

19 December 2022

Matthew Schroder  
General Manager Infrastructure & Transport – Access & Pricing Branch  
Australian Competition and Consumer Commission  
GPO Box 520  
MELBOURNE VIC 3001

By email: [matthew.schroder@acc.gov.au](mailto:matthew.schroder@acc.gov.au)

Dear Matthew

**AUSTRALIAN RAIL TRACK CORPORATION LTD**  
**RE: 2008 INTERSTATE ACCESS UNDERTAKING (IAU) Clause 2.2 (d)**

The 2008 IAU originally expired on the 20 August 2018. Since that time, the IAU has been extended a total of 6 times on the following dates:

- 25 July 2018 to 31 December 2018,
- 12 December 2018 to 28 February 2019,
- 28 February 2019 to 30 December 2019,
- 26 September 2019 to 30 June 2020;
- 19 June 2020 to 30 June 2021; and
- 15 June 2021 to 30 June 2023

The 28 February 2019 extension included an amendment to Clause 2.2(d) which requires ARTC to provide the ACCC with a minimum of 6 months' notice of its intentions in respect of submitting a revised undertaking.

In its 22 July 2022 Guidance paper on ARTC's Interstate network access undertaking 2023, the ACCC highlighted that in order for it to meet its legislative timeframes to approve a new IAU for commencement by 30 June 2023, ARTC would need to submit a replacement voluntary IAU to the ACCC for assessment by October 2022. The ACCC also highlighted an expectation that ARTC would engage with the ACCC and its customers on the proposed new IAU:

*The ACCC will engage with ARTC on its draft version of the proposed IAU to provide an opportunity to give informal feedback prior to ARTC's formal undertaking submission. We also expect that ARTC will seek feedback from stakeholders on the proposed undertaking prior to submitting it to the ACCC.*

Since the publication of the ACCC's Guidance Paper, ARTC has commenced the development of an IAU reflecting the content of that paper whilst engaging with customers and the ACCC. In order for these engagement processes to be effective it is necessary to consult on the proposed detail of the IAU, which necessarily extends the consultation period beyond the limited timeframe between the

publishing of the ACCC Guidance paper in late July 2022 and the ACCC legislative timeline submission date of October 2022.

Throughout the extensive process to approve a replacement IAU, ARTC has reinforced its overriding commitment to regulatory and contract certainty for its customers and this remains ARTC's priority as the consultation process continues.

ARTC expects to complete its stakeholder engagement process on the replacement IAU in early 2023 and submit that document for ACCC assessment shortly thereafter. ARTC acknowledges that this submission timing is not consistent with the ACCC legislative timeframes to approve the replacement IAU by 30 June 2023. In order to ensure the ACCC has sufficient time to complete its assessment of the proposed replacement IAU, and to ensure regulatory and contractual certainty for its customers, ARTC notes that a further extension of the 2008 IAU will be required.

ARTC therefore advises the ACCC and stakeholders under Clause 2.2(d) of the IAU that its intent is to submit a further extension of the IAU in early 2023, coincident with its lodgement of the replacement 2023 IAU, to ensure regulatory and contractual certainty whilst the ACCC assesses the proposed replacement 2023 IAU.

If you have any questions in respect of this letter, please do not hesitate to contact Jonathan Teubner on 0438 400 250 (Ph) or [jteubner@artc.com.au](mailto:jteubner@artc.com.au) (email).

Yours sincerely



Mark Campbell  
**Chief Executive Officer**