

Freight Link Pty Ltd  
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FL-C-L-02595-A

17 November 2008

Mr David Salisbury  
A/g General Manager  
Transport Branch  
Regulatory Affairs Division  
ACCC  
PO Box 520  
MELBOURNE VIC 3000

Dear David

**ARTC Interstate Rail Access Undertaking – Application for Variation**

FreightLink has reviewed the ARTC's proposed variation to clause 15 of the Indicative Access Agreement (IAA) and offers the following comments in line with the suggested issues outlined in **Box 3** of your Issues Paper.

1. *To what extent are the “changed circumstances” standard industry practice?*
  - (a) *To what extent are train operators seeking to include such terms into their contracts?*
  - (b) *To what extent have similar clauses previously been written into contracts?*

**Response**

FreightLink considers that the “changed circumstances” are not or not as yet standard industry practice. FreightLink does not have such terms included in any contracts with its customers nor is it seeking to do so.

2. *Do you agree with the ARTC proposed changes?*

**Response**

Yes



3. *If not, why not? Please provide a detailed explanation as to why you do not agree with the proposed changes with particular regard to:*

(a) *the perceived effect of the changes on ARTC's (and operators) liability to third parties under the proposed clause 15.*

(b) *the effect of the proposed amendments on ARTC's legitimate business interests and the interests of operators wishing to access ARTC's services.*

**Response**  
Not applicable

4. *If so, do the ARTC amendments as drafted have the intended effect?*

**Response**  
Yes

5. *Do the proposed changes have any possible unintended effects? If so, please explain what unintended effect they have.*

**Response**  
No

6. *Are other changes required in order to achieve the desired result? If so, please explain what further changes are required and why.*

**Response**  
No

7. *Are there any other related matters which the ACCC should take into account in deciding whether or not to consent to the proposed variation?*

**Response**  
No



FreightLink is a vertically integrated rail freight business. It also owns the track between Tarcoola and Darwin and administers access to the track under a certified Access Regime.

Asia Pacific Transport Pty Ltd, the entity within FreightLink responsible for track access, also supports the variation to the IAA proposed by ARTC.

Should you wish to discuss this matter further you may contact me on (08) 8245 9122.

Yours sincerely

  
John Bullerton  
Chief Executive Officer