

S T R A T E G I E S

26 April 2001

Margaret Arblaster
General Manager – Transport
Regulatory Affairs Division
ACCC
GPO Box 520J
Melbourne VIC 3001

Dear Ms Arblaster

Re:- ARTC Access Undertaking

Further to our earlier submission of 26 April 2001, we would now wish to make an additional point.

For the purposes of determining its asset base for the calculation of ceiling prices, the ARTC Access Undertaking makes no distinction between the Interstate Mainline Track in South Australia and Western Australia (previously owned by Australian National) and the Victorian Interstate Track.

Our understanding is that the Interstate Mainline Track is owned by the ARTC whereas the Victorian Interstate Track is leased from the State of Victoria.

Our earlier submission proposed that the use of DORC is not an appropriate asset base for owned assets. It is not the “owner’s investment” in the track. It is inconsistent with the Trade Practices Act and the Competition Principles Agreement and (by producing high ceiling prices) can be used (particularly by a hostile access provider) to prevent competition.

Such comments apply even more strongly with respect to infrastructure that is leased. In particular, to the extent that infrastructure is leased, then there is no “owner’s investment”.

Accordingly, our submission is that the determination of ceiling prices for track leased by the ARTC should only include the lease cost as a valid expense and should specifically exclude any asset (re)valuation of the track (not owned).

It would be patently unreasonable that infrastructure could be leased for a peppercorn rental, but that access could then be charged based on replacement cost.

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In addressing this issue, the Council may need to have regard to the generalities of whether it is appropriate for access charges to “see through” leasing arrangements to (the value of) the asset behind the lease and the potential for on-leasing to artificially change or create an asset base.

For your consideration.

Peter Mason
Managing Director