



Our ref: IRD23006917
Contact officer: [REDACTED]
Contact: transport@accc.gov.au

7 May 2024

Dear Stakeholder

Consultation on proposed 6-month extension to the Australian Rail Track Corporation's 2008 Interstate Access Undertaking

The ACCC invites submissions on the Australian Rail Track Corporation's (ARTC) application to extend its 2008 Interstate Access Undertaking (the 2008 IAU) (the Application). The Application was submitted on 6 May 2024 pursuant to subsection 44ZZBB(1) of the *Competition and Consumer Act 2010* (Cth) (CCA).

The Application is available on the ACCC's website at:

<https://www.accc.gov.au/regulated-infrastructure/rail/interstate-rail-network-access-undertaking/extension-of-the-2008-interstate-access-undertaking-to-31-december-2024>

Background

The ACCC accepted the 2008 IAU in July 2008. The 2008 IAU (as amended) sets out the terms and conditions of access for parties seeking to operate trains on ARTC's Interstate network.¹

On 12 December 2023 ARTC submitted its 2024 Interstate Access Undertaking proposal which would replace the 2008 IAU.² On 17 April 2024, due to a number of issues raised in stakeholder submissions, the ACCC sent a letter to ARTC regarding an extension of the current undertaking until 31 December 2024.³ This would allow sufficient time for consultation on ARTC's proposed undertaking and ensure there is no uncertainty for users as to whether the statutory assessment processes will be finalised before the existing undertaking is currently scheduled to expire on 30 June 2024.

¹ For more information on the ARTC's defined Interstate rail network, see: <https://www.artc.com.au/customers/standards/route/access/defined-interstate/>

² Available here: <https://www.accc.gov.au/by-industry/rail-shipping-and-ports/interstate-rail-network-access-undertaking/interstate-access-undertaking-2024>.

³ Available here: <https://www.accc.gov.au/by-industry/rail-shipping-and-ports/interstate-rail-network-access-undertaking/interstate-access-undertaking-2024/accc-letter-to-artc>.

Proposed effect of the Application

The Application from ARTC is to extend the term of the 2008 IAU for a further period of 6 months. ARTC seeks to do so by amending clause 2.3(a) of the 2008 IAU to replace the words '30 June 2024' with 'the earlier of 31 December 2024 or 21 days after the acceptance by the ACCC of ARTC's proposed 2024 IAU as submitted on 12 December 2023'. The Application does not propose to make any other amendments to the 2008 IAU.

Submissions

The ACCC invites submissions on the Application by **5:00pm (AEST) Wednesday, 22 May 2024**.

In deciding whether to extend the period for which the undertaking is in operation under subsection 44ZZBB(3) of the CCA, the ACCC must have regard to the matters set out in subsection 44ZZA(3) of the CCA (Annex A). In making a submission, parties are encouraged to address those matters.

Submissions should be addressed to:

Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch
Australian Competition and Consumer Commission
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The ACCC prefers to receive **electronic** copies of submissions, either in PDF or Microsoft Word format, which allows for the submission text to be searched.

Unless a submission, or part of a submission, is marked as confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request. If you are providing a confidential submission, the ACCC asks that you provide a full copy of the document and a public version with the confidential information omitted. Sections of submissions that are claimed to be confidential should be clearly identified. The ACCC will consider each claim of confidentiality on a case-by-case basis. If the ACCC refuses a request for confidentiality, the submitting party will be given the opportunity to withdraw the submission in whole or in part. Submissions that are withdrawn will not be considered as part of this consultation process.

If you have any questions about this consultation letter, please contact the Regulated Access - Rail team at transport@acc.gov.au.

Yours sincerely



Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch

Annex A

Subsection 44ZZA(3) of the *Competition and Consumer Act 2010* (Cth)

(3) The Commission may accept the undertaking, if it thinks it appropriate to do so having regard to the following matters:

- (aa) the objects of this Part;
- (ab) the pricing principles specified in section 44ZZCA;
- (a) the legitimate business interests of the provider;
- (b) the public interest, including the public interest in having competition in markets (whether or not in Australia);
- (c) the interests of persons who might want access to the service;
- (da) whether the undertaking is in accordance with an access code that applies to the service;
- (e) any other matters that the Commission thinks are relevant.