

INTERNATIONAL AIR SERVICES COMMISSION

ADVICE FOR SUBMITTERS

1. The *International Air Services Commission Act 1992* (the Act) provides that the Commission must invite submissions in the following circumstances:
 - before conducting a review under section 10 (section 22 of the Act);
 - before making a determination allocating available capacity (subsection 12(1)(b) of the Act), if any of the following apply (regulation 2B of the *International Air Services Commission Regulations 1992* (the Regulations)):
 - more than 1 Australian carrier applies for the capacity;
 - the Commission thinks that, if the allocation were made to a carrier, a restriction could be imposed on the carrier under the *Trade Practices Act 1974*¹, preventing the carrier using the capacity;
 - the Commission thinks that, if the allocation were made to a carrier, the carrier may not be able to obtain an approval that is necessary to utilise the capacity.
2. The purpose of this document is to provide guidance to people making a submission to the Commission. Section A provides advice on how to prepare a submission. Section B provides some useful information relating to procedures following the lodgement of a submission. Section C provides information on how to contact the Commission to obtain further information.
3. For avoidance of doubt, nothing in this document overrides the requirements of the Act, the Regulations or the International Air Services Policy Statement No.5 (the Policy Statement).

A. Preparation of submissions

4. When the Commission receives an application in respect of which it must invite submissions, it will publish a notice on its website (www.iasc.gov.au) inviting submissions. It will also send an email notification containing similar content to persons on the Commission's notification list. Any person may request to be included on the list.
5. To aid decision-making, any person intending to make a submission is advised provide a 'notice of intention to make a submission' to the Commission, in writing, before a substantive submission is given. The 'notice of intention to make a submission' does not have to be in the form of a formal letter; an email notifying the Commission of the person's intention to make a submission is sufficient.
6. As soon as practicable after receipt of a 'notice of intention to make a submission' from a person, the Commission will notify the applicant that submissions on the application are expected.
7. The Commission will not make a decision in relation to the application for a period of 10 business days beginning on the day the notice referred to in paragraph 4 above is published

¹ Now known as the *Competition and Consumer Act 2010 (Cth)*

(the consultation period).² To guarantee consideration of a submission, the submission must be received by the Commission before the end of this period. If a submission is received after the end of this period, it is likely that little if any weight will be able to be given to the submission, having regard to the commercial interests of the applicant.

8. In circumstances where no submission is received within the consultation period, the Commission will proceed to consider the application and make a decision as soon as practicable.
9. Submissions must be in writing. While there is no set format for submissions, submitters may wish to consider the Commission's governing legislation, which includes the Act, the Regulations and the Policy Statement, as well as the Commission's procedures, when preparing submissions. Copies of these documents can be obtained from the Commission's website (www.iasc.gov.au) or the Secretariat.
10. Submissions may address any issue which the submitter considers relevant. However, submitters should bear in mind the criteria contained in the Act and Policy Statement when preparing submissions as it is these criteria that the Commission is required to address.

B. Processes after a submission has been made

11. Upon receipt of a submission, the Commission will provide a copy of the submission to the applicant as soon as practicable to enable the applicant to respond to the issues contained in the submission.
12. The Commission operates with as little formality as is possible and in an open and transparent manner. A key element in operating openly and transparently is the Register of Public Documents (the Register).
13. All submissions received will be placed on the Register and published on the Commission's website (www.iasc.gov.au), including any submissions made in response to other submissions. The only exception to this practice is where the Commission is satisfied (on the basis of information provided by the submitter) that the submission contains confidential information which should not be placed on the Register.
14. Where the Commission accepts that a submission contains confidential information which should not be placed on the Register or published on the Commission's website, the submitter must also provide a non-confidential version of the submission for inclusion on the Register. The existence and nature of the confidential information must be referred to in the non-confidential version, such that the non-confidential version addresses all of the substantive issues which the submitter wishes to bring to the attention of the Commission.
15. If the requirements of paragraph 14 have not been complied with, the Commission may place a submission on the Register and publish it on the Commission's website even if it accepts that the submission contains confidential information. In such a case, before publishing the submission, the Commission will inform the submitter of its intention to do so and provide

² The consultation period ends at 11:59 pm on the 10th working day after the day the notice is published.

the submitter with the opportunity to either amend its submission or withdraw it in its entirety.

16. The Register³ contains all documents relating to a given application except those granted confidentiality as described above. The Secretariat updates the Register and the Commission's website (www.iasc.gov.au) as soon as an application or submission is received. The Secretariat also notifies (by email) interested parties as soon as updates to the Register and the website are made.
17. Where the Commission issues a Draft Decision or a Draft Determination, a public notice inviting further submissions will be published. All applicants and submitters will be provided with a copy of the Draft Decision or Draft Determination on which to base any further submissions.
18. In certain other circumstances additional submissions may be invited directly from applicants or submitters. An example is where the Commission decides to apply the paragraph 5 criteria to an application.
19. All submitters will be notified as soon as practicable when the final Decision or final Determination is issued.

C. Further information

20. Should you require any clarification of these guidelines, or further information concerning the operation of the Commission, the contact details for the Secretariat are:

Executive Director
International Air Services Commission
GPO Box 630
CANBERRA ACT 2601
fax: (02) 6267 1111
tel: (02) 6267 1100
email: IASC@infrastructure.gov.au

International Air Services Commission

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³ Prior to 2005, the register was a book that was accessible to the public and allowed interested parties to see all documents relating to a particular proposal. In 2005, the Register was converted to an electronic form.

