



AUSTRALIAN RAIL TRACK CORPORATION LTD

31 July 2012

Mr Matthew Schroder
General Manager, Fuel, Transport & Prices Oversight
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

By e-mail: matthew.schroder@accc.gov.au

Dear Mr Schroder

Application for variation of Hunter Valley Coal Network Access Undertaking

Please find **enclosed** an application to the Australian Competition and Consumer Commission (ACCC) for consent to vary ARTC's Hunter Valley Coal Network Access Undertaking (HVAU) in accordance with section 44ZZA(7) of the *Competition and Consumer Act 2010* (Cth) and as contemplated in section 13.3(b)(iii) of the HVAU.

Section 13.3(a) of the HVAU provides that within six months of the commencement date of the HVAU, ARTC is required to prepare and publish options for a proposed positive performance incentive scheme which has the objectives of encouraging ARTC, through financial reward, to improve operating, maintenance and capital expenditure efficiency, and achieve desirable safety performance, to be included in the HVAU. ARTC is required to invite submissions from Access Holders and stakeholders on its proposal.

Having regard to submissions received from Access Holders and stakeholders, and within 12 months of the commencement date of the HVAU, ARTC is required under section 13.3(b) of the HVAU to prepare a report addressing options for a proposed positive performance incentive scheme, and a proposed variation to the HVAU to include the scheme. ARTC is required to provide the report to, and lodge a variation application with, the ACCC. ARTC has received an extension from the ACCC in relation to these submissions, and is now required to provide the report and the variation application to the ACCC by 31 July 2012.

ARTC has undertaken an extensive process to develop a positive performance incentive scheme pursuant to section 13.3 of the HVAU. In December 2011, ARTC published a Consultation Document, and sought comment from Access Holders and stakeholders in relation to positive incentive mechanisms under the HVAU that would have broad stakeholder support. ARTC has had regard to the comments and submissions received from both stakeholders and the ACCC, as well as to proposals put forward by QR National Network in April 2012 to the Queensland Competition Authority in a paper titled 'Draft Incentive Mechanism', for the purposes of finalising the proposed positive performance incentive scheme, as well as the supporting report included in this application.

The supporting report to this application (**Attachment B**) outlines ARTC's process for developing the proposed positive performance incentive scheme, and the detail of, and reasons for, the proposed positive performance incentive scheme.

If you have any queries, please contact me on (08) 8217 4314 or Kylie Gallasch on (08) 82174239.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S Ormsby', written over a light blue horizontal line.

Simon Ormsby

Executive General Manager, Strategy and Growth