

21 February 2008

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ACCC  
GPO Box 520  
MELBOURNE VIC 3001

By email:- [transport.prices-oversight@acc.gov.au](mailto:transport.prices-oversight@acc.gov.au)

Dear Margaret,

**Re:- Australian Rail Track Corporation (ARTC)  
Rail Access Undertaking – Interstate Network**

We are writing this letter to draw your attention to the recent Auditor General's report on the funding of the ARTC. A full copy of this can be obtained at [http://www.anao.gov.au/uploads/documents/2007-08\\_Audit\\_Report\\_22.pdf](http://www.anao.gov.au/uploads/documents/2007-08_Audit_Report_22.pdf). Alternatively, we can provide a hard copy should you so wish.

In our submission of 11 February 2008, we identified two principal issues with the funding of the ARTC.

Firstly, we proposed that the cost of capital for the ARTC was not sensibly obtained by considering a mix of debt and equity funding. Rather, the funding of the ARTC was more akin to the funding of other national infrastructure such as (particularly) the road network. Mere corporatisation does not diminish the fact that the ARTC is an arm of Government any more than creating subsidiary companies diminishes the consolidation of corporations. The attached Auditor General's report confirms this, with the funding of the ARTC being:-

- (a) a direct payment by the Federal Government;
- (b) no expectation of a financial return;
- (c) no expectation of a return of the capital;
- (d) nil taxation effect, implication or consideration; and
- (e) an expectation that the funds would be used to construct essential transport infrastructure.

In other words, it has exactly the same characteristics as funding of road infrastructure.

Accordingly, if a cost-of-capital approach is to be used in determining the ceiling for any rail access charges, then the cost of capital should be nil (zero). This would apply, inter alia, to the Southern Sydney Freight Line.

Secondly, the Draft ARTC Undertaking seeks to use a DORC approach to apply a cost-of-capital to **all** of the infrastructure assets managed by it. In our earlier submission, we noted that much of the infrastructure had been gifted and/or funded by the Government and

accordingly should be excluded from any asset base (re-valued or otherwise). We would include in this, any difference between (a) the value of the track at the formation of the ARTC and (b) the value of the shares then issued to the Commonwealth. Again, the Auditor General's report highlights this Government gifting. It would be patently incorrect if the ARTC were allowed to revalue (over time) any such gifting and then be allowed to earn a commercial return on that gifting (or the assets on which the gifting had been spent).

We offer this letter as an additional submission by our Company. We acknowledge that it now falls outside the ACCC timetable for considering the Draft ARTC Undertaking. However, the information is substantial and has just come to hand. We believe that it should be taken into consideration by the ACCC.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P. Mason'.

Peter Mason  
Director