



# Assessing the impact of tendering on competition for the supply of jet fuel at Sydney Airport

RBB Economics, 13 February 2012

## 1. Introduction

RBB Economics has previously prepared a report for Allens Arthur Robinson entitled “Economic assessment of the supply of jet fuel at Sydney Airport” dated 2 December 2011. RBB Economics has now been asked by Allens Arthur Robinson to prepare a further report to consider the nature of competition for the supply of jet fuel at Sydney Airport.

The National Competition Council’s (NCC) Draft Recommendations stated that several airlines raised concerns in their submission about a lack of response by suppliers to request for tenders. In its Draft Recommendations, the NCC indicated that these concerns are more likely to reflect overall supply constraints than a lack of competition that could be rectified by access or increased access. The NCC stated that *“without further information on the parameters and requirements of the tenders concerned it is difficult to reach a firm conclusion as to whether or not access could improve the tender response and reliability in this regard”*.<sup>1</sup>

The objective of this report is to determine whether the characteristics of jet fuel supply leads to market outcomes that are consistent with effective competition.

As with the previous report, this report has been prepared on the basis of data provided by each of Caltex, BP and Shell (“the parties”) through legal counsel. The data has not been shared amongst the participants of the JUHI joint venture. The participants who contributed data have verified RBB’s treatment of their own individual data. ExxonMobil and Qantas have not provided any data to this report. ExxonMobil has not been provided with any of the aggregated data presented in this report.

This report has been prepared by Simon Bishop, a Founding Partner of RBB Economics. Simon has been assisted by George Siolis, a Partner in Melbourne, Jeroen Algera, a Senior Associate in Melbourne and Tania Van den Brande, a Senior Associate in London. Details of our experience and qualifications are presented in the annex to this report. We are familiar with the Practice Note for Expert Witnesses in Proceedings in the Federal Court of Australia. We have read, understood, and complied with this Practice Notice.

## 2. Summary

RBB Economics agrees with the NCC’s conclusion that any lack of response by suppliers to request for tenders is likely to reflect supply constraints rather than a lack of competition that could be rectified by access or increased access. This report provides further support for that position by assessing whether the nature and characteristics of jet fuel supply at Sydney Airport are most likely to generate outcomes that are consistent with effective competition.

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<sup>1</sup> National Competition Council, *Jet Fuel Supply Infrastructure at Sydney Airport – Draft Recommendations*, Para. 4.61.

We have found that the majority of tenders for the supply of jet fuel (more than 70 per cent) are very asymmetric<sup>2</sup> and usually allocated on a “winner takes all” basis. We also find less than 15 tenders account for 75 per cent of all volumes tendered in a given year. In addition, a large fraction of total volumes supplied is up for tender in any given year. This in turn implies suppliers would lose a significant share of current volumes in the event that they failed to compete effectively with rival suppliers, with consequent adverse effects for overall profitability. As a result, suppliers have an incentive to compete for the business tendered.

We conclude that the supply of jet fuel to airlines exhibits a number of characteristics which are likely to generate outcomes that are consistent with effective competition, despite the alleged relatively limited number of active suppliers.<sup>3</sup> Although there are some tenders for which an individual supplier is unable to participate, we understand that these occasions can largely be attributed to supplier specific capacity constraints; in others words, an individual supplier that is operating at capacity is simply physically unable to supply additional customers and therefore there is no rationale for submitting a tender offer.<sup>4</sup> Neither these individual capacity constraints nor the aggregate capacity constraints would be positively affected by the entry of potential new suppliers to the JUHI.<sup>5</sup> As a result, we do not believe that declaration – and any subsequent increase in the number of suppliers of jet fuel at Sydney Airport – will lead to a meaningful or material impact on the competitive outcomes observed in the supply of jet fuel to airlines.

### 3. An overview of the process to supply jet fuel to airlines

According to the parties, airlines normally procure jet fuel from suppliers through a tendering process,<sup>6</sup> although some airlines will sometimes choose to renegotiate an existing supply agreement with an incumbent supplier. We note, however, that if the current supplier fails to satisfy the requests of an airline upon renegotiation, there is risk of an airline ending negotiations and accessing the market through a tendering process. However, the majority of jet fuel purchased by airlines at Sydney Airport is procured through a tender process. In 2011, for example, we find that around 80 per cent of the fuel supplied by the parties to airlines at Sydney Airport was provided as part of a tender process.<sup>7</sup>

The parties informed us that the tender process used by airlines is formal, but with some flexibility to account for the specific needs and policies of particular customers. The process typically involves multiple rounds of bids – although occasionally the tender is awarded by means of a single round. When the tender entails a number of subsequent rounds, the initial

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<sup>2</sup> In cases where airlines split the tendered volumes across two different suppliers, the volumes split can be relatively symmetric, for example by dividing the contract 50/50 between the winning and second placed bidder, or rather asymmetric, for example by allocating the contract 90/10 to the winning and second place bidder.

<sup>3</sup> However, note that many industries that are served by a small number of firms (for example 3, 4 or 5) are characterised by effective competition.

<sup>4</sup> *Note bene*, these individual capacity constraints do not necessarily imply that total aggregate supply is unable to meet aggregate demand.

<sup>5</sup> Indeed, to the extent that aggregate supply constraints are binding, it is likely that increasing the number of suppliers with access to the JUHI will exacerbate the supply constraints by increasing logistical difficulties.

<sup>6</sup> Smaller international (and some domestic) airlines may not use a tender process to source fuel from jet suppliers. Instead, these airlines will typically purchase fuel using a “Fuel and Fly” card or a credit card. Smaller domestic airlines often re-fuel “off the bay” meaning that they use tankers to source jet fuel.

<sup>7</sup> This excludes volumes supplied to Qantas.

round often involves a pre-qualification and capability assessment. Airlines typically tender for supply at numerous locations in each tender process.

The volumes tendered for are usually considered “indicative” and “without obligation”. Actual volumes could be more or less depending on changes to flight frequencies, aircrafts and routes. Prices are typically set in a tender as MOPS plus a fixed differential.

While variations from supply contracts could trigger price reviews, suppliers and airlines appear to take a flexible approach to variations (within limits). For example, airlines sometimes do not announce additional flights until closer to the time of flight. When these changes are advised to the supplier, it would be assumed that the supplier will meet the additional demand. Similarly, if flights are reduced, the supplier could be advised (generally on reasonable notice period) and the supplier will need to deal with the surplus product, if any, without any cost to the airline.

The tender process can take up to four months to complete, especially if the tender includes several rounds. Airlines will typically give suppliers around two weeks to respond to a tender, after which supply contracts are then agreed with suppliers 1-3 weeks after the final price has been submitted. We understand that there are termination clauses in the supply contracts although these are very seldom used as it would typically take a major issue to terminate a contract (for example, a significant issue related to safety or supply performance).

In addition to the parties who have contributed to this report, we note that there are other ways airlines can source jet fuel. For example, ExxonMobil is also a JUHI JV equity holder. While we have not been provided with any information regarding the extent to which ExxonMobil currently supplies airlines at Sydney Airport, we note that it continues to hold equity in the JUHI JV and remains a source of supply for airlines.

#### 4. Supply of jet fuel exhibits characteristics which promote competition

In its application for declaration, BARA argued that the supply of jet fuel at Sydney Airport was highly concentrated:

*“The suppliers of jet fuel at Sydney Airport are currently limited to three of the four main oil companies (namely Caltex, Shell and BP; the Applicant understands that ExxonMobil withdrew from the market in 2010), with Qantas undertaking a limited amount of “self supply”. The market is highly concentrated, with an estimated Herfindahl-Hirschman Index (HHI) of about 4,000. A score above 2,000 is typically interpreted as indicating high levels of industry concentration.”<sup>8</sup>*

The NCC in its Draft Recommendations, correctly in our view, rejected BARA’s attempt to draw any meaningful insights from a high HHI. It stated that:

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<sup>8</sup> Board of Airline Representatives of Australia (BARA), *Jet fuel supply infrastructure to Sydney Airport: Application for declaration*, p. 1.

*“As noted above (paragraphs 4.18–4.24) the Council does not consider that the Applicant has made out its position that jet fuel supply is characterised by excessive prices or other manifestations of market power. The Council accepts that the market for supply of jet fuel at Sydney produces a high HHI, but does not consider that statistic of itself leads to any relevant conclusions.”<sup>9</sup>*

We agree with the NCC’s comments and this section sets out why the supply of jet fuel exhibits a number of characteristics which promote vigorous competition.

In the following sections we explain how the characteristics of jet fuel supply at Sydney Airport imply suppliers have an incentive to compete, despite the relatively limited number of players present.<sup>10</sup>

#### **4.1. Asymmetric allocation of volume to winning bidders**

There are a number of ways in which airlines can choose to allocate the volumes of jet fuel they tender for. First, they can decide to allocate their entire demand on a “winner takes all” basis, which implies the entire contract tendered for is allocated to the winning bidder. Alternatively, the customer can divide their demand tendered across two or more suppliers that participate in the bid. This division can be relatively symmetric, for example by dividing the contract 50/50 between the winning and second placed bidder, or rather asymmetric, for example by allocating the contract 90/10 to the winning and second place bidder.

Of course, an airline’s choice to divide their demand across two or more suppliers may have implications for price, but this may be required for reasons of security of supply or there may be occasions where a single supplier will be unable to supply a large parcel of demand.

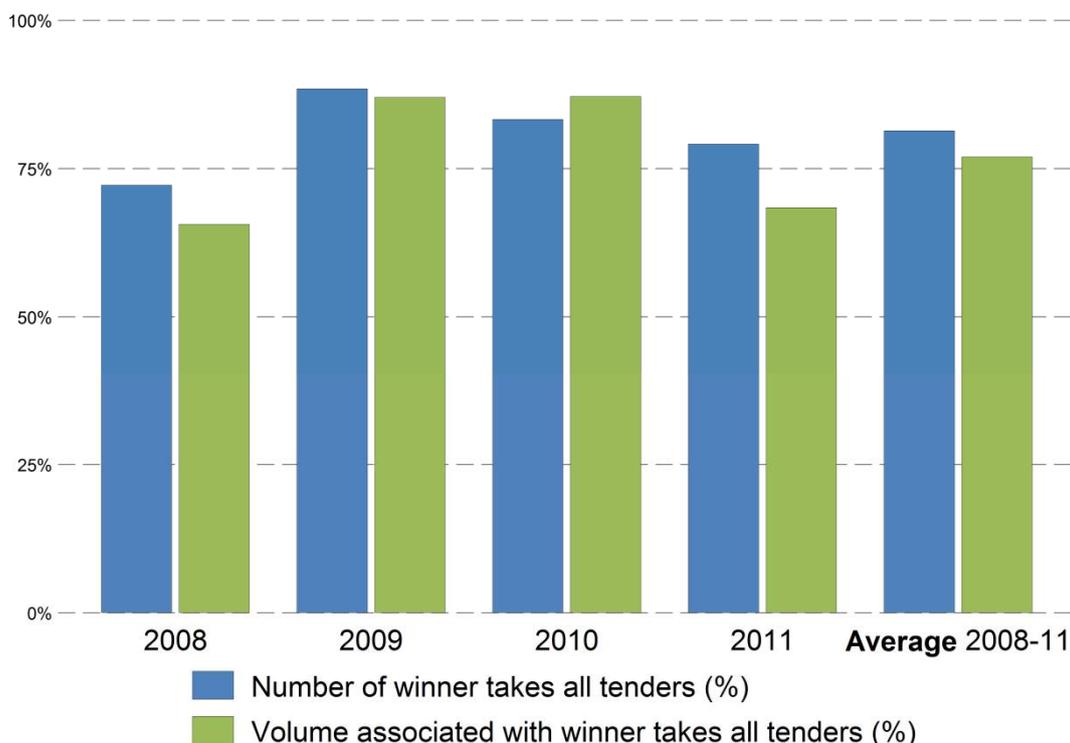
When customers can allocate tenders based on a “winner takes all” or very asymmetric allocation technique, suppliers will have a strong incentive to compete for the business tendered. Intuitively, allocating all (or most) volumes tendered to the winning bidder will increase the perceived demand elasticity for suppliers, as a given change in price will imply a larger response in volume terms. Failure to bid a low price will then result in a significant revenue loss, given that a successful bid is rewarded with the guarantee of a relatively large income stream. As a result, “winner takes all” or highly asymmetric allocation of volumes tends to promote competition. This is true, even if there are only a relatively small number of potential suppliers, particularly so when suppliers incur fixed costs along the production chain, as a supplier is required to win a sufficient number of contracts to ensure it can cover its fixed costs.

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<sup>9</sup> National Competition Council, *Jet Fuel Supply Infrastructure at Sydney Airport – Draft Recommendations*, Para. 4.58.

<sup>10</sup> We note that many industries are characterised by vigorous effective competition with 3 competitors.

**Figure 1: Percentage of “winner takes all” tenders, 2008 – 2011**



Source: RBB analysis of parties’ tenders. Note: the analysis excludes tenders for Qantas and ad hoc volumes.

Figure 1 illustrates the proportion of tenders which are allocated on a “winner takes all” basis, both based on number of tenders and total volumes tendered in a given year. From this figure, it can be seen that around 75 per cent of yearly volumes tendered are currently allocated on a “winner takes all” basis. In addition, there are some customers which to date have split their volumes across a number of suppliers, allocating a large proportion to the lowest bidder and a small proportion to one of the other winning bidders.

We understand from the parties that airlines which currently split tendered volumes in a more symmetric way have the ability to alter their allocation in favour of the lowest price bidder if it were to lead to lower prices.

It should be noted that the preference of certain airlines to allocate volumes across two or more suppliers for security of supply does not alter these conclusions. Indeed, an airline can always select two suppliers as a winning bidder, but allocate a larger share of volumes tendered to the lowest price bidder. Such an asymmetric allocation of volumes tendered will retain the incentive of jet fuel suppliers to compete for the tender, as offering the best price secures a significantly higher income stream than being only the second place bidder. As a result, all suppliers have the incentive to compete aggressively, as securing the lowest price will allow them to gain a largest share in future demand, and benefit from improved fixed cost coverage through higher volume throughput.

This suggests that the ability for airlines to reward the lowest price bidder with all or a large percentage of volumes will stimulate suppliers of jet fuel to undercut each other. As a result, suppliers of jet fuel will compete, even when there are only a relatively small number of suppliers active on the market.

#### 4.2. Tendered contracts are a large proportion of volumes supplied

The relative size of contracts tendered is another factor considered in the competitive assessment of jet fuel supply at Sydney Airport. When contracts represent a large fraction of volumes supplied by a given competitor, a supplier will risk losing the ability to supply a significant fraction of demand if he does not bid a price which is competitive to that of other players.

This lumpiness of demand reflects the concentrated nature of the customer base, where 10 airlines at Sydney Airport represent approximately 75 per cent of yearly volume supplied by the parties into the JUHI. Furthermore, airlines can enhance this lumpiness of demand by extending the length of time for which the contract is agreed. Table 1 illustrates the significance of tendered contracts in the allocation of jet fuel volumes at Sydney Airport

**Table 1: Breakdown of jet fuel tender activity at Sydney Airport, 2008 – July 2011, 1000's USG**

Year	2008	2009	2010	2011
Tenders	21	30	18	26
Tenders contributing 75% of volumes tendered	7	11	6	10

Source: RBB analysis of parties' tenders. Note: the analysis excludes tenders for Qantas and ad hoc volumes.

Table 1 shows that demand for the supply of jet fuel at Sydney Airport is concentrated with a few customers. In 2011, for example, there were 26 reported tenders for jet fuel of which only the largest 10 tenders represented 75 per cent of all reported volumes tendered that year. Moreover, the table shows a large share of total jet fuel demand – and therefore a supplier's potential sales – are up for tender in any given year.<sup>11</sup> As large fractions of potential revenue can be lost or gained with a small number of tenders, suppliers risk losing access to a considerable proportion of their current and potential supply if they fail to compete for those tenders. This is especially the case as tenders for a given portion of demand tend to be annually – and they can easily be extended through an informal process at the end of the contracted period.<sup>12</sup> As a result, suppliers have a strong incentive to compete to win a tender today, as it will secure revenue for at least a year and possibly longer.

Moreover, along the supply chain of jet fuel there are a number of costs which are effectively fixed. This provides a further incentive for jet fuel suppliers to compete vigorously for the contracts tendered by airlines, as winning a tender will not only guarantee a larger market share

<sup>11</sup> We note total volumes tendered exclude tenders for Qantas.

<sup>12</sup> This is true even if contracts last for more than one year, as not all customers tender for their jet fuel needs at the same point in time.

but also ensure coverage of fixed costs. As a result, suppliers of jet fuel at Sydney Airport are unlikely to hold considerable market power in the supply of jet fuel, as losing a tender can imply considerable revenue loss and decreased opportunity to cover fixed costs.

### **4.3. Multiple suppliers are a credible alternative**

For competition to be fierce in a market with relatively few players, it is necessary that each supplier faces, or believes that it faces, effective competition for each tender. This condition is satisfied if competitor products are adequate substitutes for each other in the majority of tenders, and if winning a tender today does not imply a supplier will be the sole alternative to compete for a tender tomorrow. If this is the case, participants cannot conclude from the current allocation of contracts whether they will be the only credible supplier when bidding for a future contract, and all parties are conscious they will have to compete in all future tenders to successfully win market share.

Several characteristics of the market for jet fuel confirm that there are multiple suppliers which are a credible alternative at the majority of tenders. Firstly, all jet fuel supplied by the parties enters the same storage and hydrant facility. Moreover, jet fuel is extracted from the same extraction points, suggesting that customers will be unable to distinguish between jet fuel supplied by Shell, BP or Caltex. As a result, jet fuel can effectively be considered as a largely homogeneous good, which customers purchase from suppliers who have little brand value. This will facilitate competition for jet fuel, as each supplier offers a product which is a credible alternative to the other competitors' product.

Second, the JUHI JV does not restrict the parties to a fixed proportion of capacity in the JUHI facility, such that each party has the ability to bid for a tender regardless of the amount of capacity it currently accounts for in total JUHI throughput. Therefore each party is faced with the certainty that in current and future tenders competing suppliers will not be restricted to a fixed (or maximum volume) JUHI entitlement in their ability to bid, such that losing a tender by not competing today will not guarantee they will be the sole competitor in a tender tomorrow. This implies that suppliers will tend to have a strong incentive to compete for each tender.

Third, although suppliers of jet fuel have been subject to some individual capacity constraints which prevented them from bidding for a particular tender, these constraints do not generally apply to all suppliers at the same occasion. Indeed, at any point in time there is likely to be a number of contracts up for tender at different stages of the tender process, such that each supplier may be exposed to the potential (or unobserved realised) loss of a considerable fraction of current volumes supplied. This adds to the lack of visibility for other suppliers regarding the (potential) available capacity competitors may retain. The parties therefore cannot necessarily determine from current volume allocations whether a competing supplier will have the ability to bid for current or future tenders. In addition, customers do not publicly announce the length of jet fuel contracts agreed, and can sometimes choose to extend an existing contract through renegotiation with the incumbent supplier. Suppliers therefore cannot determine with certainty which customers may put their demand up for tender in a given year. As a result, suppliers cannot choose to alter their bids in the anticipation that they are likely to be the sole bidder in a current or future tender for jet fuel demand.

#### 4.4. Conclusion

The supply of jet fuel at Sydney Airport has a number of characteristics that promote competition. The customer base for jet fuel supply at Sydney Airport is concentrated, such that only a few customers represent a considerable proportion of volumes supplied by a given player. These customers generally tender for a large portion of their volumes on an annual basis, with the option to renegotiate a contract at the end of the original period. Finally, tendered volumes are generally allocated in an asymmetric way, such that the lowest price bidder receives the majority (or nearly all) volumes tendered for. As a result, losing a tender may have a significant impact on the current and future volumes supplied by a particular competitor, which in turn will threaten its ability to cover fixed costs. Suppliers will therefore have an incentive to compete for tenders, despite the limited number of active suppliers.

Although a given supplier may be unable to bid for certain tenders due to individual capacity constraints, competing suppliers are unlikely to have complete visibility as to which competitors are unable to bid for a given tender, or indeed which tenders are likely to be issued in a given year. As a result, suppliers of jet fuel at Sydney Airport have been unable to identify the number of alternative suppliers which may compete for a current or future volume contracts.<sup>13</sup>

### 5. Outcome of the bidding process for jet fuel supply at Sydney Airport

The section above found that jet fuel supply has several characteristics which promote vigorous competition for tenders. We find that, in contrast to BARA's claims, the relatively small number of suppliers does not preclude competitive outcomes for the supply of jet fuel.

This section examines the outcomes of the bidding process for jet fuel supply at Sydney Airport. It starts by identifying those cases where airlines have reallocated volumes across suppliers and then looks at the extent to which suppliers participate in tenders issued by airlines.

#### 5.1. Airlines reallocate volumes across major suppliers

The ability of airlines to allocate a significant proportion of the volumes tendered to the lowest price bidder should lead to vigorous competition between jet fuel suppliers to increase their market share. The data received from the parties show that while airlines appear to have a preference for retaining their incumbent jet fuel supplier, there have been examples of airlines re-allocating volumes across suppliers. For example:

- In July 2011, [REDACTED] won a contract to supply [REDACTED] after having lost a tender to supply [REDACTED] in 2008 to [REDACTED]

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<sup>13</sup> We note that lumpy capacity investments (such as pipeline and the JUHI facility) in combination with growing demand may lead to specific points in time where overall capacity across all suppliers may be insufficient. However, such situations are likely to be temporary, lasting only until further investment in expanding infrastructure capacity is undertaken. We understand that this is the case in relation to the supply of jet fuel at Sydney Airport, where both Caltex and Shell are currently planning to increase capacity to transport jet fuel into the JUHI.

- In April 2010, [REDACTED] lost a tender to supply [REDACTED] to [REDACTED] after having retained two contracts to supply in 2008 and 2009.
- In January 2011, [REDACTED] won a fraction of the volumes tendered by [REDACTED] after not being in a position to bid for previous tenders.

## 5.2. Participation rates have declined because of capacity constraints

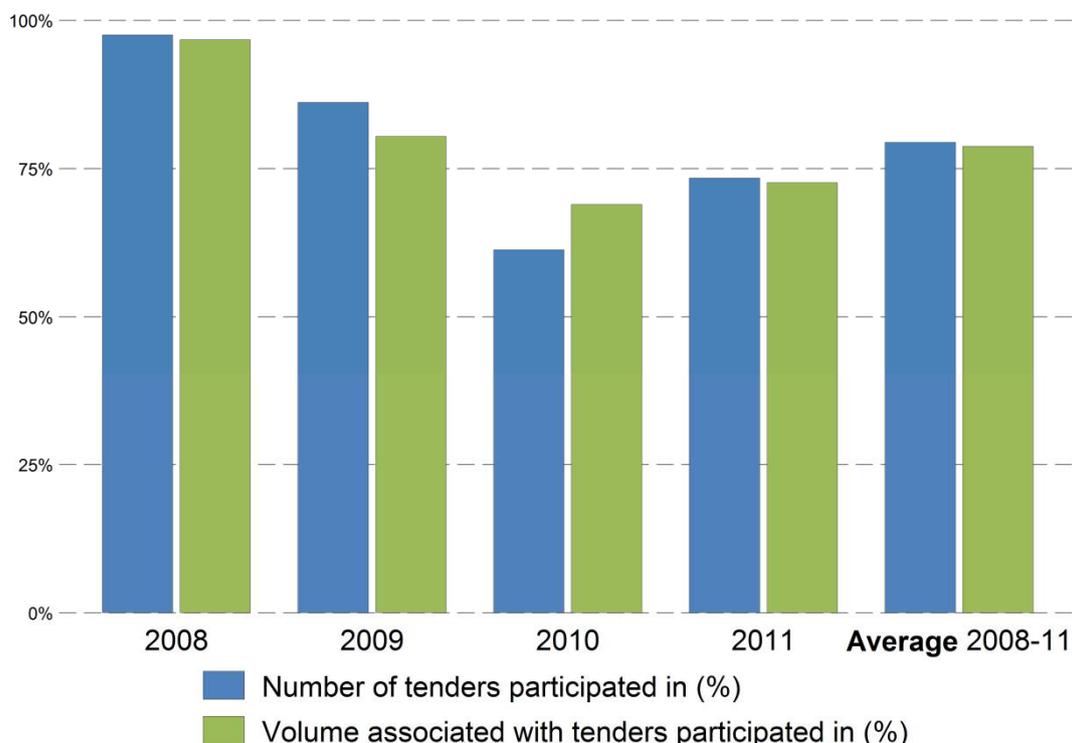
Although some airlines expressed concern in their submissions to the NCC about a lack of response and availability of jet fuel in response to an airline's request for tender, our assessment has shown that such concerns are not valid for a large proportion of tenders, both in number and volume share.

Figure 2 shows that there has been a decline in participation rates over the past two years, although the average participation rate over the past four years across all three suppliers that provided data for this report was still over 75 per cent. The participation rate is defined as the proportion of tenders where suppliers were invited to tender and were in a position to submit a tender (rather than declining to bid).<sup>14</sup>

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<sup>14</sup> This analysis relies on the tender data provided by the parties, who have reported the tenders they were invited to join and identified whether a bid was placed. We understand that the tender data provided captures the majority of tenders that the parties were invited to participate in. However, if there were tenders that were not reported in the databases provided by the parties, this analysis may under- or over-estimate the participation rates shown in this analysis.

Figure 2: Participation rates, 2008 – 2011



Source: RBB analysis of parties' tenders. Note: the analysis excludes tenders for Qantas and ad hoc volumes.

## 6. Individual capacity constraints and participation in tenders for the supply of jet fuel

BARA and a number of airlines have attempted to draw a link between a lack of participation by some suppliers and a lack of effective competition. We believe such a link is tenuous, largely because, on their own, participation rates simply are not able to provide any meaningful information about the competitiveness of a market.

### 6.1. The inability of individual supplier to participate in specific tenders

There are a number of reasons why suppliers may be unable to respond to a request for tender issued by an airline.

- Internal capability:** Internal capability refers to the ability of suppliers to either source or transport (or both) the fuel to the JUHI. Suppliers may not be able to participate in a tender if they lack the internal capability to meet the airline's demand. In order to determine whether a supplier has internal capability the supplier needs to confirm that the product demanded by the airlines can be made available by the refinery or imported into a terminal. As part of that assessment, the supplier will need to check whether

there is sufficient capacity for the tendered product to be transported to the airport and whether the product can be received into storage at the airport.

- **Into-plane service:** Into-plane service is another capacity issue and means having the necessary refuelling capacity available to provide (or to outsource) the into-plane service. As part of this assessment, suppliers will need to review whether there are sufficient hydrant carts or tankers available to perform the into-plane service and to determine whether the into-plane provider is able to schedule the service with existing resources into their current daily refuelling schedule.
- **Credit risk:** Suppliers need to assess the credit risk associated with the airline requesting the tender. Suppliers will need to confirm that they are prepared to extend credit to the customer or to bid on prepayment basis, depending on evaluation of the airline's financials and credit ratings. In cases where the customer is currently trading below their credit limit, the supplier will need to ensure that there is sufficient credit available for the supplier to bid for the new business.

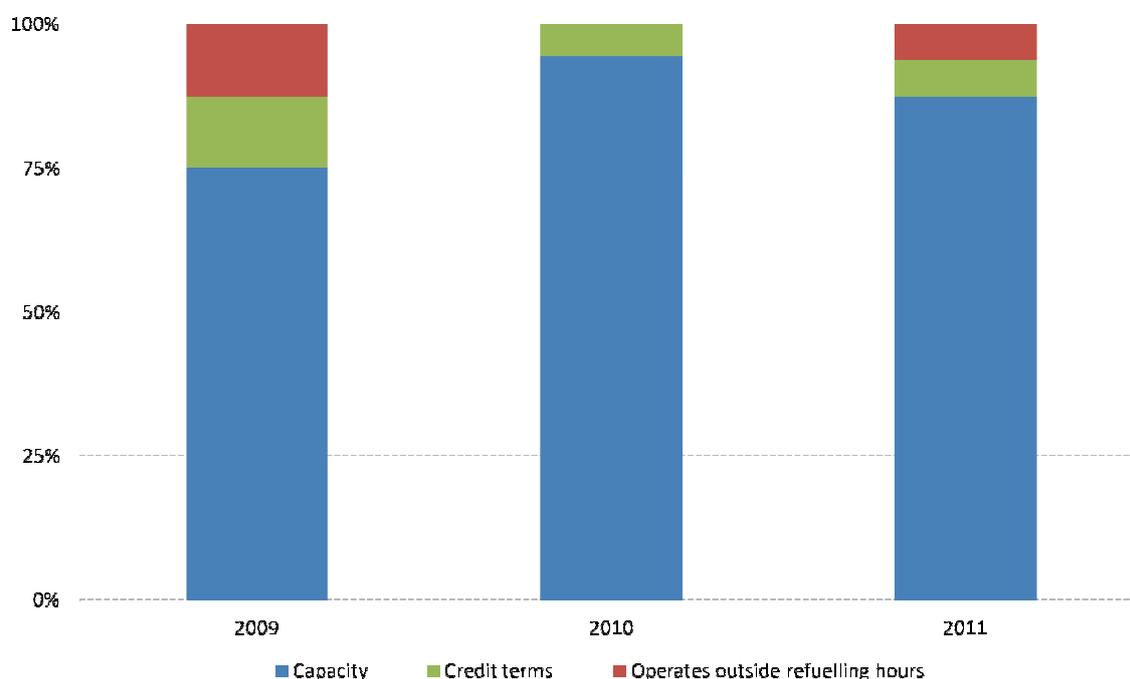
While Figure 2 above shows that participation has decreased over time especially during the last two years, supplier specific capacity constraints were responsible for most of the cases where jet fuel suppliers did not participate in tenders.

This trend can be explained by the recent growth in demand which has pushed the utilisation of the Caltex pipeline close to full capacity. As a result, [REDACTED] are often unable to secure additional time on the pipeline to bid for certain tenders, which is reflected in the drop of their participation rates.

## 6.2. The impact of individual capacity constraints on participation rates

The evidence we have collected from the parties suggests that internal capability, primarily relating to pipeline capacity constraints, is the most common reason for suppliers not participating in a tender. Figure 3 below shows the relative importance of the capacity constraint faced by jet fuel suppliers when determining whether they can participate in a tender.

Figure 3: Reasons for lack of participation for tenders, 2009 – 2011



Source: RBB analysis of parties' tenders. Note: the analysis excludes tenders for Qantas and ad hoc volumes.

Figure 3 illustrates that although there are various reasons why firms might not participate in tenders, the most common relates to issues around capacity, generally being pipeline capacity. The impact of the capacity constraint increased in 2010 before easing slightly in 2011. Other reasons why suppliers may decline to participate in a tender are credit terms and an airline operating outside refuelling hours.

Our understanding is that there is no constraint on the ability of third party users of the pipeline to use their agreed allocation of the pipeline. However, requests for an *increase* in capacity allocation in order to meet a particular tender may not be able to be accommodated. As a result, suppliers at times would be unable to bid for contracts if they could not guarantee that they will have access to enough capacity to transfer the additional jet fuel between import or production terminals and the JUHI. The inability to supply contracted volumes matters to suppliers, as it will affect their ability to maintain customer relationships to retain or gain further business.

Moreover, the inability for Caltex to provide third party suppliers with additional capacity on the current setup of its pipeline has an important implication regarding BARA's claim that open access will increase competition. Namely, the individual capacity constraints faced by the third party users of the Caltex pipeline equally affect any additional supplier seeking access to both the Caltex pipeline and JUHI facility. An additional player would therefore be either unable to transport its volumes into the JUHI, or alternatively capacity access to at least some of the current suppliers on the Caltex pipeline would have to be reduced. In either scenario, the new

player would be extremely unlikely to increase the number of players able to participate in a particular tender.

In short, it is not the lack of players that has restricted the number of suppliers willing to bid for airline tenders, rather it is the lack of available capacity that has prevented, on certain occasions, one or more of the major suppliers from participating in a particular jet fuel tender. An additional supplier on the Caltex pipeline and in the JUHI would be bound by similar constraints and would therefore be expected to have little or no meaningful impact on observed competitive outcomes.

## 7. Conclusion

Jet fuel supply has several characteristics which promote effective competition between bidders for tenders. The relatively small number of suppliers does not therefore preclude competitive outcomes in the supply of jet fuel.

BARA's claims that the suppliers of jet fuel at Sydney Airport currently hold considerable market power is unproven and at odds with the characteristics of this industry which suggest that a relatively small number of suppliers can generate vigorous competition.

The evidence does show that participation rates have fallen but this – as the NCC noted in its Draft Recommendations – is due to overall supply constraints rather than a lack of competition. Access or increased access will not rectify those supply constraints and will not lead to an increase in the participation rate in tenders. Increased access, therefore, cannot result in a material increase in competition for the supply of jet fuel at Sydney Airport.

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Simon Bishop has made all the inquiries that he believes are desirable and appropriate and no matters of significance that he regards as relevant have been withheld from the NCC.

A handwritten signature in blue ink, appearing to read 'Simon Bishop', is located below the text. The signature is written in a cursive style.

## SIMON BISHOP

Simon Bishop is a Partner and co-founder of RBB Economics. He has been advising clients on competition policy issues since 1991 and has particular expertise in applying empirical techniques in the context of merger investigations.

Simon has published widely on virtually all aspects of competition law economics and is a regular speaker at competition law conferences. He is the co-author of *The Economics of EC Competition Law* published by Sweet & Maxwell (Third edition published 2010).

Simon has worked extensively on the analysis of mergers before the EC Commission and various national competition authorities, particularly those in the UK. Cases on which he has taken a leading role include Microsoft/Telewest, Mitsui/CVRD/Caemi, Telia/Telenor, GE/Instrumentarium, GE/Amersham, Carlton/ Granada and British Airways/CityFlyer.

He has also advised numerous clients in connection with behavioural enquiries in areas such as abuse of dominance and vertical restraints. He has been involved in several of the leading cases in this area, including work on BA/Virgin for British Airways and on behalf of Northcliffe Newspapers during the Chapter II investigation into the pricing behaviour of Aberdeen Journals.

In the field of cartels and restrictive agreements, he has advised on numerous projects before the EC Commission, national competition authorities and the courts. His work in this area has covered both the theoretical analysis of pro- competitive and anti-competitive effects of restrictive agreements, and also the empirical analysis of the impact of actual and alleged infringements. Clients who he has advised on the competitive effects of alleged restrictive agreements include Heineken, UEFA, Canal+ and the FA Premier League. In the context of cartel proceedings, his clients include BPB, Arjo Wiggins and Holcim.

In addition to his work before the EC Commission and the UK competition authorities, he has presented economic reports on behalf of clients to the German Federal Cartel Office, the Belgian competition authorities, the Polish Anti-Monopoly Office and utility regulators.

He has also appeared as an expert witness before national courts. Simon has worked on several hundred competition law matters spanning virtually all sectors of the economy. He has advised on major competition law investigations in a range of industries including television broadcasting (in particular, in the pay-TV sector), telecommunications, newspapers, airlines, banking, pharmaceuticals, sports, brewing, numerous industries with branded consumer products, steel, pharmaceuticals, medical equipment and devices, recorded music, electricity and water.

In addition to his private sector work, Simon was seconded for a short period to the German Federal Cartel Office where he gave a series of seminars on the use of economics in competition law. Prior to entering economic consultancy, Simon was an academic economist at the Centre for Economic Performance at the London School of Economics and Visiting Lecturer in Business Economics at City University Business School.

## GEORGE SIOLIS

George joined RBB Economics in July 2009 as a Partner in the Melbourne office. He has worked as a micro-economist for 20 years and has advised clients in Australia, Asia and Europe, including the European Commission on a wide range of policy issues. He has specialised in the application of economics to competition and regulatory issues across a range of industries including agriculture, manufacturing, telecommunications, and financial services.

George is listed in the GCR's *Who's Who Legal 2011 edition of Competition Lawyers and Economists* and has advised on many of the most contentious mergers before the ACCC since RBB Economics was established in Australia in 2009. Prior to joining RBB, George worked for Telstra where he helped determine prices both in regulated wholesale markets as well as in competitive retail markets. George was also an economic consultant in the UK for eight years where he developed and led the communications practice at Europe Economics.

George has an Economics Degree (Hons) from Monash University and began his career at the Productivity Commission (formerly the Industry Commission) in their Canberra and Melbourne offices and was awarded the Commission's first Overseas Development Award in 1995.

## TANIA VAN DEN BRANDE

Tania Van den Brande is an associate at RBB Economics with over three years' experience as a competition economist.

Since joining RBB, Tania has worked on mergers and acquisitions raising both horizontal and vertical issues falling within the European and UK merger control jurisdictions. She has also advised clients on cases raised under the UK and Dutch market investigation regime and other national cartel investigations. Tania also has experience and specialist expertise in the use of estimation and simulation methods to address complex competition questions.

Tania received a Bachelor's and Master's degree from the University of Antwerp, and Graduate Master's degrees from the University of British Columbia and the College of Europe. She is fluent in English, Dutch and French.

## JEROEN ALGERA

Jeroen Algera joined RBB Economics in 2005 after obtaining a Masters degree in Economics from Erasmus University Rotterdam. Since then, Jeroen has advised clients on numerous competition cases, both before the European Commission and before several national competition authorities. In addition to mergers, Jeroen worked on several cartel assignments. He advised a bank following state aid during the global financial crisis and has significant experience with the application of sector specific regulation in the electricity, healthcare, postal, and telecommunications sector.