



Australian
Competition &
Consumer
Commission

Australian Competition and Consumer Commission

Consultation Paper

**in relation to Australian Rail Track
Corporation's Interstate Rail Network
Access Undertaking variation**

25 January 2012



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1 Introduction

The Australian Rail Track Corporation Limited (**ARTC**) has submitted its forecast capital expenditure for the period of 2012-13 to 2017-18 to the Australian Competition and Consumer Commission (**ACCC**) as envisaged under section 2.4(c) of the Interstate Rail Network Access Undertaking accepted by the ACCC on 30 July 2008 (**the Access Undertaking**).

On 6 January 2012 ARTC submitted its proposed variation to Schedule H (**the Proposed Variation**) in accordance with subsection 44ZZA(7) of the *Competition and Consumer Act 2010* (Cth) (**the Act**), which allows an access provider to vary an accepted access undertaking with the consent of the ACCC.

Details of the Proposed Variation are discussed in section 2 of this consultation paper.

The ACCC is conducting a public consultation as part of its assessment of the Proposed Variation, and seeks submissions from interested parties by **22 February 2012**.

1.1 Proposed effect of the application

If the ACCC accepts ARTC's application to vary the Access Undertaking:

- Schedule H of the Access Undertaking will be varied to include ARTC's 2012-13 to 2017-18 capital expenditure estimates.
- ARTC will then be able to roll into its regulatory asset base (RAB) all capital expenditure it prudently incurs each year in this period up to the estimates set out in Schedule H plus 20 per cent (without further ACCC approval).
- Where ARTC's actual capital expenditure exceeds the forecast capital expenditure by 20 per cent (or more) in any single year, ARTC must obtain the ACCC's approval to roll the full amount of its actual expenditure into the RAB.
- The RAB value is used in determining the ceiling price that would allow ARTC to recover the full economic cost of providing access to the interstate network.

ARTC has indicated in its supporting submission that it intends to seek the ACCC's approval for higher capital expenditure than the estimates in Schedule H in relation to:

- the 'substantial investment programme' for the 2006-12 period, currently being undertaken; and
- additional expenditure of \$434 million in 2012-13 and \$18.5 million over the subsequent three years (2013-14 to 2015-16) for projects commenced prior to 2012-13 and currently underway.

The current application to vary the Access Undertaking does not include these additional expenditures.

1.2 Background

1.2.1 Industry context

ARTC is a Commonwealth Government owned corporation, established in 1998 for the purpose of managing and providing access to the National Interstate Rail Network. ARTC is vertically separated, providing 'below-rail' track access services and not 'above-rail' services such as haulage. The Interstate Rail Network is subject to the Access Undertaking accepted by the ACCC on 30 July 2008.¹

The interstate network covers the mainline standard gauge track linking Kalgoorlie in Western Australia; Adelaide, Wolseley and Crystal Brook in South Australia; Melbourne and Wodonga in Victoria; Cootamundra, Albury, Macarthur, Moss Vale, Unanderra, Newcastle (to the Queensland border) and Parkes in New South Wales. The Access Undertaking does not cover access to the rail network in the Hunter Valley, which is covered by the Hunter Valley Access Undertaking accepted by the ACCC on 29 June 2011.

The interstate network is used by both general freight services (such as manufactured goods) and bulk freight services (such as mining and agricultural products), as well as long distance and regional passenger services. The largest users of the network are:

- Asciano
- Specialised Container Transport (SCT)
- Queensland Rail
- Genesee and Wyoming Australia
- CityRail and CountryLink
- Great Southern Railways (GSR)

1.2.2 The 2008 Interstate Access Undertaking – Schedule H

The ACCC accepted ARTC's Interstate Access Undertaking under Part IIIA of the then *Trade Practices Act 1974* (now known as the *Competition and Consumer Act 2010* (Cth)) on 30 July 2008. The Access Undertaking came into operation on 20 August 2008.

Schedule H of the Access Undertaking currently outlines ARTC's estimated capital expenditure for financial years 2006-07 to 2011-12. Capital expenditure is specified for each network segment and disaggregated forecasts are provided for network improvement works (for example, track works), train control and corridor infrastructure improvement. Capital expenditure is also disaggregated by forecast expenditure on track investment, signalling and communications investment for each segment.

¹ See the ACCC website at <http://www.accc.gov.au/content/index.phtml/itemId/789738> for further details.

While Schedule H outlines ARTC's estimated capital expenditure for the period 2006-07 to 2011-12, the Access Undertaking has a ten year term. Given the difficulty in reasonably forecasting capital expenditure over ten years, the ACCC accepted that ARTC would submit forecast capital expenditure for financial years 2012-13 to 2017-18 to the ACCC by 31 December 2011 for assessment.²

On 20 December 2011 ARTC requested an extension of time to submit the proposed variation. Given that the extension requested was minimal, this extension was considered acceptable. ARTC submitted its variation application on 6 January 2012.

1.2.3 Application to vary the 2008 Interstate Access Undertaking

Clause 2.4(c) of the Access Undertaking states that 'ARTC will develop and submit to the ACCC, Capital Expenditure in the form of an extended Schedule H, applicable to the period 1 July 2012 to 30 June 2018.'

In line with clause 2.4(c), ARTC lodged an application to vary Schedule H of the Access Undertaking on 6 January 2012.

The proposed 2012-13 to 2017-18 capital expenditure estimates form the basis for ARTC determining its annual revaluation of the network and associated facilities in respect of calculating ARTC's annual economic cost under the Access Undertaking (clause 4.4).

Clause 4.4(d) of the Access Undertaking requires that only capital expenditure that is incurred on a prudent basis will be included in the regulatory asset base. Prudent expenditure is defined as expenditure incurred having regard to:

- (a) the need to meet market demand for capacity and performance of the Network, or the need to extend the economic life of the Network;*
- (b) whether the scope of works is consistent with that identified in the applicable ARTC Corridor Strategy current as at the Commencement Date or as varied from time to time;*
- (c) what is considered to represent an efficient means to achieve that demand or extend that economic life;*
- (d) what is consistent with existing standard and configuration of adjacent and/or existing infrastructure with similar utilisation and market requirements, or its modern engineering equivalent;*
- (e) expenditure incurred efficiently in implementing the project, in the context of prevailing access and operating requirements, and input costs;*
- (f) adjustments in relation to the timing of commencement and/or commissioning of projects; and*
- (g) support by the industry.*

² ACCC, Draft Decision Access Undertaking – ARTC Interstate Rail Network, 29 April 2008, page 197.

If the estimates submitted by ARTC are accepted by the ACCC, they will provide an indication of the capital expenditure that may be rolled into ARTC's RAB for the interstate network. Under Clause 4.4(e) of the Access Undertaking, the ACCC only has a further role in relation to capital expenditure where an increase in actual capital expenditure (i.e. capital expenditure rolled into the RAB) exceeds forecast capital expenditure by 20 per cent in any single year.

For the purposes of ARTC's application, approval is only being sought to vary the Access Undertaking in relation to new investments which are anticipated to receive approval and funding during the period 1 July 2012 to 30 June 2018. This application does not relate to possible revised expenditure for the period 2006-07 to 2011-12. It also does not include additional expenditure that ARTC has indicated will be undertaken over the period 2012-13 to 2015-16 (of \$434 million in 2012-13 and \$18.5 million over the subsequent three years) for investment projects envisaged in 2008 but not yet completed and projects not envisaged in 2008 but now underway.

ARTC has also stated in its supporting submission that:

The substantial investment program undertaken by ARTC since 2006-07 has changed and expanded significantly. New projects that were not anticipated in 2008 have since been funded and projects forecasted in 2008 have changed and/or been expanded due to funding being made available.³

ARTC has stated that it intends to 'seek to vary the Capital Expenditure [in relation to the 2006-07 to 2011-12 period in Schedule H] in accordance with Clause 4.4(e) ... in due course, once the substantial investment program for the 2006-12 period, currently being undertaken, has been completed.'⁴ Therefore, the ACCC's current consultation does not deal with the higher actual expenditures in the period 2006-07 to 2011-12.

1.3 ACCC assessment approach

The framework the ACCC applies in deciding whether to consent to a variation of an accepted access undertaking is set out in subsections 44ZZA(7) and 44ZZA(3) of the Act. Essentially, the ACCC may accept the Proposed Variation if it thinks it appropriate to do so, having regard to various matters. The framework is described in more detail in section 4 of this document.

In relation to the proposed forecasts, the ACCC intends to conduct a similar review process to that followed in the 2008 assessment of the proposed capital expenditure for the financial years 2006-2007 to 2011-12.

The details of that approach are set out in detail in the ACCC's 2008 Draft Decision.⁵ In summary, the ACCC undertook a review that focussed on ARTC's internal processes for generating the scope, standard and cost of ARTC's proposed capital expenditure for the interstate network. The ACCC examined ARTC's decision making processes for the planning and commissioning of investment, including

³ ARTC, Variation to Schedule H to incorporate Capital Expenditure 1 June 2012 – 30 June 2018 - Supporting Submission, page 8.

⁴ ARTC, Variation to Schedule H to incorporate Capital Expenditure 1 June 2012 – 30 June 2018 - Supporting Submission, page 8.

⁵ ACCC, Draft Decision Access Undertaking – ARTC Interstate Rail Network, 29 April 2008, pages 196 to 209.

whether the processes were designed to ensure reasonable, prudent and cost-efficient investment. At the time the ACCC did not consider that a project-by-project review was necessary and no submissions from industry raised concerns about individual projects proposed by ARTC.

The ACCC is calling for submissions by interested parties and has not yet formed a view on the appropriateness of ARTC's Proposed Variation. Interested parties may provide submissions on any relevant aspect of the Proposed Variation, including individual projects proposed by ARTC. Given that industry support is one of the factors relevant to an assessment of whether capital expenditure under the Access Undertaking is prudent, the ACCC will place appropriate weight on submissions received from stakeholders.

The ACCC may seek further information from ARTC to assist it in assessing the Proposed Variation.

1.4 Indicative timeline for assessment

Under subsection 44ZZBC(1) of the Act, the ACCC must make a decision in relation to an access undertaking application within the period of 180 days starting at the start of the day the application was received (referred to as 'the expected period').

ARTC formally lodged the Proposed Variation with the ACCC on 6 January 2012.

Subsection 44ZZBC(2) of the Act provides for 'clock-stoppers', meaning that some days will not count towards the 180 days of the expected period in certain circumstances. In particular, the clock is stopped where:

- the ACCC publishes a notice inviting public submissions in relation to an undertaking application (subsection 44ZZBD(1));
- the ACCC gives a notice requesting information in relation to an application (subsection 44ZZBCA(1)); or
- the ACCC and the access provider agree in writing that certain days are to be disregarded for the purposes of calculating the expected period (subsection 44ZZBC(4)).⁶

The ACCC is requesting submissions on the Proposed Variation by **22 February 2012**. Under subsection 44ZZBD(1), this has the effect of extending the timeframe by which the ACCC is required to make a decision on the Proposed Variation. Following consultation on this consultation paper, the ACCC will be required to make a decision on the Proposed Variation by **1 August 2012**. However, a decision may be made before this date.

1.5 Consultation

The ACCC has published the Proposed Variation on its website for stakeholder consideration. Section 2 of this paper highlights those aspects of the Proposed Variation which differ from Schedule H of the accepted Access Undertaking.

⁶ See section 3 of this Paper for further information on these provisions of the Act.

The Proposed Variation has been submitted by ARTC in accordance with subsection 2.4(c) of the Access Undertaking. Accordingly, the variation relates only to the forecast capital expenditure under Schedule H from 1 July 2012 to 30 June 2018 of the Access Undertaking, and does not revise other significant aspects of the Access Undertaking.

The ACCC requests that any submissions address the matters listed in subsection 44ZZA(3) of the Act. Submissions may also address any other matters relevant to the Proposed Variation. As noted above, given that industry support is a relevant factor in the assessment of the prudence of the capital expenditure forecasts, the ACCC is seeking views on whether ARTC has consulted effectively with industry and whether stakeholders have sufficient information to comment on the Proposed Variation.

The ACCC's current intention is that there will be a single round of consultation. However, the ACCC may consult further with industry if it considers there is a need to do so having regard to the submissions made in response to this Consultation Paper.

1.6 Making a submission

Submissions on ARTC's Proposed Variation should be addressed to:

Mr David Salisbury
A/g General Manager
Transport & General Prices Oversight Branch
Australian Competition and Consumer Commission

GPO Box 520
Melbourne Vic 3001

Email: transport@accc.gov.au

1.6.1 Due date for submissions

Submissions **must** be received by **22 February 2012**. It is in your interest that the submission be lodged by this date, as section 44ZZBD of the Act allows the ACCC to disregard any submission made after this date.

1.6.2 Confidentiality

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request.

Sections of submissions that are claimed to be confidential should be clearly identified. The ACCC will consider each claim of confidentiality on a case by case basis. If the ACCC refuses a request for confidentiality, the submitting party will be given the opportunity to withdraw the submission in whole or in part.

For further information about the collection, use and disclosure of information provided to the ACCC, please refer to the ACCC publication "*Australian Competition and Consumer Commission / Australian Energy Regulator Information Policy – the collection, use and disclosure of information*" available on the ACCC website.

1.7 Further information

The Proposed Variation and other relevant material, including supporting submissions from ARTC and the currently accepted Access Undertaking, are available on the ACCC's website at the following link:

<http://www.accc.gov.au/content/index.phtml/itemId/789738>

Alternatively, go to the ACCC's homepage at www.accc.gov.au and follow the links to 'For regulated industries' and 'Rail' and 'ARTC Interstate Rail Access Undertaking 2008'.

Public submissions made during the current process will also be posted at this location.

Background information on the current process, including an overview of relevant provisions in Part IIIA of the Act, is set out in section 4 of this document.

If you have any queries about any matters raised in this consultation paper, please contact:

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Transport and General Prices Oversight Branch
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2 The Proposed Variation

The Proposed Variation sets out the proposed capital expenditure forecasts envisaged in section 2.4(c) of the Access Undertaking as set out above, as well as consequential amendments.

2.1 Forecast capital expenditure

ARTC seeks to vary Schedule H of the Access Undertaking in order to incorporate indicative forecasts of capital expenditure for the period 1 July 2012 to 30 June 2018. ARTC's proposal for forecast capital expenditure for this period is attached at **Attachment A**. Further information with regard to the proposed expenditure, including a summary of the relevant projects, is set out in ARTC's supporting submission.

This application is in respect of new investments that amount to \$626 million over the six years, or an average spend of \$104 million per year. ARTC has stated that the majority of the proposed expenditure is directed at the following three enhancements:

- roll-out of the Advanced Train Management System (ATMS), a communications-based signalling system designed to improve productivity and safety;
- capacity of the east-west network, principally to accommodate growing volumes of minerals and intermodal traffic while maintaining intermodal performance objectives; and
- strengthening the track on the east-west network to allow continued increase in speed/axle load of trains, with subsequent productivity and capacity benefits.

The anticipated capital expenditure also includes small amounts of miscellaneous corridor capital works. ARTC has stated that these projects relate to items that have reached the end of their economic lives and require renewal but which in the process of renewal are upgraded to a modern equivalent standard, enhancing their capability in the process.

As discussed above, this variation application does not relate to possible revised expenditure for the period 2006-07 to 2011-12, nor does it include additional expenditure for investment projects envisaged in 2008 but not yet completed and projects not envisaged in 2008 but now underway.

Questions for comment

- Does the proposed capital expenditure promote efficient use of the network? If there are concerns with the proposed expenditure in relation to individual projects, please provide specific details.
- Is the scope of the proposed capital expenditure reasonable given the geographic definition of ARTC's network and the forecast size of the market for above-rail services?
- Does the proposed capital expenditure program represent an efficient means of meeting expected demand or extending the economic lives of existing assets?
- Is the scope of the proposed capital expenditure commercially sound?
- Is the forecast capital expenditure over-designed or excessive for the proposed traffic level?
- Does the standard of the proposed capital expenditure meet a level of construction quality that is consistent with normal industry practice and is suitable for the network given the proposed traffic level?
- Does the forecast capital expenditure allow for unwarranted levels of investment?
- Are there any other relevant matters the ACCC should have regard to when assessing ARTC's application to vary Schedule H?
- Does the Proposed Variation raise any concerns regarding the matters listed in subsection 44ZZA(3) of the Act (see section 4 of this document)?

When considering the questions above, interested parties are encouraged to refer to the proposed approach to assessment by the ACCC set out in the Draft Decision on the 2008 Interstate Rail Access Undertaking.

2.2 Minor drafting amendments

ARTC propose a consequential amendment in order to remove clause 2.4(c) from the Access Undertaking. This provision will have no operative effect if the variation to Schedule H is accepted by the ACCC.

Questions for comment

- Does the consequential amendment have any unintended consequences?

When considering the questions above, interested parties are encouraged to refer to the matters listed in subsection 44ZZA(3) of the Act (see section 3 of this document).

3 Evidence of industry support

As noted in section 1.2.3 above, clause 4.4(d) of the Access Undertaking requires that only capital expenditure incurred on a prudent basis will be included in the regulatory asset base, and the definition of prudent expenditure requires that ARTC have regard to ‘support by the industry’.

In addition, section 6.5 of the Access Undertaking requires ARTC, when planning for Additional Capacity on the Network sought by Applicants or itself, to:

- provide operators with a reasonable opportunity to present their views regarding Additional Capacity;
- outline its views regarding Additional Capacity; and
- circulate a summary of the result of consultation regarding Additional Capacity to the Operators including, where applicable, reasons for disagreeing with Operators’ views.

Therefore, the ACCC intends, in assessing the Proposed Variation, to consider evidence of effective consultation by ARTC and industry support for its proposed capital expenditure program.

ARTC has submitted that it maintains a continuous dialogue with rail operators to help guide the development of its overall investment strategy. It stated in its public supporting submission that its general practice is to release its investment strategies to industry as consultation documents and to encourage feedback on such strategies. Individual projects then undergo further rounds of review and engagement with stakeholders before any final approval is granted.

ARTC stated further in its supporting submission that it has significant commercial imperatives to consult with stakeholders about new network investments, as effective consultation improves ARTC’s understanding of the needs and constraints of the market.

However, the ACCC has not received information from ARTC on the specific consultation undertaken by ARTC in developing its proposed forecasts for new capital expenditure over 2012-13 to 2017-18. ARTC has not provided details on the extent and nature of the consultation undertaken in developing the capital expenditure forecasts, nor has it released specific information on the industry feedback received and how it has had regard to that feedback.

Consequently, the ACCC considers that it is not currently in a position to assess whether ARTC’s consultation with industry has been effective and whether there is industry support for the proposed capital expenditure forecasts.

As part of this consultation, the ACCC is therefore seeking industry views on:

- whether the consultation undertaken by ARTC was effective in allowing industry to assess the proposals and provide feedback to ARTC; and

- whether ARTC has provided sufficient information to industry to address the matters relevant to the ACCC's assessment of the proposed capital expenditure forecasts.

The ACCC will take stakeholder views into account in its assessment of ARTC's Proposed Variation.

After considering submissions to this consultation paper, the ACCC may formally request further information from ARTC. It may also consider whether a second round of consultation is required to obtain stakeholder views on any further information provided by ARTC.

In the ACCC's view, effective consultation on ARTC's capital expenditure program is likely to be facilitated by the provision of certain information on how the capital expenditure forecasts that are the subject of the Proposed Variation were formulated. The ACCC has identified the type of information that may, in its view, assist industry in assessing ARTC's proposed capital expenditure forecasts, and an outline of this information is set out below.

However, the ACCC seeks industry views on the type of information that would be useful and industry comments on whether sufficient information has been provided by ARTC.

Estimates of total capital expenditure

ARTC has indicated in its supporting submission that its capital expenditure over the period of 2006-07 to 2011-12 has changed and expanded significantly. ARTC has also noted that it intends to incur additional capital expenditure of \$434 million in 2012-13 and \$18.5 million over the subsequent three years.

ARTC has not provided an estimate of the additional capital expenditure incurred over 2006-07 to 2011-12, above the forecasts included in Schedule H of the Access Undertaking. ARTC has also not provided a detailed explanation of the additional expenditure.

The ACCC considers that further information on ARTC's actual capital expenditure to date and expected future expenditure on ongoing projects may be relevant for obtaining a full picture of ARTC's capital expenditure program.

Explanation of the basis for the capital expenditure forecasts

ARTC's application and supporting submission do not include information on the traffic forecasts and other assumptions and investment drivers underlying ARTC's proposed capital expenditure forecasts.

The ACCC notes that the definition of prudent expenditure in the Access Undertaking requires ARTC to have regard to 'the need to meet market demand for capacity and performance of the Network'.

The ACCC considers that ARTC's forecasts of market demand and other assumptions and investment drivers underlying its proposed capital expenditure forecasts is likely to be relevant for assessing the forecasts.

Information on current and forecast prices and how they have been determined

ARTC has not provided information on the estimated impact on access prices of the proposed capital expenditure program for 2012-13 to 2017-18. Further, it has not provided any specific information on the prices it is currently charging on different lines and the relationship of actual prices to the relevant ceiling prices.

The ACCC considers that this information is likely to be relevant as it would allow estimates to be made of the potential impact on prices of ARTC's proposed capital expenditure program, including expenditure on current projects.

The ACCC also considers that an explanation of ARTC's methodology used to estimate prices is likely to be relevant. This explanation would likely include the capital expenditure amounts rolled into the regulatory asset base and the timing of rolling in the expenditure (that is, whether it is rolled in when the expenditure is incurred or when the project is fully or partly completed).

Questions for comment

- Is the level of consultation ARTC has undertaken in developing its investment strategy appropriate?
- Has ARTC provided sufficient information to facilitate industry assessment and comment on its capital expenditure forecasts? If not, please specify what additional information might be of assistance, if available.

When considering the questions above, interested parties are encouraged to refer to the matters listed in subsection 44ZZA(3) of the Act (see section 3 of this document).

4 Appendix: Background Information

4.1 Legislative framework for assessing a proposed access undertaking variation

Under paragraph 44ZZA(7)(b) of the Act, an access provider may withdraw or vary an access undertaking at any time after it has been accepted by the ACCC, but only with the consent of the ACCC.

If the ACCC consents to the variation, the provider is required to offer third party access in accordance with the varied access undertaking. An access undertaking is binding on the access provider and can be enforced in the Federal Court upon application by the ACCC.

Subsection 44ZZA(7) allows the ACCC to consent to a variation of an accepted access undertaking if it thinks it appropriate to do so, having regard to the matters contained in subsection 44ZZA(3), which are:

- the objects of Part IIIA of the Act, which are to:
 - promote the economically efficient operation of, use of and investment in the infrastructure by which services are provided, thereby promoting effective competition in upstream and downstream markets; and
 - provide a framework and guiding principles to encourage a consistent approach to access regulation in each industry;
- the pricing principles specified in section 44ZZCA of the Act (see further below);
- the legitimate business interests of the provider of the service;
- the public interest, including the public interest in having competition in markets (whether or not in Australia);
- the interests of persons who might want access to the service;
- whether the undertaking is in accordance with an access code that applies to the service; and
- any other matters that the ACCC thinks are relevant.

In relation to the pricing principles, section 44ZZCA of the Act provides that:

- regulated access prices should:
 - be set so as to generate expected revenue for a regulated service that is at least sufficient to meet the efficient costs of providing access to the regulated service or services; and
 - include a return on investment commensurate with the regulatory and commercial risks involved; and

- access price structures should:
 - allow multi-part pricing and price discrimination when it aids efficiency; and
 - not allow a vertically integrated access provider to set terms and conditions that discriminate in favour of its downstream operations, except to the extent that the cost of providing access to other operators is higher; and
- access pricing regimes should provide incentives to reduce costs or otherwise improve productivity.

4.2 Timeframes for ACCC decisions and clock-stoppers

Subsection 44ZZBC(1) of the Act provides that the ACCC must make a decision on an access undertaking application within the period of 180 days starting at the start of the day the application is received (referred to as ‘the expected period’). A request made to the ACCC for the withdrawal or variation of an access undertaking is an access undertaking application.

If the ACCC does not publish a decision on an access undertaking application under section 44ZZBE of the Act within the expected period, it is taken, immediately after the end of the expected period, to have:

- made a decision to not accept the application; and
- published its decision under section 44ZZBE and its reasons for that decision: see section 44ZZBC(6).

The Act contains ‘clock-stoppers’ that mean certain time periods are not taken into account when determining the expected period (see subsection 44ZZBC(2)). In particular, the clock may be stopped:

- by written agreement between the ACCC and the access provider (in this case, ARTC), and such agreement must be published: subsections 44ZZBC(4) and (5);
- if the ACCC gives a notice under subsection 44ZZBCA(1) requesting information in relation to the application;
- if a notice is published under subsection 44ZZBD(1) inviting public submissions in relation to the application;
- if a decision is published under subsection 44ZZCB(4) deferring consideration of whether to accept the access undertaking, in whole or in part, while the ACCC arbitrates an access dispute.

4.2.1 Information requests

Subsection 44ZZBCA(1) provides that the ACCC may give a person a written notice requesting the person give to the ACCC, within a specified period, information of a kind specified in the notice that the ACCC considers may be relevant to making a decision on an access undertaking application.

As noted above, the period within which the ACCC requests information constitutes a clock-stopper.

Attachment A: ARTC's Proposed Variation

Segment/Activity	Estimated Expenditure*											
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
1. Adelaide (Dry Creek) – Parkeston												
Improvement Project Works	597	1,629	1,913	1,913	1,913	-	14,000	54,825	40,825	-	-	-
ATMS Roll-out	-	-	-	-	-	-	-	-	36,200	36,962	-	-
Corridor Infrastructure Investment	9,476	10,151	10,313	10,243	10,363	10,563	5,754	6,189	6,591	6,321	6,399	6,399
Total Capital Expenditure	10,073	11,779	12,226	12,156	12,276	10,563	19,754	61,014	83,616	43,283	6,399	6,399
2. Adelaide (Dry Creek) – Melbourne (Spencer Street)												
Improvement Project Works	7,756	42,966	7,049	1,913	1,913	-	-	-	-	-	-	50,000
ATMS Roll-out	-	-	-	-	-	-	-	-	-	17,338	45,300	38,225
Corridor Infrastructure Investment	7,270	7,222	4,205	4,205	3,364	4,310	2,443	2,628	2,799	2,684	2,717	2,717
Total Capital Expenditure	15,026	50,189	11,254	6,118	5,277	4,310	2,443	2,628	2,799	20,022	48,017	90,942
3. Melbourne (Tottenham) – Macarthur												
Main South Track Improvement Works	118,322	300,807	194,873	-	-	-	-	-	-	100,000	100,000	50,000
Train Control Consolidation - South	48,852	5,691	-	-	-	-	-	-	-	-	-	-
Corridor Infrastructure Investment	6,783	11,586	2,330	2,082	2,405	2,170	4,511	7,560	4,600	6,410	6,353	6,353
Total Capital Expenditure	173,957	318,084	197,203	2,082	2,405	2,170	4,511	7,560	4,600	106,410	106,353	56,353
4. Newcastle (Islington Junction via mains) – Queensland Border (Border Tunnel)												
North Coast Improvement Works	80,266	125,752	27,799	728	-	-	-	-	-	-	-	-
North Coast Signals/Train Control Improvement Works	2,447	-	-	-	-	-	-	-	-	-	-	-
Northern Train Control Consolidation (allocation)	8,754	2,834	4,279	-	-	-	-	-	-	-	-	-
ATMS Roll-out	-	-	-	-	-	-	-	-	-	-	-	7,075
Corridor Infrastructure Investment	12,914	13,271	5,796	7,880	6,461	5,987	1,949	3,267	1,988	2,770	2,746	2,746
Total Capital Expenditure	104,381	141,857	37,874	8,608	6,461	5,987	1,949	3,267	1,988	2,770	2,746	9,821

5. Crystal Brook – Parkes												
Western NSW Improvement Works	8,834	9,986	417	-	-	-	14,000	21,000	-	-	-	-
Corridor Infrastructure Investment	3,569	3,775	2,166	4,256	3,723	1,616	3,082	3,314	3,530	3,385	3,427	3,427
Total Capital Expenditure	12,403	13,760	1,749	4,256	3,723	1,616	17,082	24,314	3,530	3,385	3,427	3,427
6. Cootamundra - Parkes												
Corridor Infrastructure Investment	1,771	783	3,660	2,807	1,399	970	569	612	651	625	632	632
Total Capital Expenditure	1,771	783	3,660	2,807	1,399	970	569	612	651	625	632	632
7. Adelaide (Dry Creek) – Pelican Point												
Corridor Infrastructure Investment	23	-	-	-	-	-	57	61	65	62	63	63
Total Capital Expenditure	23	-	-	-	-	-	57	61	65	62	63	63
8. Port Augusta – Whyalla												
Corridor Infrastructure Investment	-	50	50	-	-	-	216	232	247	237	240	240
Total Capital Expenditure	-	50	50	-	-	-	216	232	247	237	240	240
9. Moss Vale - Unanderra												
Corridor Infrastructure Investment	337	494	117	876	766	738	198	332	202	282	279	279
Total Capital Expenditure	337	494	117	876	766	738	198	332	202	282	279	279
10. Network (allocation)												
Track Investment (eg Wayside Detection, Wagons, Plant & Equipment)	2,520	2,558	-	5,677	5,722	-	-	-	-	-	-	-
Signals & Train Control Investment (ATMS Concept)	552	13,940	20,351	32,053	-	-	-	-	-	-	-	-
Communications Investment (eg 3G 850, NTCS, ICE)	3,670	28,330	17,920	-	-	-	-	-	-	-	-	-
Total Capital Expenditure	6,742	44,828	38,271	37,730	5,722	-	-	-	-	-	-	-
11. Other												
Southern Sydney Freight Line	3,464	94,518	143,651	-	-	-	-	-	-	-	-	-
Total Capital Expenditure	3,464	94,518	143,651	-	-	-	-	-	-	-	-	-