCC
- the prescribed period – initially 21 days – expires<sup>9</sup>.

The ACCC has the option of recommending an inquiry to the minister if the outcome of the procedure is perceived to be unsatisfactory.

As set out in section 95ZB of the CCA, there is an 'applicable period' of initially 21 days within which the ACCC is to make its assessment, starting on the day on which the formal price notification is lodged.

However, price notifications are often complex. Therefore, the ACCC suggests that a declared firm submit a draft price notification for consideration prior to lodgement of a formal price notification. This provides the declared firm and the ACCC with sufficient opportunity to consult with each other (and other parties where appropriate) to consider all relevant issues involved in the price proposal, and to ensure that all information requirements supporting the proposal are satisfied.

Although a declared firm is only required under Part VIIA of the CCA to submit a proposed price in its price notifications, the ACCC has encouraged Airservices to also include future price paths, which it considers to be relevant in its assessment of the price notification against the relevant criteria in the CCA.

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<sup>6</sup> The declaration originally had effect under section 21 of the *Prices Surveillance Act 1983* (PS Act). On 1 March 2004, the PS Act was repealed and the declaration was taken to have effect under Part VIIA of the *Trade Practices Act 1974* (TPA). On 1 January 2011, the TPA was renamed the *Competition and Consumer Act 2010*.

<sup>7</sup> In this document, a 'declared firm' is used to refer to a 'declared person' to assist in the reading of this guidance.

<sup>8</sup> [www.accc.gov.au/aviation](http://www.accc.gov.au/aviation) > Airservices Australia > Declaration No. 66.

<sup>9</sup> Pursuant to subsection 95ZB(2) of the CCA the ACCC may specify a longer price-freeze period with the consent of the person who gave the locality notice. In circumstances where the ACCC has given a response notice under subsection 95Z(6)(c) the period is also extended by 14 days.

Where a declared firm first submits a price notification that includes a long-term price path, the ACCC will conduct a detailed assessment of the substance of the proposed prices over the full period covered by the price path. The ACCC will then make a decision on the proposed prices covering the first year of the period<sup>10</sup>. The declared firm will be required to submit locality notices for each of the subsequent years covered by the price path. For those subsequent years, the ACCC may consider it appropriate to conduct a short-form assessment process.

A detailed outline of the ACCC's suggested process for all price notifications, including a discussion of short-form assessments, is contained in the ACCC's *Statement of regulatory approach to assessing price notifications* (June 2009), which is available on the ACCC's website at: [www.accc.gov.au](http://www.accc.gov.au).<sup>11</sup>

## **C.2 The statutory criteria for assessing price notifications**

In exercising its powers and performing its functions, subsection 95G(7) of the CCA requires the ACCC to have particular regard to the need to:

- a) maintain investment and employment, including the influence of profitability on investment and employment
- b) 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
- c) discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

In assessing the price notification against the statutory criteria, the ACCC has interpreted the criteria in subsections 95G(7)(a) and (b) as seeking to promote economically efficient investment and employment throughout the economy. This is broadly consistent with the objectives outlined by the Government for pricing infrastructure services under the national access regime.

Economic efficiency encompasses the following elements:

- productive efficiency, which is achieved when firms have the appropriate incentives to produce goods or services at least cost, and production activities are distributed between firms in a manner that minimises industry-wide costs.
- allocative efficiency, which is achieved when firms employ resources to produce goods and services that provide the maximum benefit to society.
- dynamic efficiency, which is achieved when firms have appropriate incentives to invest, innovate and improve the range and quality of goods and services, increase productivity and reduce costs over time.

In an open and competitive economy, efficient provision of services underpins investment and employment opportunities. Welfare enhancing investment and employment in the national economy will be promoted when firms produce goods or services at least cost and charge prices that correspond as closely as possible to

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<sup>10</sup> Under section 95Z a declared firm cannot raise the price of declared services beyond its peak price of the previous 12 months unless it first notifies the ACCC of a proposed price increase and the terms and conditions of supply.

<sup>11</sup> <http://transition.accc.gov.au/content/index.phtml/itemId/700599>.

competitive levels. Although a competitive benchmark may be lacking in industries subject to prices surveillance, economically efficient prices would, as in competitive areas, reflect least-cost production and include profit margins reflecting a return on capital commensurate with the risks faced by the firm.

Prices above efficient levels result in a loss of allocative efficiency as they discourage some marginal purchases which would have had a value to the purchaser above the cost of supply. As excessive prices are passed on in higher costs for other industries using the services, they lead to lower profits and potentially a loss of investment and employment opportunity in the competitive sectors of the economy.

Accordingly, the ACCC considers that the criteria in subsections 95G(7) will generally be met by economically efficient prices which reflect:

- an efficient cost base
- a reasonable rate of return on capital.

Including a reasonable rate of return on capital addresses the criterion in paragraph 95G(7)(a) by providing incentives to maintain profitable investment. At the same time, discouraging a declared firm from charging prices based on profits greater than the reasonable rate of return, as per criterion in paragraph 95G(7)(b), addresses issues relating to market power that the firm may have in the market for notified goods and services.

With regard to the criterion in paragraph 95G(7)(c), in assessing a price notification the ACCC will usually treat the level of wages and conditions as part of its broader concern for an efficient cost base.

More detailed information on the ACCC's approach to the interpretation of the statutory criteria is contained in the ACCC's *Statement of regulatory approach to assessing price notifications* (June 2009), which is available on the ACCC's website at: [www.accc.gov.au](http://www.accc.gov.au).