

# Key issues for the QQ3 rate review

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# Contents

1	Introduction	3
2	Context for the QQ3 review	4
2.1	Overview of NMIA and SIA	4
2.2	Wider market developments	4
2.3	The Authority's duties	5
3	Stakeholder engagement	7
3.1	Background	7
3.2	Consultation responses	8
3.3	Authority's initial view	9
4	Form of regulation and setting the rates	10
4.1	Background	10
4.2	Consultation responses	11
4.3	Authority's initial view	12
5	Till regime	14
5.1	Background	14
5.2	Consultation responses	15
5.3	Authority's initial view	15
6	Capital expenditure	17
6.1	Background	17
6.2	Consultation responses	19
6.3	Authority's initial view	19
7	Operating expenditure	21
7.1	Background	21
7.2	Consultation responses	21
7.3	Authority's initial view	23
8	Security costs	24
8.1	Background	24
8.2	Consultation responses	25
8.3	Authority's initial view	25
9	Service quality regulation	27
9.1	Background	27
9.2	Consultation responses	28
9.3	Authority's initial view	28
10	Depreciation	30
10.1	Background	30
10.2	Consultation responses	31
10.3	Authority's initial view	31

11	Concession Fees	33
11.1	Background	33
11.2	Consultation responses	33
11.3	Authority's initial view	33
12	Traffic forecasts	35
12.1	Background	35
12.2	Consultation responses	35
12.3	Authority's initial view	36
13	Length of the regulatory period	37
14	Process for the review	39
15	Conclusion	41

#### Figures and tables

Figure 4.1	Building blocks for setting the price cap	10
Table 15.1	Timetable for the QQ3 rate review	39

# 1 Introduction

With the rates in place at Sangster International Airport (SIA) and Norman Manley International Airport (NMIA) due to expire on December 31 2025,<sup>1</sup> the Jamaica Civil Aviation Authority (the Authority) has launched a review, as required by the Airports (Economic Regulation) Act 2002 (the Act). The review will determine the maximum charges and other conditions to be put in place for the next regulatory period (QQ3), from January 1 2026.

In June 2024, the Authority published a consultation paper setting out some of the key issues that need to be considered as part of the formal review process for QQ3 and inviting stakeholder responses. In the week commencing July 15 2024, the Authority met with stakeholders<sup>2</sup> to discuss these issues, and received feedback during these meetings as well as written responses to the consultation paper.

This report sets the scene for the QQ3 review. It identifies several issues that the Authority considers important to take into account and sets out options available to the Authority to address them. Where relevant, the Authority's initial view on which option should be adopted for the QQ3 review is presented, subject to further consideration based on the evidence submitted as part of the airport business plans and further stakeholder consultation.

The report is structured as follows:

- section 2 provides the context for the QQ3 review;
- sections 3 to 13 set out the key issues for the next review, including identifying options, and presenting the Authority's initial view;
- section 14 sets out the process for the review;
- section 15 concludes;
- Appendix 1 lists the stakeholders the Authority has spoken to and/or from whom consultation responses have been received.

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<sup>1</sup> The current rates had been set to expire on December 31 2024, but the period has been extended by one year, as permitted by the Airports (Economic Regulation) Act 2002 and agreed between the Authority and the airports.

<sup>2</sup> See Appendix 1 for a full list of stakeholders.

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## 2 Context for the QQ3 review

This section sets out the context within which the key issues for the QQ3 rate review need to be considered. This includes the market position of both airports, recent and future developments at the airports and in Jamaica more generally, and the Authority's duties.

### 2.1 Overview of NMIA and SIA

SIA is operated by MBJ Airports Limited (MBJ), a joint venture between Desarrollo De Concesiones Aeroportuarias S.A. (DCA),<sup>3</sup> which holds a 74.5% stake, and Vantage Airport Group from Canada, which holds the remaining 25.5%.<sup>4</sup> Approximately 95% of the passengers at SIA are travelling internationally, and 72% of Jamaica's annual visitors use SIA as their primary airport.<sup>5</sup> Located on the north-west coast of Jamaica, in the centre of the main tourism region, SIA is the largest of the island's three international airports.<sup>6</sup>

NMIA is the second-largest airport in Jamaica and is located in the south of the island, serving Kingston. NMIA is operated by PAC Kingston Airport Limited (PACKAL).<sup>7</sup> In 2023, the airport served approximately 1.7 million commercial and general aviation passengers. NMIA focuses on business and 'visiting friends and relatives' (VFR) traffic.

### 2.2 Wider market developments

In deciding on the key regulatory issues for this review, and ultimately in determining the appropriate rates for NMIA and SIA for QQ3, it is important to take account of future developments in Jamaica and wider market trends. Our discussions with stakeholders identified a number of factors that are important for the Authority to take into account, as set out below.

- **COVID-19 pandemic:** just three months into the QQ2 period, COVID-19 caused a sharp reduction in traffic and significant losses in aeronautical and commercial revenue at both airports. Jamaica's borders were closed to all travel between March 21 2020 and June 15 2020, and travel restrictions and quarantine requirements for tourists and business travellers remained in place until March 1 2022. As a result, many assumptions made for the 2020–24 regulatory period did not hold. How the COVID-19

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<sup>3</sup> A subsidiary of Mexican-based group, Grupo Aeroportuario del Pacifico (GAP).

<sup>4</sup> MBJ Airports Limited, '[About MBJ](#)'.

<sup>5</sup> MBJ Airports Limited, '[Airports Facts and Statistics](#)'.

<sup>6</sup> See MBJ Airports Limited, '[About MBJ](#)' and '[Airports Facts and Statistics](#)'.

<sup>7</sup> In September 2018, GAP (whose subsidiary company Desarrollo de Concesiones Aeroportuarias owns 74.5% of MBJ Airports Limited), won a bid for the NMIA public–private partnership (PPP).

pandemic should be treated as an important consideration as part of this rate review.

- **Upgrade of Ian Fleming International Airport:** the Government of Jamaica is upgrading Ian Fleming International Airport in Saint Mary on the north coast of the island, close to Ocho Rios. It is anticipated that more airlines may start offering commercial flights to/from this airport, thus increasing competition between the airports and potentially diverting some traffic away from NMIA and SIA. However, given the current size of Ian Fleming International Airport, it is not expected that it will exert significant market pressure on NMIA and SIA over QQ3.
- **Changes in demand for air travel:** although passenger numbers at SIA rose significantly following the COVID-19 pandemic, this 'pent-up' demand effect appears to be subsiding. At NMIA, passenger numbers also rose following the COVID-19 pandemic, but as at 2023 had not reached pre-pandemic levels. Both airports have also noted concerns regarding passenger traffic being affected by the recent decision by the US Department of State to issue a Level 3 advisory for Jamaica, urging travellers to reconsider travel to the island due to high rates of violent crime and the quality of the medical services available.<sup>8</sup>
- **Increased uptake of sustainable aviation fuel (SAF) and other considerations relating to climate change:** airlines are now expected to use 5% SAF going forward.
- **Concession Agreement:** many of the key issues for the rate review are affected by the Concession Agreements between the Airports Authority of Jamaica (AAJ) and the airports, particularly for SIA, where the agreement expires in 2034. This means that there will be just over three years remaining in the Concession when QQ3 concludes in 2030.

### 2.3 The Authority's duties

In undertaking the QQ3 rate review, the Authority will also need to consider:

- its duties and the factors to be taken into account when determining whether to approve airport charges as part of the Airports (Economic Regulation) Act;<sup>9</sup>
- regulatory best practice and lessons from the international regulation of airports (and other sectors), as appropriate;
- the efficiency of the airports' operations;

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<sup>8</sup> US Department of State (2024), '[Jamaican Travel Advisory](#)', 25 July, accessed 2 August 2024.

<sup>9</sup> Airports (Economic Regulation) Act, 31 December 2002.

- compliance with quality and performance standards;
- the operator's performance in terms of Concession Agreement commitments undertaken;
- whether the proposed charges would be reasonable in light of the services provided;
- whether the proposed charges can be justified, taking into account revenue from the operations of the airport from all sources, including aeronautical revenues and as much of the non-aeronautical revenues as the Authority deems appropriate.

## 3 Stakeholder engagement

### 3.1 Background

Stakeholder engagement is a key feature of many regulatory regimes around the world. Through this process, a company proactively discusses and engages with customers on its plans for the period. It then uses this engagement to inform its business plan.

Stakeholder engagement will be an important feature of this regulatory review. It is expected that the airports will seek input from stakeholders on the key outcomes that they want from the airports—e.g. the investments required, the volume of passengers expected, and the overall level of service that will be provided.

The engagement process functions more smoothly if there are some guiding principles, some of which are as follows.

- The discussions should be focused on delivering outcomes that customers value.
- All parties should provide relevant information in a timely manner, including responding to queries.
- All parties should engage constructively and in good faith.

Ideally, airports should seek to have agreement on as many issues as possible during the development of their business plans, in a way that ensures good outcomes for customers. Indeed, the process of engagement can be valuable in narrowing the differences and areas of disagreement between the parties. However, in some cases the interests of stakeholders are likely to diverge. In such instances, stakeholder engagement can still be valuable in ensuring that different parties are able to provide informed views to the rate review process. It is important that evidence of stakeholder engagement is reflected in the airport's business plans. Airports should highlight the areas in which consensus between stakeholders cannot be reached and how they have taken airlines' feedback into account.

There are some areas where it may be more reasonable for the parties to engage and reach agreement. For example, discussions with stakeholders may be appropriate on the level of service quality desired, traffic forecasts, and the capital investment programmes. However, the Authority will have the ultimate role in determining some areas of the rate review, including setting the regulatory asset base (RAB) and the weighted average cost of capital (WACC).

To the extent that there is evidence of good customer engagement, and in areas where there is broad agreement between the airport and stakeholders, there will be less regulatory scrutiny (with the exception of highly technical areas, as outlined above).

We invited responses from stakeholders to the following questions:

- 1 Do you consider that the proposed approach to stakeholder engagement is appropriate? Are there any changes you suggest to this process?
- 2 Do you agree with the key principles set out to guide stakeholder engagement? Are there other principles that should be considered?

### **3.2 Consultation responses**

All parties who provided consultation responses agreed with the need for stakeholder engagement and acknowledged the benefits it could bring. The Fair Trading Commission (FTC) emphasised the importance of stakeholder engagement. PACKAL noted that stakeholder engagement is important and also indicated that a regular programme of engagement is undertaken between NMIA and its stakeholders. The AAJ stated that it supports the approach to stakeholder engagement.

PACKAL indicated that there are some aspects of the review, including setting the form of regulation, setting the WACC and agreeing on the RAB, which it considers are the responsibility of the Authority. It also stated that consultation is not negotiation. For example, while PACKAL believes that it is appropriate to engage with stakeholders on future investments and operational plans, it does not consider that the regulatory framework sets the requirement to negotiate with stakeholders.

The FTC advocated broadening the scope of stakeholder engagement, recommending that airports should consult regularly with stakeholders on the structure of charges and gather input and concerns about charge adjustments. It advocated additional principles relating to stakeholder engagement, namely transparency, inclusivity and striving for continuous improvement. The FTC also highlighted the need for broader stakeholder inclusion from a diverse range of voices, including those currently unrepresented.

A range of views was also expressed about the role of the Authority in stakeholder engagement. The International Air Transport Association (IATA) indicated that it would welcome a greater role for the Authority, suggesting that the Authority attend all consultations between the airports and stakeholders as an observer. The FTC suggested that an

independent facilitator could conduct stakeholder engagement sessions. The AAJ also highlighted that the presence of the Authority as an observer at all consultation sessions would be beneficial, as it would allow the regulator to gain a better understanding of the interactions between airports and stakeholders.

### **3.3 Authority's initial view**

The Authority concurs with the views expressed on the importance of stakeholder engagement. However, the Authority does not consider that it should have a role as an observer or facilitator of these stakeholder consultations. This is important in the context of maintaining the Authority's independence, and ensuring that its presence does not influence the positions of parties. However, to ensure that the Authority is aware of the issues discussed and positions taken during these consultations, it requests that detailed minutes and records of these consultations be provided as part of the airports' business plan submissions.<sup>10</sup> This will help the Authority understand whether stakeholder views are appropriately reflected by airports in their business plans.

In addition, the Authority will conduct another full round of consultations after the publication of the draft determination. Stakeholders will therefore have further opportunities to raise points, and to re-state their views if they consider that these have not been sufficiently considered by the airports in developing their business plans.

In terms of the scope of engagement, the Authority considers that airports should consult with stakeholders on all issues, but, as noted, there are some areas (e.g. the WACC) where there is likely to be a greater role for the Authority in making the ultimate determination.

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<sup>10</sup> If there are stakeholder engagement sessions after the submission of the business plan, detailed minutes should be provided to the Authority within 2 weeks of the session.

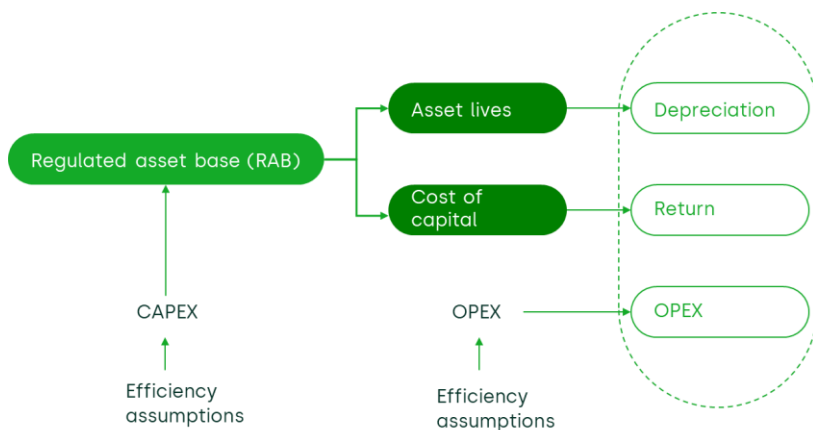
## 4 Form of regulation and setting the rates

### 4.1 Background

A number of different regulatory regimes are used at international airports and in other sectors. One is an incentive-based form of regulation based on an ex-ante charge control that caps charges at a level that allows the company to recover the efficient level of costs incurred in providing the regulated service. However, in this form of regulation the company also bears the risk of lower profits, or even losses, if it fails to control its costs and meet the regulator's forecasts. Typically, regulated charges are set on a forward-looking, real-term basis—i.e. they are adjusted for inflation through a formula based on the principle of  $CPI - X$ , where CPI reflects consumer price inflation and X an efficiency factor.<sup>11</sup> This was the approach adopted by the Authority in QQ2.

In this form of regulation, the total revenue requirement is calculated as the sum of depreciation, the efficient level of operating expenditure (OPEX), and a target return on assets. In the case of both SIA and NMIA, the concession fee is also included. These building blocks are illustrated in Figure 4.1.

Figure 4.1 Building blocks for setting the price cap



In addition to the overall cap, the structure of charges within the cap can affect the type of traffic that is incentivised to use the airport. For instance, charging more at peak than off-peak times may incentivise airlines to shift to off-peak times. Similarly, charges could be set lower for

<sup>11</sup> Charges may also be expressed in nominal terms, in which case the company bears all the risk of inflation in the economy varying from the levels used in the regulator's forecasts.

the lower-demand season than the higher-demand season, in an attempt to encourage traffic throughout the year. Some regulatory regimes allow airports flexibility in setting and adjusting the structure of charges within the overall charge cap set by the regulator. The changes are often limited to once or twice a year, and require consultation with users. This was the approach established by the Authority for QQ2.

We invited responses from stakeholders to the following questions:

- 1 Given your experience over QQ2, do you consider that incentive regulation based on a RAB–WACC building blocks approach remains an appropriate regulatory approach for QQ3? If not, what form of regulation do you consider would be more appropriate given the Authority's duties, and why?
- 2 Do you agree that airports should be provided with the flexibility to set the appropriate structure of charges (within an overall cap), subject to consultation with airlines and guidance from the Authority?
- 3 Do you agree that airports should be provided with the flexibility to undertake periodic or annual rebalancing of airport charges subject to final agreement from the Authority?

## **4.2 Consultation responses**

The consultation responses reflected broad agreement that the incentive-based form of regulation established by the Authority in QQ2 should be maintained for QQ3. However, stakeholders also made other suggestions. For instance, the FTC agreed with a RAB-WACC model, but suggested a hybrid model combining price cap and revenue cap regulation as an alternative, in order to create a more flexible regime. MBJ indicated that a lighter-touch form of regulation would be desirable, but generally supported the incentive-based RAB-WACC approach, to maintain stability in the regulatory model. IATA indicated that it supports the establishment of a revenue limit per passenger, with airports holding the traffic risk, but emphasised the critical role of the Authority in setting accurate traffic forecasts and the WACC.

Stakeholders generally considered that airports should have flexibility to set the structure of charges subject to consultation with users and sign-off from the Authority. However, PACKAL raised concerns with any sign-off on the tariff structure being required from the Authority, stating that the Authority exercises sufficient regulatory oversight in its overall setting and monitoring of the cap. IATA underscored the need for the fees' structure to align with International Civil Aviation Organisation (ICAO)

policies to avoid discriminatory practices, and suggested more in-depth discussions regarding the conditions under which the annual structure is established. The FTC recommended that the Authority oversee and approve changes to the structure of charges. In the consultation sessions, stakeholders also raised concerns about lower rates for domestic operators not being applied.

Finally, PACKAL challenged whether NMIA has significant market power (SMP). According to PACKAL, its main competitor SIA is located near major tourist spots making it more attractive to airlines. Additionally, PACKAL noted that the upgraded Ian Fleming International Airport will increase competition. Moreover, NMIA's airline base comprises low-cost carriers such as JetBlue (holding a 38% share), Spirit Airlines and Caribbean Airlines (with around 10–11% each). According to PACKAL, this means that NMIA's airline base does not reflect an airport with SMP and therefore questioned whether it should be subject to economic regulation at all.

### **4.3 Authority's initial view**

In QQ2, the Authority introduced incentive regulation based on an ex ante charge control. The charge cap was set on a price per passenger basis. It provided airports with the flexibility to set the structure of charges and undertake periodic or annual rebalancing of airport charges within overall guidance and approval from the Authority, and based on consultation with users.

The Authority's initial view is to maintain this approach for QQ3, as it remains an appropriate approach, and to ensure stability and consistency in the regulatory regime.

With respect to IATA's point on the importance of setting traffic forecasts and the WACC, the Authority works closely with airports to establish traffic forecasts with appropriate sensitivity analysis, and robustly estimates a WACC based on a range of evidence.

The Authority concurs with MBJ that maintaining the current approach will strengthen the regulatory regime. In subsequent reviews, a lighter-touch approach could be considered if better outcomes for passengers could be delivered.

In addition, the Authority acknowledges the points made by the FTC regarding additional flexibility required in the regulatory regime, as well as by PACKAL on setting the cost of capital with appropriate consideration of risk in light of COVID-19. While the overall form of regulation will be maintained, consideration of how to account for COVID-19 impacts within this framework will be an important aspect of this review.

In response to the SMP point raised by PACKAL, the Authority notes that at the time regulation was introduced, the government's policy was that regulation should be applied to certain designated airports (NMIA and SIA) as per the Airports (Economic Regulation) Act. An important part of this regulatory framework is that it coincided with the introduction of the public-private partnership (PPP) arrangement at both airports, which have Concession Agreements with the AAJ/Government of Jamaica. The economic regulatory framework was specifically established to accommodate this PPP arrangement for Jamaica's airports as national strategic assets. In addition, Ian Fleming International Airport is unlikely to become a significant constraint on NMIA over the next regulatory period. On this basis, the Authority does not consider a need to change the regulatory framework for QQ3, but further discussions with the government could be appropriate going forward.

In terms of the structure of charges, the Authority considers that airports should be provided with flexibility to set the structure of charges and undertake periodic or annual rebalancing of airport charges. However, it will be important to ensure that the airports consult with users on any changes in the structure of charges and that the Authority approves the changes. The Authority also notes the concerns regarding lower charges for domestic traffic not being applied.

Airports should be permitted to offer airlines discounts below the maximum price cap. However, any charges and discounts must be set in accordance with ICAO's Doc 9082, which promotes four charging principles—consultation, non-discrimination, cost-relatedness and transparency.

## 5 Till regime

### 5.1 Background

Airports derive revenue from two main categories of activities: aeronautical and non-aeronautical (commercial) activities. The distinction between till regimes relates to whether, and the extent to which, non-aeronautical activities are considered when determining the charges that the airport levies on airlines and passengers. The Airports (Economic Regulation) Act allows for the adoption of any type of till regime.

There are three possible options for the till regime.

1. **Single till:** in a single-till regime, the costs and revenues of both the aeronautical and commercial activities of an airport are taken into account in determining the level of airport charges. The cost base includes the overall level of costs required to provide all services at the airport, not just those services for which charges are regulated. All commercial revenues are used to offset the cost base and the charges to airlines. The RAB therefore comprises a combination of aeronautical and non-aeronautical assets.
2. **Dual till:** in a dual-till regime, only the core aeronautical activities are taken into account in determining the level of airport charges, with the airport retaining all non-aeronautical revenue. Airport charges are derived on a stand-alone basis, so aeronautical revenues must cover costs associated with aeronautical activities only, including a reasonable return on those activities.
3. **Hybrid till:** a hybrid-till regime avoids the binary choice between a single and a dual till. Instead, it considers which activities and/or revenues should be included in the till, and/or the extent to which commercial profits should be shared between the airport and users.

In QQ2, the Authority adopted a hybrid-till approach. 90% of commercial revenues were used to reduce aeronautical charges for NMIA. The sharing rate adopted at SIA was 70%.

We invited responses from stakeholders to the following question:

- 1 Do you agree that the hybrid-till regime applied in QQ2 is still appropriate for QQ3?

## **5.2 Consultation responses**

The consultation responses set out diverse perspectives, with a general inclination towards refining or altering the existing till regime. PACKAL advocates a transition from the current hybrid-till model, which cross-subsidises aeronautical charges with 90% of commercial revenues, to a dual-till system. It argues that a dual-till approach promotes efficient investment, operational efficiency, and enhanced passenger services, aligning better with international practices (e.g. Brussels Airport) and economic principles. PACKAL also emphasises the importance of maintaining competitive airport charges to attract airlines and passengers, and its readiness to set charges below the cap if necessary.

MBJ stated that, while its preference would be for a dual-till approach, it is amenable to continuing with a hybrid-till regime. However, it proposes that the revenue-sharing rate, currently set at 70%, be amended to a more favourable level. MBJ has signalled that it is open to discussion on the optimal revenue-sharing rate and will provide evidence on the need for a lower sharing rate in its business plan.

In contrast, the FTC supports a single-till regime, suggesting it lowers costs for passengers and airlines. The FTC argues that a single-till model encourages innovation and investment in commercial activities, enhancing the overall passenger experience. It believes this approach is consistent with delivering outcomes that consumers value, promoting lower charges and higher traffic volumes.

IATA also favours the single-till regime, promoting it as a means to create a truly competitive environment. IATA contends that the single-till model leverages non-core activities to benefit airlines and passengers, while dual- or hybrid-till models may prioritise commercial investments over essential aeronautical infrastructure. IATA proposes re-evaluating the single-till regime for QQ3, highlighting the potential for lower charges and better investment incentives within this framework.

The AAJ supports the continued use of the hybrid-till regime for QQ3 for both airports.

## **5.3 Authority's initial view**

The Authority is minded to maintain the hybrid-till regime, as it strikes a balance between the different incentives provided by the single- and dual-till regimes, which have been set out by stakeholders in their responses. The Authority also continues to believe that the hybrid-till approach should be based on a fixed revenue share. The Authority notes

PACKAL's suggestion that the till could be set on returns instead of revenues, but this may require a separation between commercial and aeronautical assets, which does not seem proportionate in the Authority's view.

While it is relevant to consider the till regimes at other airports, the precedent must be appropriate for the circumstances of the airports in question. NMIA highlighted Brussels Airport as an example of a dual till. We note that Brussels Airport shifted from a single to a dual till on the basis of a comparison of its charges with other airports. If its charges were higher than the average of five comparator airports then it would not be permitted to reduce the level of subsidisation. Given that charges at NMIA are among the highest of its comparators, this may not be a relevant approach in this context.

The Authority will revisit the appropriate sharing rate for both airports for QQ3, and welcomes evidence on what a reasonable sharing rate would be for each airport.

## 6 Capital expenditure

### 6.1 Background

Capital expenditure (CAPEX) plays a crucial role in the determination of allowed revenues, through both the depreciation of these capital investments as well as the target return on assets, which is calculated as the WACC multiplied by the RAB. Four key issues with respect to CAPEX for QQ3 are set out below.

#### 6.1.1 Setting the RAB

The opening RAB for 2026 informs the charges for the next regulatory period. Several approaches can be used to set the RAB, but in general the first reference will be the RAB values available in the airport's regulatory accounts, to the extent that the principles and approaches used to set these are consistent with regulatory best practice.

Subsequently, the efficient level of CAPEX is added to the RAB each year. There is a question about whether CAPEX should be added once it is completed or as it is incurred. The latter approach implies allowing construction work in progress (CWIP) into the RAB.

#### 6.1.2 Setting CAPEX forecasts

A core feature of the RAB–WACC model is its separate treatment of expenditure on infrastructure (CAPEX), such as a new terminal or pier, and expenditure on day-to-day running costs (OPEX), such as employee pay and maintenance costs. In determining the allowed revenue, the efficient level of CAPEX will need to be determined based on engagement with users or by the Authority monitoring the processes the airport has put in place when procuring the work required to fulfil user requirements. This is consistent with the Authority's duty under the Airports (Economic Regulation) Act to 'encourage investment in new facilities in time to satisfy demands by users of the airports'. CAPEX should be carefully costed, with different options considered, in order to ensure that the most efficient capital programmes are undertaken.

It is worth noting that a significant portion of capital investments at NMIA and SIA are mandatory based on their respective Concession Agreements with the AAJ. As such, the Authority's scope in challenging the need for investments at the airports is more limited than in other regulatory regimes.

### 6.1.3 Airport improvement fee

The AIF is levied by the Jamaican government on international departing passengers and is intended to be used to pay for assets approved by the Minister of Transport. The fee will remain in place at both SIA and NMIA until 2030.

For QQ2, the AIF was not included in the RAB and was separate from the airports' capital expenditure forecasts.

### 6.1.4 Dealing with deviations from CAPEX forecasts

Within the regulatory period, actual CAPEX may deviate from forecast CAPEX for a number of reasons—e.g. changing airport circumstances; cases where the airport has underspent due to deferring or cancelling agreed capital projects; and instances where the airport has over- or underspent while delivering the agreed-upon programme.

To address deviations from CAPEX forecasts, two mechanisms were introduced in QQ2:

- an adjustment at the next rate review, whereby any under- or overspend due to changes in projects or spending less/more on agreed programmes are addressed by a 'logging-up' or 'logging-down' of the RAB;
- an adjustment to the charges cap within the period where new projects arise that would be in users' interests but which were not forecast at the start of the period. This is referred to as the additional capital expenditure (ACE) mechanism.

We invited responses from stakeholders to the following questions:

- 1 Do you agree with the Authority's proposed approach for setting the RAB?
- 2 Do you agree with the Authority's proposed approach for setting CAPEX forecasts?
- 3 Do you consider that the ACE mechanism is appropriate for adjusting CAPEX within period? If not, which alternative mechanism would you propose?
- 4 Do you consider that the Authority's current mechanism for making adjustments to CAPEX at the end of the regulatory period is appropriate? If not, which alternative mechanism would you propose?
- 5 Do you consider that Authority's treatment of the AIF in QQ2 should continue in QQ3?

## 6.2 Consultation responses

In relation to the setting of the RAB, stakeholders broadly agreed that the opening balance of the RAB should be set based on the values in the airport's regulatory accounts, to the extent that they are consistent with regulatory best practice. As for the treatment of CWIP, both PACKAL and MBJ have stated that the RAB should include CWIP. More specifically, PACKAL argues that all assets required by the Concession Agreement, including assets in the course of construction (AICC), should be included in the RAB. There was otherwise agreement among the remaining stakeholders that CWIP should be justified in order to be allowed into the RAB.

With respect to the setting of CAPEX forecasts, all stakeholders who responded to the consultation are aligned on the fact that these need to be robust and based on user engagement. There was also broad agreement among the stakeholders regarding the treatment of the AIF, namely that it should be excluded from the RAB.

As for the different mechanisms that address deviations from CAPEX forecasts, stakeholders did not raise any issues with regards to the ACE mechanism in principle. PACKAL, however, proposes that a minimum investment threshold should be set, below which no consultation with users would be necessary for approval of projects. IATA, on the other hand, states that the airports should consult with every airline operator on any proposed new CAPEX project.

Conversely, there were different views about 'logging-up' or 'logging-down' the RAB at the next rate review. The AAJ does not consider that this mechanism is appropriate, and advocates for the ACE mechanism instead. IATA suggests using the principles applied by the aviation regulator in Ireland at Dublin Airport. These positions are in contrast with the FTC's and MBJ's positions, who consider this mechanism appropriate. PACKAL has raised the issue of the delay of the runway extension at NMIA because of COVID-19 in this context. It considers that it needs to be assessed along with the airport's financial losses due to COVID-19, and the resulting impact of the reduction in NMIA's concession fee.

## 6.3 Authority's initial view

For QQ3, the Authority's initial view, based on broad stakeholder agreement, is that the opening RAB will be based on the airports' regulatory accounts, to the extent that they comply with regulatory best practice, and the AIF will be excluded from the RAB.

As for CWIP, in QQ2 the Authority allowed CAPEX to enter NMIA's RAB as it was incurred. For SIA, it allowed CAPEX corresponding to the Airport

Master Plan to be included in the RAB as it was incurred, while all other CAPEX entered the RAB upon completion. The Authority noted in its final determination for QQ2 that for future determinations, the inclusion of CWIP in the RAB will be considered on a case-by-case basis, in line with ICAO guidelines.<sup>12</sup> The Authority's initial view for QQ3 remains that CWIP needs to be justified in line with ICAO guidelines in order to be allowed into the RAB.

Finally, regarding the mechanisms to address deviations from CAPEX forecasts, the Authority's initial view for QQ3 is to retain two distinct approaches as they serve different purposes: the ACE mechanism deals with within-period CAPEX adjustments (e.g. for unplanned CAPEX), while logging up/down deals with end-of-period CAPEX adjustments (e.g. for over- or under-spend on agreed projects). The specific design of each mechanism will be considered by the Authority in more detail over the coming months.

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<sup>12</sup> ICAO (2012), 'ICAO's Policies on Charges for Airports and Air Navigation Services', Doc 9082, para. 23.

# 7 Operating expenditure

## 7.1 Background

A key input into setting the rates for the next period is a determination of the level of efficient OPEX that can be recovered. A company incurs OPEX in the day-to-day running of its business—e.g. rent, salaries, utility costs. OPEX is recovered in the year in which it is incurred, since this expenditure directly relates to providing a service to users today.

In order to set a target for efficient OPEX, it is important to consider which costs are within a company's control and which are predominantly driven by other factors.<sup>13</sup> In general, most costs will be somewhat controllable, particularly in the long run, and the majority of costs should therefore be included in controllable OPEX. However, there are some costs that are likely to be uncontrollable, and for these costs partial or full pass-through may be warranted such that the airport does not bear the risk of actual costs deviating from forecasts.

In QQ2, efficiency targets were set for all controllable cost items, and a pass-through was applied for security costs.

We invited responses from stakeholders to the following questions:

- 1 Do you agree with the Authority's proposed classification of controllable and uncontrollable costs?
- 2 Do you agree with the Authority's proposed treatment of controllable and uncontrollable costs? Other than security costs, are there any other costs which you consider should be subject to a pass-through mechanism?
- 3 Do you agree with the Authority's approach to handling input price pressure?

## 7.2 Consultation responses

Both airports suggested that the categorisation of certain cost lines as 'controllable' should be reconsidered by the Authority.

NMIA has raised concerns with the treatment of the following cost lines as 'controllable', and proposed instead that these be treated as 'partially controllable':

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<sup>13</sup> Controllable costs are OPEX items over which the airport operator has influence or a considerable degree of control. Uncontrollable costs are OPEX items where, while the airport may still have some degree of influence, public policy or market factors determine the level of costs that the airport has to bear to a considerable extent.

- **Staff costs:** staff costs are subject to minimum wage and social security legislation and should therefore be considered partially controllable.
- **Repairs and maintenance:** For the same reasons as above, this cost line (which includes janitorial services) should be considered partially controllable.

SIA has suggested that the following cost lines should be re-categorised as 'uncontrollable':

- **Insurance:** evidence suggests that insurance rates have increased in Jamaica (and the broader region) in recent years. These costs are driven by high payouts reinsurers have had to make for global natural disasters, affecting the rates charged to regional insurance companies.<sup>14</sup>

This is a broader trend that is also being witnessed in other insurance markets in Jamaica such as home and motor insurance. Experts note that the insurance industry is experiencing considerable pressure to raise rates due to a combination of inadequate historical rates and increased demand for reinsurance capacity that is not being met by the market.<sup>15</sup>

This has been further exacerbated by the fact that the Concession Agreement between SIA and AAJ stipulates that assets should be insured at full replacement costs or maximum probable loss. It is the Authority's understanding that assets have previously not been insured in this way.

- **GCT:** the current general consumption tax (GCT) in Jamaica is 15%, and because this is a rate that is set by the Government, MBJ has no control over this cost line.
- **Janitorial:** the impacts of legal changes to the minimum wage also apply to janitorial staff. Therefore, these are 'uncontrollable' from MBJ's perspective as they are closely linked to the national minimum wage.

Both airports also noted that '**utilities**' should not be considered a controllable cost line. NMIA noted that these should be considered

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<sup>14</sup> The Caribbean Council (2022), 'Caribbean facing insurance premium hikes in 2023', 16 December, available at <https://www.caribbean-council.org/caribbean-facing-insurance-premium-hikes-in-2023/>, last accessed 8th August 2024.

<sup>15</sup> Jamaica Observer (2022), 'Property insurance crisis!', 8 December, available at <https://www.jamaicaobserver.com/2022/12/08/property-insurance-crisis/>, last accessed 8th August 2024.

'partially controllable' while SIA asserted that these should be 'uncontrollable'. SIA noted that utility costs, including electricity costs and water consumption, have been significantly increasing since the COVID-19 pandemic. Both airports explain that while volumes are within airport control, utility markets are generally monopolistic and regulated and therefore do not provide the opportunity to shop around based on price. NMIA noted that this is also the case for internet and communication, which are oligopolistic markets.

IATA and MBJ noted that the IATA fee collections cost line should be removed from SIA's OPEX as these fees are no longer collected by IATA. MBJ stated that the same should be done for corporate costs as it is 'no longer a line item for MBJAL'.

Finally, IATA raised concerns around having any cost lines as 'uncontrollable' and the potential for creating perverse incentives, citing in particular the case of 'bad debt' as an uncontrollable cost line.

### **7.3 Authority's initial view**

The Authority will consider the classification of cost lines linked to the minimum wage and social security legislation based on the evidence presented in airport business plans and best practice.

With respect to insurance, the Authority's initial view is that while there may be rising insurance premiums, airports do have the ability to compare insurance quotes from different providers in order to obtain better rates. However, the Authority will consider evidence submitted in airport business plans and explore regulatory precedent for airports in other jurisdictions as well as across other sectors to make a determination on this issue. The Authority concurs that the IATA fee and corporate cost lines should be removed from SIA's list of OPEX.

Finally, in response to IATA's comments regarding not having any cost lines as 'uncontrollable', the Authority notes that this is a standard approach to establishing the base OPEX. Theory and precedent suggest that only costs that are sufficiently controllable by management should be included in the baseline costs to which efficiency targets are applied. While the Authority acknowledges the possibility for perverse incentives, most costs will be somewhat controllable, particularly in the long run, and the majority of costs are included in controllable OPEX.

## 8 Security costs

### 8.1 Background

Security costs have historically been treated as an uncontrollable cost item as part of OPEX. Security procedures are determined by the Jamaican government, and international requirements and security staff are provided by a government body (Port Security Corps). The airports have limited ability to determine the contractual terms. For this reason, unlike other uncontrollable cost items, for which pass-through was not allowed if forecasts differed from actual costs, security expenditure was passed directly through to customers in QQ2. The Authority proposed retaining this approach for QQ3.

The Authority understands from both airports that they have experienced significant increases in security costs in recent years as a result of legal changes pertaining to:

- an increase in the minimum wage resulting in an increase in the wage rate for security guards by 55% in the last three years;
- a security guard rate increase announced by the government in March 2023 (initially resulting in a 33.3% increase in 2023 with a subsequent 7.14% increase in 2024); and
- the reclassification of security guards working for private entities as employees rather than contract workers by the Supreme Court in September 2023, resulting in a 40% increase in security guard rates.

In particular, the Supreme Court decision resulted in a significant increase in the private security guard rate such that it exceeded the rates paid to the Port Security Corps (PSC), a public entity and the mandated provider of aviation and hold baggage screening (HBS) services at both airports.<sup>16</sup> Historically, in light of the specialised services that the PSC provides, the rate paid to PSC was at least in line with the rates paid to privately contracted security services, if not higher.

This has led to the PSC seeking further adjustments to its rate to bring it in line with those paid to private security firms. PSC has indicated that this rate increase is necessary in order to reduce the resource constraints that it has experienced. Given that the staffing shortages at PSC have led to implications for service quality at the airports, it is important that the

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<sup>16</sup> Other services, such as landside security, can be provided by private entities.

PSC has sufficient resources to meet minimum service quality standards, while continuing to ensure that costs remain efficient.

Given the increase in security costs and the one-year delay in the start of the regulatory period to January 1, 2026, the Authority will consider adjustments for the period between January 1, 2025 to December 31, 2025 separately to the current QQ3 review process. This will determine any adjustments to be implemented as of 1 January 2025. Increases in security costs from 2026 onwards will be taken into account during this rate review.

We invited responses from stakeholders to the following question:

- 1 Do you have any views on the Authority's initial proposals in relation to the regulatory treatment of security expenditure for QQ3?

## **8.2 Consultation responses**

Both airports agreed with the approach of continuing to allow security costs to be passed through.

MBJ has indicated that it would like to better understand what the Authority views as sufficient evidence to support an increase in security costs forecast for QQ3, compared to the QQ2 period.

## **8.3 Authority's initial view**

The Authority's initial view is that a pass-through mechanism continues to be appropriate for additional security costs above the forecast amount for the QQ3 period. The upward pressure on costs experienced by airports will be considered in setting new forecasts for security costs for the QQ3 period.

This will be contingent of the receipt of sufficient evidence that clearly demonstrates the cause of security cost pressures (e.g. expected increases in guard rates) and a clear breakdown of how wage level pressures translate to the overall security cost allowance sought. In response to MBJ's question regarding what constitutes 'sufficient evidence', we have set this out below.

- Summary of security charges incurred from the start of QQ2 to present, including evidence for costs incurred (e.g. letters).
- Estimate of deviation between expected security charges and outturn charges.
- Expected security charge pressures beyond 2025.
- Relevant communications with security companies indicating why charges are increasing and by how much.
- A breakdown of hourly rates and personnel levels forecast to meet the target service levels.

- A comparison of the above breakdown to the previously agreed hourly rates and personnel levels.

Evidence of whether any additional costs related to the fulfilment of airport's regulatory safety obligations are required should also be included in airport business plans and forecasts, as relevant.

## 9 Service quality regulation

### 9.1 Background

Both airports collect a significant amount of information about performance, which is submitted to the AAJ and the Authority. For example, passenger satisfaction surveys are undertaken by external companies to gather data on various performance indicators. These include access, quality of airport facilities, flight information, courtesy of staff, baggage-handling efficiency, and the availability and repair times for essential airport facilities. These indicators are benchmarked against minimum and target mean scores to ensure a standard of service quality is maintained.

The Concession Agreements under which NMIA and SIA operate require the airports to monitor and comply with a series of service quality indicators. If performance falls below the levels established in the Concession Agreement, this would be considered as a breach of the agreement, and the airport would be subject to penalties. Despite the collection and submission of performance data, the provisions in the Concession Agreements with respect to penalties were not enforced over the QQ2 period.

NMIA has recently experienced several issues in relation to service quality, regarding bathroom facilities and air conditioning. Additionally, a system failure at NMIA during routine maintenance resulted in significant flight delays. As a result, NMIA's average Airports Council International (ACI) World Airport Service Quality (ASQ) scores have fallen below 4.0 in 2023 and the first quarter of 2024.

Capacity constraints at SIA, particularly during peak months (November–February) and times of the day (11:00–14:00), present ongoing challenges. We understand that attempts have been made at SIA to mitigate these constraints, in particular, by offering discounts to airlines to land at different times of the year and at off-peak hours during the day. However, airlines have been reluctant to change their schedules due to the broader impact on their network.

SIA is also investing in a significant terminal expansion and passenger processing systems. The expansion of the immigration hall and departure lounge, upgraded retail spaces, and the addition of common use self-service kiosks have been designed to reduce processing and wait times. Moreover, the 408-metre runway extension aims to enhance operational

capabilities and accommodate increased visitor traffic, ultimately supporting better service quality.

We invited responses from stakeholders to the following questions:

- 1 Do you consider that the measures discussed above for incentivising service quality are appropriate for QQ3? Please explain why or why not.
- 2 If you do not consider that these measures are appropriate, what would you propose as an alternative?
- 3 What areas do you think are important to monitor for service quality performance?

## **9.2 Consultation responses**

In its response, PACKAL highlights its performance monitoring procedures and commitment to addressing service issues and investing in 'operational excellence'. PACKAL considers that the existing service monitoring regime is sufficient and does not consider that there is a need for additional intervention by the Authority. MBJ concurs with this view for SIA.

The AAJ agrees with NMIA and SIA that the existing service quality regime, imposed by the Concession Agreement, is sufficient for both airports. It notes that, under the Concession Agreement, both airports are required to comply with service quality indicators and publish their service quality performance on their websites. Notwithstanding the non-publication of this information during the COVID-19 pandemic, it states that the airports will be expected to comply with this going forward. The AAJ believes that the customer satisfaction surveys provide reliable and adequate data and that their publication is an appropriate incentive for airports.

The FTC and IATA both support the current measures but suggest enhancements. The FTC recommends financial incentives or penalties based on performance against targets and incorporating customer feedback mechanisms. IATA emphasises the need for transparency in key performance indicators and proposes refunds for unmet quality expectations. It advocates a clear link between user payments and service quality, ensuring continuous improvements through adequate monitoring and compliance measures. In the meetings with users, airlines emphasised the issues with service quality at both airports.

## **9.3 Authority's initial view**

The Concession Agreements for both NMIA and SIA have mechanisms in place to monitor and report on service quality, and to penalise the airports if they fall below the specified standards. However, the

effectiveness of these mechanisms appears to be somewhat limited due to a lack of enforcement. This is particularly the case at NMIA, which, as noted above, has experienced several issues in relation to service quality over the QQ2 period.

Given the feedback the Authority has received from users on service quality issues at the airports, the Authority is considering whether it should introduce some form of service quality regulation for QQ3. This is in line with the Authority's duty under the Act to 'ensure that the airport is operated in accordance with performance standards and service levels consistent with best industry practice.'

Potential options could include financial incentives to meet or exceed service quality targets, and/or penalties for non-compliance. Another option is reputational incentives, such as those that the Authority had attempted to put in place in QQ2, whereby the airports would be required to publish their service quality performance each month in the airports and on their websites. However, in introducing service quality regulation, it will be important to ensure that it does not duplicate what is already in place through the Concession Agreements. The Authority's objective is to ensure that there are mechanisms in place such that service quality is maintained, particularly in the case where the provisions in the Concession Agreement are not enforced.

# 10 Depreciation

## 10.1 Background

The depreciation of CAPEX constitutes one of the building blocks of allowed revenue, along with OPEX and a target return on assets.

The key principle with respect to depreciation is that assets should be depreciated to their useful economic lives. This is in line with regulatory practice at airports internationally. However, in QQ2 the airports suggested that assets should be depreciated to the end of the concession period as there was no mechanism in the Concession Agreements to pay investors for undepreciated assets at the end of the term.

Depreciating CAPEX to the end of the concession period could lead to customers under- or overpaying for certain assets:

- Short-lived assets built early in the concession period would be remunerated over the entire concession period. As a result, passengers in the early part of the concession period would underpay for these assets, while passengers towards the end of the period would be contributing towards an asset no longer in use.
- Long-lived assets built towards the end of the concession period would be fully remunerated before the end of the asset's useful economic life. This would result in passengers during the concession period overpaying for the asset, while passengers after the end of the concession period would benefit from an asset without having contributed for it.

Therefore, in QQ2 the Authority's position was that all new CAPEX should be depreciated to the end of its useful economic life rather than to the end of the concession period. A straight line depreciation profile was applied for all assets.

Moreover, the Authority's approach stipulated that arrangements should be made between the AAJ and the airports to ensure that any undepreciated CAPEX was recouped at the end of the Concession Agreement.

However, in the final determination for SIA for QQ2, in line with instructions from the government, both existing and new assets were depreciated in line with the duration of the Concession Agreement for SIA.

We invited responses from stakeholders to the following questions:

- 1 Do you agree that the Authority's approach in QQ2 of depreciating CAPEX to the end of its useful economic life is still appropriate in QQ3? If not, what alternative approach would you propose and why would it represent a better outcome for customers?

## 10.2 Consultation responses

Most stakeholders support depreciating CAPEX to the end of its useful economic life using a straight-line depreciation profile. These stakeholders also suggest that arrangements should be made to ensure investors are remunerated for undepreciated CAPEX at the end of the Concession Agreement. The AAJ, IATA and the FTC have all noted in their respective consultation responses the fairness of such an approach for customers.

PACKAL also generally agrees with this approach, and set out several potential approaches with regards to the recoupment of the undepreciated CAPEX at the end of the Concession Agreement.

Conversely, MBJ argues that CAPEX should be depreciated until the end of the concession, in line with the instructions from the government for SIA in QQ2, as 'there is no mechanism in place to ensure a recoup of investments at the end of the concession.'

## 10.3 Authority's initial view

The Authority's initial view for QQ3 is to retain the approach of depreciating new CAPEX to the end of its useful economic life with a straight-line depreciation profile. This approach is in line with most stakeholder views and economic principles, and maintains consistency with the approach taken in QQ2.

This approach requires arrangements to be made between the AAJ and the airports to ensure that any undepreciated CAPEX is recouped by the concessionaire at the end of the concession period. Given the AAJ's support for this approach, the Authority encourages the AAJ and airports to discuss and agree the mechanism for recouping undepreciated assets at the end of the Concession Agreement. This could be addressed, for example, by the government making a payout, or by the new concessionaire paying for the terminal value of the undepreciated CAPEX.

Relatedly, the Authority acknowledges the suggestions made by PACKAL on how to value undepreciated CAPEX—such as using the net book value,

through an independent surveyor, or by using a 'shorter-than-useful-life' basis for assets with a useful life extending beyond the concession period. The Authority considers that the valuation of undepreciated assets will be a matter for discussion between the AAJ and airports.

# 11 Concession Fees

## 11.1 Background

As part of each of NMIA's and SIA's Concession Agreements, the airports pay a percentage of revenue as a concession fee to the AAJ. While the fee structures in place differ for each airport, concession fees account for a significant sum of money for both airports. Recent amendments have reduced the fee rate paid on gross revenues for NMIA from c. 62% to c. 53%, but the structure of the fees has not changed.

The concession fee is taken into account much like OPEX in the building block model and therefore ultimately increases the charges paid by passengers, and contributes to the high charges at these airports. This is important as it could result in a dampening effect on traffic and traffic growth at the airports, impacting tourism revenue and potentially the broader economy. In fact, there is some evidence showing that the charges at Jamaican airports are among the highest of comparable destinations in the Caribbean and the Caribbean side of Mexico.

## 11.2 Consultation responses

PACKAL noted that NMIA's charges include its concession fee which is currently 53.22% of revenues as a result of a new Concession Agreement between AAJ and PACKAL (reduced from 62.01%). PACKAL has also flagged that the impact of the reduction in the concession fee only partly offsets the revenue impacts of the COVID-19 pandemic.

MBJ noted that, in the context of the hybrid till regime, the 'current revenue-sharing split is also negatively impacted by the Additional Concession Fee (ACF), effectively lowering the percentage that MBJAL is allowed to retain from commercial revenues.'

IATA stated that it did not agree with concession fees being treated as 'operating expenses' and passed on to users, and that these fees should be split out as not being included in the till.

## 11.3 Authority's initial view

The Concession Agreement between the AAJ and airports is not within the Authority's remit. However, the Authority is required to take account of the concession fee arrangements between the AAJ and the airports in forming our determination.

In response to IATA's point, the Authority would like to clarify that concession fees are included in the building block model, just like OPEX,

but they are not considered operating expenses. The Authority does not have the discretion to exclude the concession fee from the charges paid by users.

## 12 Traffic forecasts

### 12.1 Background

The COVID-19 pandemic led to a significant decline in passenger numbers. As restrictions were lifted and vaccination rates increased, the post-COVID period saw a resurgence in travel at SIA, with the airport witnessing record numbers of passengers. In 2023, 5.3 million passengers travelled through SIA.<sup>17</sup> This surge was primarily driven by pent-up demand, as people who had delayed or cancelled trips during the pandemic seized the opportunity to travel again. However, passenger numbers are now stabilising. At NMIA, passenger numbers have mostly recovered—reaching 1.74 million passengers in 2023—but still remain slightly below pre-pandemic levels of 1.86 million.

Both airports have highlighted that the recent US warning against travel to Jamaica is impacting traffic. The US Department of State issued a Level 3 advisory, urging travellers to reconsider travel to Jamaica due to high rates of violent crime and concerns about the quality of medical services available in Jamaica.<sup>18</sup>

### 12.2 Consultation responses

In response to the consultation, PACKAL stated that the regulatory traffic forecast for NMIA must consider realistic assumptions about air traffic growth and various external risks. Economic uncertainties, such as global economic trends and zero-carbon strategies, pose (according to PACKAL) significant risks. Additionally, the lack of a based carrier like Air Jamaica means the airlines at NMIA are predominately US-based and low-cost, and could shift routes if more profitable opportunities arise. NMIA also faces intense competition within the Caribbean market, particularly from tourism traffic, where MJB is better positioned due to its proximity to popular tourist destinations.

As mentioned above in section 4.2, IATA suggested that the Authority has an important role in establishing the traffic forecast to prevent the airports from 'gaming the system' by forecasting low traffic.

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<sup>17</sup> Passenger number data provided by SIA and NMIA.

<sup>18</sup> U.S. Department of State (2024), 'Jamaican Travel Advisory', 25 July, available at <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/jamaica-travel-advisory.html>, last accessed on 2nd August 2024.

### **12.3 Authority's initial view**

The Authority acknowledges the concerns raised by both airports related to traffic growth. We will consider the airports' business plan submissions on traffic, including analysis of historical traffic and an identification of key factors contributing to the level and pattern of traffic over time. Airports should also conduct sensitivity analysis of the impact of higher or lower traffic levels at magnitudes it believes are credible, justifying their rationale.

## 13 Length of the regulatory period

In response to the consultation document, MBJ expressed concerns regarding the alignment of the QQ3 regulatory period and the remaining years of the concession period for SIA. MBJ highlighted the importance of maintaining regulatory certainty up to the end of the concession period to ensure transparency and consistency for investors.

The QQ3 period will run from January 1, 2026 to December 31, 2030, while MBJ's Concession Agreement will terminate on March 31, 2034. There is therefore a three year period between the end of QQ3 and the end of MBJ's concession.

MBJ acknowledged the legal requirement for a regulatory review every five years under the Act, though it also noted that the Act allows for an extension under extraordinary circumstances. It is keen to understand from the Authority whether the misalignment of the regulatory period and SIA's concession period could qualify for such an extension. Absent an extension, MBJ proposed a *5+3 Option*, whereby the QQ3 review would consider both the five-year regulatory period and the remaining three years of the concession. The price cap would be set for five years and then permitted to continue unless there are significant changes (e.g. deviations in traffic forecast, major modifications to CAPEX plans). According to MBJ, this proposal is feasible as traffic forecasts, CAPEX plans, and other inputs are available until 2034.

The Authority acknowledges the point raised by MBJ concerning the mismatch between the regulatory period and the remaining years in the Concession Agreement. An extension can be granted in extraordinary circumstances, but only a one-year extension is permitted under the Act. Therefore, while the Act states that that a review must take place every five years (or at most every six years, where the review period has been extended by one-year), it does not state the scope of the review or the level of scrutiny required.

We note that there is an option for the Concession Agreement to be extended by five years, and it is possible that at the time the QQ3 review ends, there will be more clarity about what will occur at the end of the Concession Agreement. As such, we do not consider that it is appropriate to commit to an approach now for the next review. However, if there is a situation where there are only three years left on the Concession Agreement at the time QQ3 ends, then we consider that a lighter-handed review, which would be more focused and shorter, would be appropriate.

It will still be important for us to ensure that the regulation is operating in passengers' interests.

## 14 Process for the review

This rate review process is a major programme of work and it is important that our decisions are well supported and subject to appropriate consultation.

This timetable is driven by the need to reach a decision six (6) months before airlines and passengers pay the new charges. This is the minimum period for airports to consult with airlines on the detailed structure of the new charges and for these to be available in airlines' systems. At the same time, it is necessary to ensure there is sufficient time for the Authority and all stakeholders to undertake detailed analysis, and to engage in consultation and discussion.

MBJ has raised the concern that the previously proposed timeline between the publication of this document and the submission of the airports' business plans did not allow sufficient time for consultation and feedback prior to the submission deadline. It requested moving the submission deadline to October 18, 2024. IATA also raised a concern in its consultation response that the timeline was too short between the publication of this document and the submission of airport business plans, and proposed to move the submission deadline by one (1) month.

The Authority has agreed to extend the submission deadline for the airports' business plans to October 18, 2024.

The programme of work and revised timings for the QQ3 review are set out in Table 14.1 below in line with this timetable.

**Table 14.1** Timetable for the QQ3 rate review

Requirement	Documents produced and input required	Date
The Authority to publish a formal notice of the review, identifying the major issues and inviting formal responses	Consultation paper outlining the proposed timetable, consultation process, framework for the review and the Authority's initial views on the key issues.	June 2024
	Outline of the information that the Authority will require from airports and users.	
	Airports and other stakeholders to respond to the consultation document.	August 2024

The Authority to publish a paper that sets out initial positions. August 2024

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The Authority to undertake detailed investigations, including meetings with the main interested parties Airports are required to submit their business plans to the Authority by October 18, 2024. This has been extended from the previously proposed deadline of September 30, 2024. October 2024–February 2025

Authority's review period with ongoing engagement with airports between October 2024 and February 2025.

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The Authority to publish proposals, inviting comments and arranging meetings with the main parties The Authority to publish a draft determination. Airports and other stakeholders to respond by March 2025. February–March 2025

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The Authority to issue its decisions, including the new maximum charges (start date of regulatory period minus six months) The Authority to publish its final determination. 26 May 2025

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**New regulatory period commences**

**1 January 2026**

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## 15 Conclusion

This report has set out the Authority's initial views on key issues for the QQ3 rate review for NMIA and SIA. While the Authority has set out clear positions on some issues, in other cases further analysis is required as part of the review before coming to a position.

The Authority's initial view, based on broad stakeholder agreement, is that the most appropriate **form of regulation** to apply for QQ3 for NMIA and SIA is incentive regulation based on a RAB model. As part of this regime, it will be important for the airports to **engage with stakeholders** directly. In order to maintain its independence and reduce the risk of influencing stakeholder positions, the Authority will not take part in these meetings, but requests that detailed minutes are provided to the Authority.

With respect to the **till regime**, the Authority is minded to maintain the hybrid till regime. The Authority will, however, revisit the appropriate sharing rate for both airports in response to the concerns raised.

The Authority's initial view for QQ3 is that **CWIP** would need to be justified in line with the ICAO guidelines in order to be allowed into the RAB. Regarding the mechanisms to address **deviations from CAPEX forecasts**, the Authority's initial view for QQ3 is to retain two distinct approaches, similar to QQ2: one for within-period CAPEX adjustments and another for end-of-period CAPEX adjustments. The specific design of each mechanism requires further consideration as part of the review.

On the **categorisation of certain OPEX lines**, the Authority will consider evidence submitted in airport business plans and explore regulatory precedent to make a determination on this issue. With respect to **security costs**, the Authority's initial view is that a pass-through mechanism continues to be appropriate for additional security costs above the forecast amount for the QQ3 period.

To ensure that a minimum level of **service quality** is met, the Authority will consider its role in providing a backstop to existing arrangements within airport Concession Agreements.

In line with economic principles, to address stakeholder concerns and to maintain consistency with the approach taken in QQ2, the Authority's initial view for QQ3 is to retain the approach of **depreciating new CAPEX** to the end of its useful economic life. Arrangements need to be made between the AAJ and the airports to ensure that any undepreciated CAPEX is recouped by the concessionaire at the end of the concession period.

The Authority will take account of the **concession fee** arrangements between the AAJ and the airports in forming our determination. The Authority will also give further consideration to the point raised by MBJ concerning the mismatch between the regulatory period and the remaining years in SIA's Concession Agreement.

Finally, the Authority acknowledges the concerns raised by both airports related to **traffic forecasts**. We re-iterate the advice issued to airports in the Business Plan Guidance for QQ3<sup>19</sup> and during consultations in July 2024, to submit detailed and robust traffic forecasts within their business plans.

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<sup>19</sup> This was provided to airports on July 22, 2024.

## A1 List of stakeholders consulted

Airports Authority of Jamaica (AAJ)

American Airlines

Amerijet International

Airways International

Board of Airline Representatives of Jamaica (BARJ)

Caicos Express

Delta Air Lines

Fair Trading Commission (FTC)

International Air Transport Association (IATA)

Island Hoppers

Jamaica Aviation Operators and Pilots Association (JAOPA)/Jamaica  
Airline Pilots Association (JALPA)

Jamaica Tourist Board (JTB)

Jamaican Civil Aviation Authority (JCAA)

Jet Blue Airlines

MBJ Airports Limited (MBJ)

Ministry of Tourism

Ministry of Transport and Mining

PAC Kingston Airport Limited (PACKAL)

Port Security Corps (PSC)