

## Attachment 2: Outstanding Issues

1. The definitions of network capacity and Network Path Capability require clarification and must be based on coal chain System Assumptions (not just track assumptions).
  - It is very important that ARTC publishes and updates its assessment of network capacity to give industry confidence in the capacity calculations. Where ARTC does not agree with the System Assumptions used in determining capacity, they should be referred to the regulator for determination – calculating port and track capacity on an inconsistent basis would be a disaster for the coal industry.

True up test audit – should be firm commitment by ARTC to conduct annual audit upon request (draft deals only with appointment process).
2. ARTC should be obliged to complete a project which it has commenced– the current drafting enables ARTC to walk away from a project and leave the users to pick up the funding – risking major delays to essential infrastructure. Particularly an issue for any projects which are CP's to access. This commitment point for ARTC should be the conclusion of Concept Assessment (s9.3).

Concept of Legitimate Business Interests – should not apply in the case of user-funded expansions, and should be subject to some form of rapid, independent assessment if triggered for ARTC-funded expansions.
3. Efficient train size – should be submitted to ACCC within weeks/months, not years, to ensure industry participants are triggering the most efficient investments in rolling stock to support growth. Non-indicative coal service pricing should be submitted in similar timeframes. Pricing basis review (i.e. GTK) should require result to be “the most appropriate” pricing basis (not just “an appropriate” pricing basis) and if variation rejected by ACCC, ARTC must re-submit.
4. Transition process needs to be revised and clarified. Should target finalisation of binding nominations by Access Seekers within 30 days of HVAU acceptance, provision of Train Path Schedules by ARTC within further 30 days and finalising Access Contracts 3 months after provision of Train Path Schedules. Plus include explicit obligation to treat all coal Access Applications equitably.

Mutually exclusive applications should be pro-rated if applicants have network exit capability and are still willing to contract on a partial basis.
5. The capacity trading system must be consistent for both port and track entitlements – separate systems would create chaos for the industry in managing its contracts. ARTC should use the same system as the port provided it is working properly.
6. RCG Voting Rights need to be reviewed – is not acceptable for an uncontracted producer to vote and trigger an expansion and then walk-away, leaving everyone else to pay the bills. Voting entitlement for a prospective user should require a contractual commitment (which is conditional on commitment of the project)
7. 10 years duration is too long without a rigorous independent review mechanism to ensure the undertaking is working as intended – the 5 year review needs to be made by an independent party, commence after 4 years and be submitted to ACCC, or a 5 year duration adopted.