



New South Wales State Aviation Working Group

April 2007

Purpose

To provide advice and recommendations to the Director General, NSW Ministry of Transport (and through him, the Minister for Transport) on aviation regulation.

Current Position

Under the *Air Transport Act 1964* (the Act) the State Government regulates intrastate air services (within NSW) linking rural and regional centres to Sydney Airport. Under the Act, regular air transport passenger services must be licensed, unless declared deregulated by the Minister for Transport. Also under the Act, Regulations can be made by the Governor in respect to the air services.

At present, the Minister has declared deregulated 9 higher volume routes, trading above 50,000 passengers per annum. This decision is based on these bigger routes being less prone to instability than the smaller routes and more able to attract competition and provide lower airfares to passengers.

The remaining 23 routes in NSW are licensed and, under the Act, the Director General of the Ministry of Transport is responsible for administering the licensing. Under the Act, the Director General may revoke, vary, suspend or attach new conditions to a licence. Currently, the licensing gives effect to a single-operator policy for each of the 23 routes and allows the allocation of those licences by fair and competitive application processes. The policy reduces the potential for instability from unsustainable competition, provides greater business certainty for the operators and encourages them to develop the routes.

Licence conditions require 2 weeks prior notice of reductions in service levels and of route withdrawals, to allow the Ministry to intervene if appropriate.

Although this only occasionally leads to service level reductions being reversed, it more often facilitates replacement operators where airlines withdraw from air routes, through the immediate calling of fresh licence applications.

Also, under the *Air Transport Regulation 2006*, air operators providing services linking NSW rural and regional centres to Sydney Airport are required to provide passenger statistics, regardless of whether the routes are deregulated or not.

Key air service data for NSW intrastate routes appears in Appendix A. Overall, intrastate air passenger movements in and out of all NSW country airports to Sydney are approximately 1.8 million annually, which is an all time record high. This is up from a low point of less than 1 million passengers in 2002, during the worldwide downturn in aviation activity and, although some instability still occurs, the market is relatively settled at present.

All current NSW intrastate licences have a common expiry date of 29 March 2008 and, while there is no specific requirement to do so, the existing regulation is being reviewed in the lead up to this time, when it is proposed to implement any changes considered necessary.

This paper, by the NSW State Aviation Working Group, reviews the regulatory options, in relation to the views of interested parties and other associated issues, and provides advice on what changes might be made to current regulation.

Options Published by Ministry of Transport

An issues paper, replicated in Appendix B, was posted on the website of the NSW Ministry of Transport in October 2006. It formed the basis of a call for public submissions, closing on 31 January 2007, and proposed that five regulatory options needed to be considered in the consultation and review process:

1. Deregulate the entire market.
2. Adopt a 100,000 passengers/annum single-operator licensing threshold.
3. Leave unaltered the routes already declared deregulated by the Minister.
4. Continue using a 50,000 passengers/annum single-operator threshold.
5. Lower the threshold to say 35,000 passengers per annum.

Public Consultation

As well as posting the issues paper on its website, the Ministry of Transport also ran newspaper advertisements in October 2006 seeking community input into the public consultation process.

A total of 18 submissions were received. 10 of the submissions were from local Councils/Local Government Association of NSW/Shires Association of NSW, 2 from Councillors or Members of Parliament, 3 from members of the public, 2 from regional airline operators, and one from the NSW Farmers' Association.

Appendix C provides a summary of submissions received. A copy of all the submissions is attached to the original copy of this paper at Appendix C, or may be viewed on the internet at: www.transport.nsw.gov.au/air/pc-submissions. Of the 18 public submissions received:

- 3 indicated a preference for leaving unaltered the list of routes already deregulated by the Minister;

- 2 indicated a preference for having the deregulation threshold increased;
- 2 indicated a preference for having the deregulation threshold either reduced or the market completely deregulated;
- 2 indicated that those options identified by the Ministry were not satisfactory, and proposed further options for future regulation;
- 2 indicated a preference for maintaining the current 50,000 passenger threshold; and
- 7 did not indicate a preference for any of the options identified by the Ministry, but raised issues relevant to the author's particular interests.

Four of these latter submissions, all received from the Glen Innes-Armidale area, raised the issue of adequacy of air services to the region, for a variety of reasons, including recent service withdrawals and fare pricing.

The majority of submissions favoured regulation of, or greater involvement and support by Government in, the delivery of air services to regional areas. Most submissions also identified airfares as an issue.

Regulation Practices within other Australian States and Territories

Air services in Northern Territory, Tasmania and Victoria are fully deregulated. In South Australia two smaller routes are regulated without subsidy, by licensing them to single operators, while the remainder of the network is fully deregulated.

In Queensland some routes are regulated without subsidy while others, to small centres in the more remote areas of that state, are regulated and subsidised. Still other higher volume routes are deregulated.

Western Australia licenses all routes, with only one of those services currently being subsidised. Certain service levels, including airfares are monitored on regulated routes in QLD, SA and WA.

All interstate (or cross-border) air routes, including the main trunk services such as Sydney-Melbourne and Sydney-Brisbane come under Commonwealth Government responsibility and are fully deregulated.

Initial Review

The Working Group first met on 9 February 2007, with future regulation policy as the main agenda item. Members discussed each of the options identified by the Ministry in its issues paper and the public submissions received.

After considering the merits of each option, the Working Group consensus was that neither option 1 (fully deregulating the market), option 2 (doubling of the regulatory threshold) nor option 5 (reducing the threshold below 50,000 passengers/annum) was likely to provide an adequate regulatory framework.

The Working Group also acknowledged that any increase in the threshold above 50,000 may be difficult to justify under National Competition Policy in a market that is stronger now than when this threshold was introduced in 2002.

It was noted that a variety of issues have made low volume routes uneconomic and led to many small airlines leaving the market. The remaining operators give priority to service delivery on available routes and tend to avoid entry into situations likely to involve unsustainable competition.

Excepting Ballina and Coffs Harbour, the NSW intrastate market is served by four airlines, with two principal and two small airlines (one owned by a principal). Therefore, even if all routes were deregulated, the likelihood of multiple operators entering smaller routes, and the risk of instability being caused by competition, would appear to be quite low.

The Working Group discussed the view that, under these circumstances, exclusive licensing probably has little effect on the competitive practices of airlines. It was noted that competition is absent from deregulated routes of 50,000-100,000 passengers/annum (except Newcastle, where the location of operational bases for 2 airlines creates some competition).

Some of the public submissions highlighted this issue and favoured the introduction of price monitoring or regulation of airfares on monopoly routes, above the need for exclusive licensing or specific thresholds. Countervailing concerns about fully deregulating a market where instability and uncertainty are still significant issues, were also considered.

In discussing the issue the Working Group generally agreed that it should look beyond regulation based purely on a threshold criteria and consider other potentially relevant matters, which are discussed below.

Objective Formulation

The Working Group wished to identify what objectives should be achieved or supported by regulation and the following objectives emerged as important:

- Quality services, including high safety standards, convenient frequencies, access to Sydney (Kingsford Smith) Airport and direct as possible flights.
- Sustainable air services to NSW communities.
- Stability/certainty for communities and passengers.
- Air services contributing to social and economic wellbeing.
- Competitively priced and affordable airfares.
- Stability/certainty for operators.

The Group also determined that its advice would give consideration to the drought as the major issue currently facing regional areas.

Safety

Issues such as aviation security, safety and airworthiness of aircraft, competence of the flight crew, maintenance systems and operations management, are covered by Commonwealth legislation. State Government legislation does not cover issues of aviation safety, although Occupational Health and Safety issues are having an increasing impact on aviation safety.

Sustainability and Stability

The great majority of intrastate airline activity within Australia, including in Queensland and WA, is commercially operated. Not only is this so currently, but it has also been the case historically.

Overall, air service routes appear to be commercially viable down to about 6,000 passengers per annum using aircraft of approximately 19-seat capacity (further explained in Appendix B). Small Australian regional airlines procure these aircraft on the world market and, while this is possible at the present time, the viability of the same aircraft type in the medium to long term is uncertain.

Ongoing service-subsidy arrangements, as established in QLD and WA, arise out of more remote population distributions found in those states and are not being pursued in NSW or other jurisdictions at this time.

In NSW the whole intrastate network linking rural and regional centres to Sydney Airport is commercially operated and delivers multiple daily flights on nearly all routes, an advantage not generally found on subsidised routes in QLD and WA. A highlight in NSW continues to be the maintenance of commercial air services to remote centres such as Bourke, Broken Hill and Cobar.

State financial assistance has only ever been provided in one exceptional case. That was to facilitate the sale of the Ansett regional subsidiaries in Administration in 2001-02 and to help restore the collapsed network. The assistance, though the NSW Department of State and Regional Development, was supplemented by Commonwealth funding and concessions from private creditors and councils.

An issue for intrastate aviation in NSW has been the withdrawal of services on marginally viable air routes. A chronology of withdrawals from regulated routes in NSW was examined by the Working Group and showed that instability occurs on routes within approximately 1 hour journey by road to the nearest alternative regional airline service and/or routes trading below 6,000 passengers per annum.

On routes vacated for the first time after 2001, replacement operators have re-entered in all cases excepting Glen Innes.

However, in 2000-01, 15 NSW towns had their regular air links withdrawn: Brewarrina, Casino, Coonabarabran, Cootamundra, Cowra, Deniliquin, Forbes, Gunnedah, Kempsey, Maitland, Nyngan, Scone, Singleton, Young and West Wyalong. Of these towns, only the West Wyalong air service has since been restored and is still operating, while the Coonabarabran, Kempsey and Gunnedah routes were restored for various periods of time after 2000-01 but then failed again.

Although the question of assistance to restore air services to these towns was considered at the time, no subsidies were provided, based principally on their proximity to other centres with air services. This position appears to be consistent with practices in other Australian States and Territories.

Proximity and other criteria for the evaluation of air service needs are discussed further under "Social and Economic Needs" below.

Sustainability and the Ageing Small Aircraft Issue

Some small airline routes in regional areas operate commercially down to very small passenger volumes (refer Appendix A), due to their low cost structure, attributed mainly to the older aircraft types used and the nature of their networks. However it is doubtful if these small low-cost airline structures can be sustained especially as older aircraft must eventually be replaced or withdrawn.

The aerospace industry no longer mass produces aircraft of the type needing to be replaced (twin piston engine 6-10 seat). While more technologically capable aircraft (single and twin turboprops of 8-15 seats) are produced, they are much more costly, and lower volume routes are too small to make their operation viable.

The evidence is that routes operating below about 5,000 passengers annually may not be commercially viable for regional airlines with upgraded aircraft fleets, however the smaller and more remote air routes are in this category.

This issue already contributed to many of the withdrawals in NSW during 2000-01 and is responsible for extensive service losses reported more recently in the Northern Territory. As well, cost pressures attributed to fuel price movements and increasing compliance costs are exacerbating the situation.

It is difficult to estimate the timing of this issue emerging again in NSW and there are no indications of any immediate route closures. However, the ageing aircraft issue could potentially affect 6 operating routes in NSW in the 6-10 seat aircraft category at any time.

If withdrawals become imminent and no alternative commercial operator can be found, consideration may need to be given to issues of remoteness and other

needs criteria, to determine whether or not air transport subsidy arrangements by public tender should be considered.

Social and Economic Needs

The criteria that should be considered under the above circumstances would equate with social and economic needs met by the provision of regular air services, and are likely to include:

- Existing service levels including aircraft and passenger numbers per annum and service frequencies, which may range from multiple daily flights down to the minimum scheduled service level, generally accepted as one per week.
- Catchment population, in terms of the numbers of people residing within a specified range of the airport, such as one hour's drive or longer if the airport is attracting patronage from further afield.
- Need of the community to be engaged with their capital city and their regional centres as a means to productivity, efficiency and social development.
- Economic viability of the affected town/s, including attracting and maintaining business investment and public services, and serving local industries.
- Economic effects of the airline operation, including staff levels and indirect employment.
- Availability of key services within the community, such as a medical centre, police station and circuit court dependent on regular air services.
- Social need for an air service in relation to having alternative transport if road access is relatively unreliable.
- Proximity by road, rail or bus to the nearest regional/commercial centre offering school, medical service (usually hospital), postal and banking services, food and fuel.
- Proximity by road to the nearest suitable alternative air link, in relation to having access to alternative aviation services within a reasonable distance.
- Timing or urgency in relation to implementing new air service operations, such as seamless transition to an alternative carrier, if the current operator withdraws, to avoid significant impacts on a community.

Australian research indicates that people prefer to drive 3 to 5 hours than to fly, but for trips over 400 kilometres the demand for air services increases strongly.

In relation to proximity criteria for access to air services, jurisdictions including QLD and WA tend not to subsidise air services to centres less than 2 to 3 hours journey by road to the nearest alternative regional airline service.

A 2 to 3 hours criteria can also be seen as equitable in the sense that there are relatively large populations, such as in some regional areas adjoining capital city regions, with similar travel times to the nearest airline services.

However, when evaluating service needs, proximity criteria should be assessed in conjunction with other relevant needs, such as those outlined above.

Affordability

Affordability is an issue of concern and is most evident in NSW on the Armidale-Sydney route where a second operator recently withdrew, citing losses due to strong competition, leaving the demand for low cost seats exceeding supply.

Intrastate airlines also have a particular challenge in that they are compared with interstate carriers, who can provide deeper discounting due to economies of scale advantages, including much bigger aircraft and very large passenger volumes.

This creates a perception that fares on intrastate routes are unreasonably high, when in fact the service providers on these routes may be limited in their ability to discount further and continue to sustain their business.

As well, the strong growth in patronage on NSW intrastate air services suggests that affordability is generally robust.

However, the question of reasonableness and transparency in relation to airfares charged on single-operator routes remains to be addressed in NSW, noting that some other jurisdictions (QLD, SA and WA) have price monitoring through their licensing or contracting conditions.

National Competition Policy

National Competition Policy is administered through Commonwealth/State arrangements by the National Competition Council.

In 2001, the Council deemed the *Air Transport Act 1964* non-priority legislation based on the then 20,000-passengers/annum threshold for the regulation of airlines operating on routes to and from Sydney Airport.

However, when the threshold for restrictions on routes to and from Sydney Airport was raised from 20,000 to 50,000 passengers annually in October 2002, the Council required information on the public interest justification for this decision.

There are no current competition policy issues in relation to the regulation, although any proposed changes require careful consideration of the impact on competition, and continuing attention to the public interest justification.

It is the Ministry's policy to conduct competitive applications processes when allocating any new licences.

Other Issues in NSW

There are many other issues potentially influencing the viability of intrastate air services in this State, which the Working Group has discussed and noted as probably not directly relevant to State regulation policy at this stage.

The issues include the viability of regional airports, increasing compliance costs, access to Sydney Airport and the proposed Qantas acquisition.

As they stand, most of these issues are outside State control and unlikely to be resolved quickly. Aviation safety is a federal responsibility and while the State has not identified safety standards as an issue, compliance fees are of concern.

It is noted that the State Government's position is to monitor the issues and work through relevant forums and inquiries, including State/Commonwealth forums, in an endeavour to have the issues addressed.

Also, these issues may potentially influence future intrastate network strategies in NSW and therefore may become critical to the Working Group's forward work and advice on matters relating to the regulation of services.

Regarding the effects of the drought, which is the most severe in recorded history, its impact on regional airline patronage is difficult to ascertain in a market that has continued to grow. The growth is in contrast with declines in other drought affected sectors and demonstrates the capacity of air routes to perform positively in difficult times.

Conclusions

The Working Group has considered current regulatory arrangements in NSW in relation to regulatory options proposed by the Ministry in 2006, public submissions, regulatory practices elsewhere in Australia and a large number of other factors related either directly or indirectly to the regulation of air transport. The Working Group reached three primary conclusions:

1. There is a case for expanding reporting of service level information on routes where there is a single operator, especially in relation to timetabling and airfares. Such reporting would improve transparency and is considered to be in the public interest.

The reporting should apply to all lower volume single-operator routes, as well as the deregulated routes trading without competition (currently in the range of 50,000-100,000 passengers/annum). This can be achieved by Regulation under the *Air Transport Act 1964* and does not, in itself, require licensing.

The reporting provides some additional oversight to address the perception that there is less incentive for operators of single-operator routes, than of

competitive routes, to offer lower airfares and maintain adequate service levels. It is not proposed to require the reporting on competitive routes, nor is such reporting sought elsewhere in Australia (on competitive routes).

2. Given the desire to avoid instances of unsustainable competition on smaller routes occurring in NSW, expressed in public submissions and other forums, all routes trading below 50,000 passengers/annum should continue to be licensed as single-operator routes.
3. The evidence is that the viability of air services at the lower end of the intrastate market will probably continue to be an issue. Accordingly, for routes that become vacant in the future and no alternative commercial operator can be found by calling licence applications, criteria should be developed to allow Government to consider in each case whether assistance is warranted.

The proposed regulation will continue to provide a similar level of protection from instability as the existing arrangements. Although more reporting is proposed on single-operator routes, the data sought is likely to be readily available from within airlines.

The third conclusion relates in particular to remote area air services in NSW that may be unsustainable and affected by issues such as ageing aircraft, increasing compliance costs and rising fuel prices.

The Working Group also concludes that other issues affecting regional aviation, but which may be outside State control, still warrant periodic monitoring and follow-up in an endeavour to have the issues resolved.

Recommendations

- 1) The State Aviation Working Group recommends that the NSW Government implements the following measures under the *Air Transport Act 1964*:
 - a) Effective from 30 March 2008, a new Order be made declaring deregulated the three routes operating to Sydney Kingsford Smith Airport from Griffith, Lismore and Orange, in view of them now trading above 50,000 passengers/annum. All lower volume routes trading below this threshold would continue to be licensed and should not be deregulated.
 - b) A new Regulation be made requiring all operators, unless subject to an exemption by the Director General, to submit to the Ministry of Transport the following information for each route:
 - Effective from 1 July 2008, submit annually for the coming financial year, proposed aircraft type, average number of flights and peak-hour flights/week, seat load factor and fare structure; and

- Effective from 31 December 2008, submit six monthly, actual aircraft type, average number of flights and peak-hour flights/week, seat load factor, gross revenue and on-time running for the past half year.
- c) In relation to 1) b) above, the Director General exempt from the reporting requirements: deregulated routes with two or more operators providing services concurrently (routes operating to Sydney Kingsford Smith Airport from Albury, Ballina, Coffs Harbour, Dubbo, Wagga Wagga and Newcastle), but not single-operator deregulated routes.
- 2) The Working Group recommends no change to the *Air Transport Regulation 2006* requiring all operators to provide quarterly passenger statistics to the Ministry.
- 3) The Working Group also recommends other actions, as follows:
- a) A process for annual review of the information referred to in 1) b) above should be established by the Ministry of Transport, involving the Working Group and representatives of the operators and local councils.
 - b) New licences to be issued from 30 March 2008 should have a 5 year term and their allocation to operators should be determined through competitive licence application processes open to all eligible airlines.
 - c) Application processes should include a call for expressions of interest as a first stage where there are likely to be uncontested routes. This will enable the overall licensing workload to be spread by deferring applications on those uncontested routes.
 - d) Options for meeting the air service needs of remote communities should be further developed by the Working Group, including examination of the part that local Councils and airlines play, for consideration by Government.
 - e) Monitoring of other issues related to the regulation of NSW intrastate air routes including key issues outside State control, should be undertaken by the Working Group, to facilitate Commonwealth-State-Local Government and industry endeavours as may be effective in having the issues resolved.

**APPENDIX A
NSW INTRASTATE AIR NETWORK- LINKED TO SYDNEY AIRPORT**

Year ended 30 June 2006

Airport	Passengers	Current Operator (as at 1 Mar 2007)
Coffs Harbour*	302,507	Qantas, Virgin Blue
Ballina*	268,185	Jetstar, Rex, Virgin Blue
Dubbo*	152,109	Qantas, Rex, Air Link
Albury*	149,706	Qantas, Rex
Wagga Wagga*	145,243	Qantas, Rex
Port Macquarie*	101,771	Qantas
Armidale*	98,042	Qantas (Rex withdrew Jul 06)
Tamworth*	89,968	Qantas
Lismore	65,401	Rex
Griffith	60,279	Rex
Orange	57,062	Rex
Newcastle (Williamtown)*	50,988	Aeropelican, Qantas
Merimbula	39,402	Rex
Parkes	28,805	Rex
Lord Howe Island	26,654	Qantas
Bathurst	21,206	Rex
Moree	20,959	Qantas
Narrandera	15,504	Rex
Moruya	14,613	Rex
Cooma	13,984	Rex (entered Jun 05)
Broken Hill	13,266	Rex
Narrabri	11,949	Qantas
Taree	8,917	Rex (entered Feb 07)
Mudgee	6,956	Air Link
Grafton	6,142	Rex (entered Feb 07)
Cobar	6,058	Air Link
Inverell	5,303	Aeropelican (entered Feb 07)
West Wyalong	4,971	Rex (entered Jun 05)
Gunnedah	1,652	Vacant (Big Sky Ex withdrew Nov 06)
Bourke	1,308	Air Link
Walgett	1,004	Air Link
Lightning Ridge	776	Air Link
Coonamble	715	Air Link
Total NSW Intrastate	1,791,405	

- Regulated routes are licensed to one airline per route.
- * Deregulated routes.

APPENDIX B

MINISTRY OF TRANSPORT ISSUES PAPER

Air Services within NSW linking smaller communities to Sydney Kingsford Smith Airport are regulated by the New South Wales Government, under the [Air Transport Act 1964](#).

*New South Wales intrastate air routes (to/from Sydney Kingsford Smith Airport) with an annual passenger volume of less than 50,000 are regulated (currently all are allocated to one operator per route). *See the Special Note below.*

Routes with an annual passenger volume above 50,000, which account for some 75% of all intrastate passengers in NSW, are deregulated, as are all other intrastate air routes not linked to Sydney Kingsford Smith Airport.

Issues such as aviation security, safety and airworthiness of aircraft, competence of the flight crew, maintenance systems and operations management, are covered by Commonwealth Government regulations. State Government regulation of intrastate air services applies only to route-operator allocation and does not cover issues of safety.

** Special Note:*

- The 50,000 threshold was adopted in October 2002.*
- Five-year licences (March 2003 - March 2008) were committed to concurrently.*
- Newcastle Williamtown is deregulated regardless of it trading below threshold.*
- Where regulated routes now exceed the 50,000 level, the five-year commitment takes precedence over deregulating the routes.*
- Regulated route licence will run their full term, subject to licence conditions.*
- Threshold policies and the question of whether or not any regulated routes will be deregulated are being reviewed in the lead up to expiry of licences in March 2008.*

Before the threshold policy decision was made in 2002, the Government had considered work undertaken by airline Administrators, following the collapse of Ansett and its regional subsidiaries, on the viability of regional air services. Outcomes of this work can be summarised as follows:

- In terms of providing a commercial return to operators, it was considered that there was scope for two airlines only on routes with a volume in excess of approximately 100,000 passengers per annum.*
- In the range 100,000 to 65,000, the analysis considered that these ports would be capable of supporting one carrier with full time aircraft and another with partly committed aircraft.*

- *Between 65,000 and 35,000 the view was that only one operator using 36 seat aircraft full time would be commercially viable.*
- *Towns generating passenger volumes between 35,000 and 6,000 could support one carrier using 19 seat aircraft on a full time or part time basis.*
- *Below 6,000 passengers per annum, it is thought that only small 9-12 seat aircraft would be viable, generally feeding into larger regional centres and having on line booking arrangements with one or more of the principal carriers.*
- *Current experience in NSW is that airlines compete on routes in excess of about 100,000 passengers per annum, with competition also occurring on the Sydney-Williamstown route, at approximately 50,000 passengers per annum.*

There are currently three deregulated routes, operating between approximately 50,000 and 100,000 passengers per annum, without competition.

Options & Issues

It would appear that five main options need to be considered:

1. *Deregulate the entire market.*
2. *Adopt 100,000 as the threshold, on the basis that airlines generally do not compete below this level.*
3. *Leave unaltered the list of routes already deregulated by the Minister (identified below under "Air Transport Amendment Act 2006").*
4. *Continue using the 50,000 passengers per annum threshold.*
5. *Lower the threshold to say 35,000 passengers per annum.*

These options and the principal issues they raise are discussed below and provide a guide to the Ministry of Transport's thinking at this time.

Option 1 is unlikely to gain community support or be seen to be in the public interest, based on the debate in the NSW Parliament in 2006. ([Legislative Assembly Second Reading, 28 February 2006](#); [Resumption of Legislative Assembly Second Reading, 29 March 2006](#); [Legislative Council Second Reading, 11 May 2006](#).)

The public interest justification for regulating intrastate air routes is further supported by there also being a competitive tendering process proposed for the allocation of new air transport licences to commence 30 March 2008.

Option 2 would double the passenger threshold, while option 3 would effectively raise it from 50,000 to 65,000. In both cases, any change would require justification in relation to how the public interest is served by increasing the level of protection.

If option 4 was adopted, three currently regulated routes (Sydney to Griffith, Lismore and Orange) would be deregulated once the existing licences expired in March 2008. The service provisions for those routes would then be left entirely up to the airline market to determine.

Option 5 would result in only one more route (Sydney to Merimbula) being deregulated. Competition at or below this level would almost certainly be financially unsustainable and hence raises questions regarding the usefulness of encouraging more than one airline onto such routes.

A further issue to be considered is what license term would be most suitable for the new license term commencing 30 March 2008.

Unless persuasive counter arguments are received, a five year term may be favoured. This is on the basis that it presents a balance between giving airlines time to grow the markets and providing communities with the opportunity to test the markets for alternative service proposals.

It should also be noted that the Sydney to Newcastle Williamtown route would continue to be deregulated regardless of threshold levels, due to its particular operating environment.

Air Transport Amendment Act 2006

This legislation came into force on 1 July 2006.

It abolished the previously mandated State licensing and associated fees for both air charter companies operating within NSW and airlines flying the larger intrastate routes.

The legislation allows for airline routes servicing smaller communities to continue to be licensed and regulates air transport on those routes, to encourage stability, route development and continuity of services. Accordingly, existing regulated route licences will continue to have effect until they expire in March 2008.

Although charter operators will no longer be required to hold a State licence, provisions continue to apply to ensure that only airlines provide regular public transport services.

On 23 June 2006, an Order by the Minister for Transport was published in the Government Gazette, to declare deregulated routes as the routes between Sydney (Kingsford Smith) Airport and Albury, Armidale, Ballina, Coffs Harbour, Dubbo, Port Macquarie, Tamworth, Wagga Wagga and Williamtown, and any routes not linked to Sydney (Kingsford Smith) Airport.

Also on 23 June 2006, a Regulation by the Governor was published in the Government Gazette, requiring all operators to submit quarterly passenger statistics to the Ministry of Transport, for each route linked to Sydney (Kingsford Smith) Airport, whether regulated or deregulated. This Regulation is to ensure continued collection and publication of data on intrastate airline activity.

The licensing functions on regulated routes is vested in the Director General. There is now an appeal provision, absent prior to 1 July 2006, making decisions made by the Director General with respect to a licence application reviewable by the Administrative Decisions Tribunal.

The Air Transport Council has been abolished and will be replaced with a more relevant State Aviation Working Group to ensure representation that includes local government and the airline industry. The Working Group is to advise on matters relating to the regulation of services and seek the views of persons with an interest in service provision.

The Working Group will be informed by the responses to the public consultation process.

APPENDIX C

Summary of submissions to the Ministry of Transport Public Consultation process

<u>Submission from</u>	<u>Summary</u>
Parkes Shire Council	Council indicated its preference to have the current regulatory arrangements remain in force.
Greater Taree City Council	Council raised the following issues: <ul style="list-style-type: none">• the tendering process for air route operators should be transparent (Council's previous experience is that such processes are undertaken on a strictly confidential basis and councils can be criticised for their support of a particular operator or for releasing information);• airport operators need to be involved in the process;• there appears to be a lack of monitoring by the Ministry of timetables/fare structures/aircraft compared to the level of service proposed in the original tender.
Walgett Shire Council	Council indicated its opposition to deregulation of the entire intrastate market.
Richard Torbay, M.P Independent Member for Northern Tablelands	MP Torbay raised the following issues: <ul style="list-style-type: none">• on routes open to competition, seat prices are more affordable and passenger volumes are higher; routes with one airline only result in higher prices where passengers are priced out of the market;• air services to regional communities are essential, however these fares are much higher than those available to persons living in larger cities;• the State and Commonwealth governments should work to implement the 28 recommendations from the 2003 Federal House of Representatives Standing Committee on Transport review, and to provide incentives for regional services.
Susan Willis Member of the public Glen Innes	Ms Willis indicated that the New England area was a growing one, and the need for an air service is essential, and believes that the State and Federal governments have lost touch with the needs of local communities.
	Ms Willis also advised that the Glen Innes region could sustain a regular service for both locals and tourists.

Susan Dunn Member of the public Armidale	Ms Dunn indicated that current air services to even major regional centres is substandard, due to short-term commercial manipulation. Ms Dunn also indicated that regional Australian cities are paying high fares for reduced services, inhibiting regional development.
Cr Steve Toms Mayor, Glen Innes Severn Council	Cr Toms raised the following issues: <ul style="list-style-type: none"> • with Glen Innes being closer to Brisbane than Sydney, and transport impediments to Sydney, business and other services are being increasingly sourced from Qld; • the local community is attempting to attract economic development in the area, but is being impeded by the lack of an efficient air service to Sydney (made worse by the loss of a second operator out of Armidale and the subsequent fare rises).
Moree Plains Shire Council	Council raised the following issues: <ul style="list-style-type: none"> • the regulated route licence threshold should be reduced to 30,000 passengers; Moree/Narrabri operates twice the number of passengers than routes sustaining one operator, indicating the viability for a second operator; • a 3-year licence should replace the current 5-year term; this would allow a more flexible market response to areas of growth; • the current aircraft and flight scheduling is artificially capping the number of passengers into and out of Narrabri and Moree; a deregulated route would increase competition thus resulting in improved scheduling, fares and passenger numbers; • the Moree area helps sustain the surrounding regions, the expansion of this service is crucial for the economic and social development of the region.
Leeton Shire Council	Council indicated that it did not support removal of the existing threshold and that if the threshold were to be amended, then the preferred option would be to have it increased. In support of this, council also advised that: <ul style="list-style-type: none"> • either deregulating the market or lowering the threshold would threaten the future viability of the existing service and hence the long term sustainability of the region; • allowing the introduction of a second operator in the area would result in the eventual failure of both carriers.
Cooma-Monaro Shire Council	Council indicated its support for the continued regulation of the current air service.

<p>Tamworth Regional Council</p>	<p>Council advised that its preferred option is to leave unaltered the list of routes already deregulated. In support of this, council also advised that:</p> <ul style="list-style-type: none"> • deregulation of the entire market would not gain community support or be in the public interest; • routes carrying up to 100,000 passengers tend to support only one airline, and increasing the threshold will eliminate the possibility of a low cost carrier; • deregulating routes currently with 50,000 passengers (thus increasing deregulated routes by 3) would not be viable for those 3 additional routes; and • reducing the threshold to 35,000 would lead to a financially unstable market.
<p>Narrandera Shire Council</p>	<p>Council indicated that its favoured option is to raise the passenger threshold to 100,000 passengers per annum. In support, Council believes that any deregulation below this level would seriously jeopardise the viability of current air services.</p>
<p>Robert Gordon Member of the public Guyra (Armidale)</p>	<p>Mr Gordon indicated that none of the policies identified by the Ministry are satisfactory for the future regulation of intrastate air services, and instead should be replaced by the test “is there genuine competition on the route, or not?” Mr Gordon also raised a number of other issues, including:</p> <ul style="list-style-type: none"> • air services in NSW are not meeting the community’s needs or expectations; and • state and federal government intervention is necessary to maintain an adequate and affordable air service as an essential form of transport for regional NSW.
<p>Qantas</p>	<p>Qantas indicated its preference for maintaining the current 50,000 passenger threshold, for a further five years.</p>
<p>NSW Farmers’ Association</p>	<p>The Farmers Association indicated its preference for maintaining the current 50,000 passenger threshold, thus resulting in the deregulation of a further three routes. The Association also indicated its desire for monitoring of operator service levels against those provided in its route application and that further Federal funding should be provided to regional airports.</p>
<p>Armidale Dumaresq Council</p>	<p>Council indicated that it did not favour any of the options identified by the Ministry, and the preferred course of action should be to have the following criteria apply:</p>

	<ul style="list-style-type: none"> • single licence regulation for routes with a passenger volume of up to 50,000 per annum; • two regulated licences for routes with between 50,000 and 100,000 passengers; and • deregulation of any routes carrying in excess of 100,000 passengers per annum.
Region Express (Rex)	Rex indicated its preference for having the entire market deregulated. The airline submitted that having a sole route licence, determined by an arbitrary threshold, is detrimental to passenger growth, route development and average fares.
Local Government Association of NSW – Shires Association of NSW	<p>These Associations made a number of points, including:</p> <ul style="list-style-type: none"> • both regulated and deregulated air routes serve as a significant development impetus to regional areas. • small regional airlines provide a much needed service to their communities for business, medical and educational purposes and by improving “accessibility”. • continued uncertainty highlights the need for a policy response from both the Commonwealth and the State; • while existing licensing has been adequate, reliability of some individual services has been marginal; and • there may be a case for raising the regulatory threshold in instances where viability is marginal and there may also be a case for special treatment of regulated routes operating in close proximity to larger deregulated routes. <p>The submission sought the State Government’s commitment to ongoing support to regional aviation services in this State, including in relation to:</p> <ul style="list-style-type: none"> • equitable access to ongoing and reliable air services afforded to all country NSW residents; • equitable access for Sydney based professionals, investors, administrators and others with responsibilities or interests in regional areas; • pricing mechanisms to address the continued provision of viable services, frequency and quality appropriate to the needs and size of communities; • sufficient incentives, through State regulation, to ensure the ongoing viability of the air services; and • all 3 spheres of government working together with business and the community to encourage a whole-of-state approach to investment and development.