

17 November 2017

Aditi Varma
A/Director Economic Reform
Department of Treasury
Locked Bag 11 Cloisters Square
Perth WA 6850
By email: regulatoryreform@treasury.wa.gov.au

Dear Ms Varma,

Re: Review of the WA Rail Access Regime

Thank you for the opportunity to comment on the Issues Paper underpinning the Government of Western Australia's review of the Western Australian Rail Access Regime.

ARTC owns and operates the interstate rail line which connects to the Arc Infrastructure assets at Kalgoorlie at which point it passes control for train operations to Arc. For train paths to and from Western Australia, ARTC therefore charges its above rail customers a tariff from their departure points to Kalgoorlie (and vice versa), underpinned by the Interstate Access Undertaking approved by the Australian Competition and Consumer Commission (ACCC) which commenced in August 2008. Given the end market for this freight is Perth, those above rail customers must also negotiate access terms with Arc Infrastructure to complete the journey. The complete tariff paid by above rail interstate freight into Perth is therefore the sum of the ARTC tariff and the tariff negotiated with Arc Infrastructure.

ARTC is therefore an interested party in the development of the WA Access Regime given that the competitiveness of its below rail offering is dependent upon the competitiveness of the Arc offering.

ARTC has had an IAU approved by the ACCC in 2002 and 2008, with the goals of its pricing methodology reflected as below:

- Published reference pricing is open and simple – promotes usage and market confidence, enhancing above rail competition;
- Pricing is non-discriminatory – promotes market confidence in equitable treatment, enhancing above rail competition;
- Indicative pricing is market based – promotes rail competitiveness;
- Indicative pricing – provides pricing certainty promoting investment and market entry enhancing above rail competition;
- Two part pricing – encourages more efficient above rail operations, and set at less than fixed cost levels so as not to inhibit market entry; and
- Pricing promotes market growth, improving cost recovery and long term asset sustainability

The comments made by ARTC in respect of this review are designed to provide consistency between its goals, as above, and the WA Rail Code given that it is the combination of ARTC and Arc assets that deliver freight into Perth.

The Issues Paper states that the regime aims to:

- Encourage commercial negotiation;
- Prevent misuse of market power and promote competition; and
- Target a specific economic problem and promote regulatory certainty.

ARTC fully endorses all of these worthy aims, however would highlight that the lack of reference to transparency and non-discrimination from the aims of the Code constrains its ability to fully deliver competitive markets utilizing the railways covered by the code.

ARTC strongly believes in the need for regulatory frameworks to encourage commercial negotiation. To deliver benefits to intermodal competition however, these negotiations need to reflect the key principles of transparency and non-discrimination. Having the outcomes of negotiations commercial in confidence and not published promotes non-transparency and diminishes the confidence of new (or smaller) entrants in their ability to promote above rail competition. Finally, the framework needs to allow for flexibility to adapt to changing market conditions to ensure the longevity of the system.

ARTC therefore strongly supports an access regime which:

- Promotes commercial negotiation between the parties;
- Provides flexibility to adapt to changing market conditions within the term of an Undertaking; and
- Provides for transparent and non-discriminatory outcomes such that access seekers contracting for the same service receive the same price and all stakeholders can publicly observe that outcome and know the rates which apply.

Such a regime would provide the key benefit of consistency with the transparency and non-discrimination principles of ARTC's Interstate Access Undertaking; providing all stakeholders a high level of certainty and understanding of the cost of interstate freight arriving and originating in Perth. This regime would also provide a framework sufficiently robust as to accommodate the access needs of all categories of rail lines.

Please do not hesitate to contact me on 08 8217 4248 if you have any further questions in respect of this submission.

Yours sincerely



Jonathan Teubner
Manager Economic Regulatory Development