ARTC RESPONSE TO ACCC IAU DORC AND FRAMEWORK CONSULTATION

JULY 2021

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EXECUTIVE SUMMARY

ARTC welcomes the opportunity provided by the ACCC to comment on the appropriate regulatory framework to apply to ARTC's Interstate Network, the state of competition within the freight supply chain and the competitive position of rail, and the asset valuation to apply to ARTC's network should such a consideration be necessary within the appropriate regulatory framework.

All of these are relevant and interdependent issues. The state of competition within the freight supply chain shapes the appropriate regulatory frameworks within that supply chain and, of relevance here, for ARTC's interstate network. The definition of this framework then establishes the importance of the DORC valuation, both in aggregate and asset specific terms.

The state of competition and regulation across the supply chain have been the subject of numerous recent reviews by the Productivity Commission (PC), National Competition Commission (NCC) and Commonwealth Treasury. What is clear from these reviews is that, across the intermodal freight supply chain, the only regulated infrastructure is rail; and the rail segment is subject to a mix of legislated state and voluntary national regulation which creates significant inconsistencies; adding to the regulatory burden and complexity of access of all participants.

ARTC therefore strongly supports, and has advocated for, a nationally consistent regulatory framework for the entire freight supply chain and therefore for rail. This is, however, a significant task, and the experience of implementing nationally consistent rail safety regulation suggests the time required from commencement to full implementation is approximately 10 years. ARTC supports this important policy development and will support all stakeholders in its pursuit.

However, after 3.5 years of regulatory uncertainty, the need to develop a regulatory instrument that supports the required commercial flexibility and agility for rail to compete in a fast-developing supply chain is high.

Feedback from ARTC's customers, supported by the available data, is that volumes are coming under increasing pressure from intermodal competition generally from road, and from sea on the East – West corridor. This increasing competition is a function of a number of issues, but mainly:

- Rail suffers a significant, structural, competitive disadvantage as it competes with modes that marginally price freight, and the infrastructure owner has no requirement to earn a return on capital; whereas rail must fully cost freight including a capital return. Specifically:
    - Road access charges treat heavy vehicles as the incremental user for cost allocations and road owners are not able to seek a return on capital nor a recovery of historical assets cost; and

    - Coastal shipping costs represent the marginal cost of moving freight on International Ships that are priced to recover their full costs from the movement of import and export containers.
- Government policy positions in respect of road and sea may further benefit the competitive position of rail's competing modes:
    - State Government decisions in NSW, Victoria and South Australia promoting high performance vehicles are significantly improving truck productivity and efficiency; widening the competitive gap with rail on the north-south and east - west;
    - The Commonwealth Government is considering adjustments to international coasting shipping legislation; some of which could potentially improve sea's competitiveness on the east-west.

A key part of rail's response to this increased competition is for ARTC, in consultation with its customers, developing innovative services to meet the needs of freight customers, whilst investing capital and resources to ensure the network's reliability and resilience meets those needs in a commercially sustainable manner. Developing an IAU that supports the necessary commercial and operational flexibility to meet these needs is critical.

Given volume stagnation and increasing competition, this required progression of the IAU to support rail's competitiveness and growth cannot wait for the completion of nationally consistent freight regulation. The appropriate instrument of the IAU should, however, be consistent with the broader aims of that national approach. The key elements for that instrument are that the IAU should:

- Commit ARTC to the provision of open and non-discriminatory access;
- Provide clarity on the risk distribution between above and below rail operations;
- Provide transparency on ARTC's operations and performance;
- Support agile and flexible commercial developments to deliver a sustainable, reliable network whilst helping to drive volume growth and modal shift;
- Provide access to timely and balanced dispute resolution processes; and
- Ensure that the use of market power is constrained.

The lessons from other industries, both within the freight supply chain and without, highlight that access to an independent commercial arbitration process is the most efficient method to create an access framework which provides both timely dispute resolution and constrains the use of market power. These benefits of commercial arbitration have been acknowledged, supported and even advocated for by the ACCC; for infrastructure that is both more profitable and dealing with a lower level of concentration in its users than rail.

The existing transparency, risk distribution and non-discriminatory access provisions of the IAU date back to the foundational principles of ARTC and the initial voluntary IAU in 2002; where ARTC remains the only company with a voluntary undertaking in place with the ACCC. Maintaining these key principles, in conjunction with a commercial arbitration framework, would deliver the necessary commercial flexibility and agility to meet the challenges of intermodal competition head on.

ARTC strongly believes that the optimal framework for the IAU must allow it to work with customers to develop the required competitive responses to meet the challenge of enhanced intermodal competition as they arise; not based on an historic regulatory timeframe. This can best be achieved by amending the existing IAU to define an arbitration framework within the current pricing clauses; such that the flexibility and time benefits can be realized without threatening the open access provisions, commercial framework and transparency benefits embedded in the IAU from 2002.

ARTC therefore offers to work with its customers, the ACCC and other stakeholders to implement the necessary changes to the IAU to embed the commercial-arbitration framework in time to allow approval ahead of its June 30 2023 expiry.

This would provide an undertaking which enables ARTC and the industry to grow and innovate to meet the challenges of intermodal competition and deliver a framework that is simple and supports:

- Open and non-discriminatory access
- Provides transparency of ARTC performance
- Provides access (for all players) to timely and flexible dispute resolution process

Notwithstanding its voluntary nature, ARTC would be prepared to consider a longer term undertaking on this basis given its confidence in the framework; providing more extensive certainty for the industry on access issues. This framework will have the following key benefits:

- Maintain the critical aspects of the IAU that support customer entry by maintaining:
    - Open, non-discriminatory access for all services;
    - Transparency of pricing outcomes; and
    - The risk allocations between above and below rail;
- Promote commercial flexibility by encouraging the development of services consistent with the specific requirements of users within a transparent and non-discriminatory environment;
- Ensure pricing is based on the commercial realities of the freight market; not on a cost-based approach which is not fit for purpose for the Interstate Rail network;

- Provides a process which can adapt to market changes as they occur, not based on a regulatory timetable;
- Provide clarity on, and access to, an independent dispute resolution process that will be finalized in a timely manner;
- Limits the cost and burden of participants in engaging in complex regulatory processes with limited benefit to them; and
- Provides a pathway for national consistency of regulatory approach.

The absence of disputes across the history of the IAU, combined with the lack of role of the ceiling in determining pricing, demonstrates both the value of the framework lies in ARTC's commitment to the process of open and non-discriminatory access, and the lack of need for heavy handed regulation. The ACCC may want to consider in its Issues Paper on alternative frameworks other models which meet these criteria which have been proposed, but not accepted; including the behavioural undertaking option proposed by Pacific National for access to the Acacia Ridge Rail Terminal and the Deed Poll option put forward by Queensland Rail as part of the recent QCA Declaration review.

ARTC's proposed framework reflects the fact that it's pricing is independent of an economic ceiling calculated based on the traditional building block approach. This position appears to be supported by the ACCC in its consultation paper and it is therefore likely that the actual value of the DORC as calculated by GHD has no role to play in future IAU regulation. On this basis, ARTC sees little benefit in incurring the cost and devoting the resources required for a detailed rebuttal, and similarly requiring the cost and effort by its customers and the ACCC in engaging in that debate. However, on the basis that the DORC may become relevant at some point, and a number of assumptions, if enacted, would reduce rail's competitiveness, ARTC believes it's important to detail its concerns with the valuation, such that these can be revisited at that point.

ARTC's concerns with the valuation can be summarized as:

- The valuation ignores site specific costs;
- The rates assumed are inconsistent with observed results from competitive tenders;
- Assumptions on earthworks are unrealistic;
- The optimized network configuration would result in significant transit time delays;
- Grant funded assets should not be excluded as they have always had a commercial purpose;
- The ACCC's WACC methodology imposes excessive return volatility on ARTC's return and assumes a position on asset and revenue risk held by ARTC which is inconsistent with the risks ARTC actually faces.

The update of ARTC's capital costs for projects completed post 1 July 2019 is another element which is directly related to the applicable regulatory framework. ARTC will ensure that transparency of capital performance is part of its engagement with customers, stakeholders and the ACCC in developing its proposed framework. However, until there is clarity on what that framework will be, ARTC believes that committing the extensive cost and resources required to meet a prudency requirement that may not be relevant, would be an inefficient use of its constrained resources and funds.

INTRODUCTION

ARTC appreciates the opportunity to comment on GHD's Draft Depreciated Optimized Replacement Cost (DORC) valuation of its Interstate Network, the optimal regulatory framework to apply to that network and also the competitiveness of other modes of transport with rail. The first two questions are, however, intertwined as the effort and cost which need to be applied to the specific issues within the DORC consultation are a function of the use of that value, and the consequent ceiling valuation so derived. The critical question in addressing this response is, therefore, does the ceiling value derived from the DORC Valuation and ACCC estimate of the efficient rate of return serve a purpose? This is the question raised by the ACCC in its consultation paper where it raises questions on the usefulness of the RAB and highlights an intent to publish an Issues Paper on the appropriate regulatory framework to apply to the IAU.

ARTC BACKGROUND

ARTC was created in 1998 through an Inter-Governmental Agreement (IGA) signed by the Commonwealth, Victoria, South Australia, NSW, Western Australia and Queensland. ARTC was established as a consolidated interstate rail track owner to create a single process for access, consistent with the Competition Principles Agreement and the National Rail Summit Heads of Agreement.

The objectives of ARTC under the Inter-Governmental Agreement, which continue to apply, are to provide efficient and seamless access to the interstate rail network by:

- operating the business on commercially sound principles;
- pursuing a growth strategy for interstate rail;
- improving interstate rail infrastructure through better asset management and a program of commercial and grant funded investment; and
- promoting operational efficiency and uniformity on the interstate network.

The IGA reflected the impact of historic under investment on the performance of the rail freight network and provided for ARTC to have commercial performance incentives and the capacity to price, market and manage supply of its services flexibly in the context of a competitive transport market; whilst investing significantly in the network to upgrade its performance. From the formation of ARTC, this investment was understood to come from a variety of sources, including grant funding. ARTC's requirement to seek commercial returns on the network, and deliver dividends to its shareholders, has never been a function of the source of funding for network investments.

ARTC owns the interstate network for the area covered by Broken Hill in NSW, the SA-Victorian border and Kalgoorlie in Western Australia; and leases the network

under agreements with the Victorian, NSW and Queensland Governments. NSW contains the Interstate and Hunter Valley Networks, where the Hunter Valley Coal Network is subject to a separate Hunter Valley Undertaking, which has now been extended to 31 December 2026.

INTERSTATE ACCESS UNDERTAKING (IAU) HISTORY

2018 IAU – NEED FOR COMMERCIAL FLEXIBILITY

In March 2018, ARTC submitted a renewal of the 2008 IAU focused on delivering a more commercial and flexible approach for its customers to confront the challenge of intermodal competition in the freight market. The framework proposed by ARTC was based on several fundamental issues in respect of the provision of below rail services in the intermodal freight market:

- The historic development of the IAU has resulted in a prescriptive approach which limits the flexibility of ARTC and customers in negotiating Access Agreements which can respond to market conditions;
- The competitive constraint provided by competition from road and sea is substantial (and growing) which constrains ARTC's ability to earn an economic return on its asset;
- ARTC's above rail customers are seeking a more flexible access service with greater focus on service quality; and
- The above rail segment of the market is highly concentrated such that ARTC's customers possess significant counter veiling power in the negotiations for track access.

ARTC's operational charter is instructive in responding to the above issues:

- Improve performance and efficiency of interstate rail infrastructure;
- Increase capacity utilisation;
- Listen, understand and respond to the market;
- Operate on sound commercial principles; and
- Provide shareholders with a sustainable return on capital invested.

ARTC must therefore understand and respond to the requests of its customers which will improve rail's overall competitiveness against road; which in turn increases capacity utilisation. ARTC's response to its customers' requests was reflected in the initial proposed changes for the 2018 IAU.

In its December 2018 Draft Decision on the 2018 IAU, the ACCC raised a number of concerns with ARTC's proposed framework, the vast majority of which were related to the ceiling calculation. The current GHD DORC valuation is the direct response to

clarification on the appropriate RAB to apply to that ceiling calculation. The 3.5 years of review of the proposed 2018 IAU has therefore been focused on the accuracy of the ceiling; a figure which is independent of the actual access price which is driven by historical assessments and the competitiveness in rail.

The ACCC's view that ARTC's access pricing is independent of the RAB based ceiling is one which has underpinned all versions of the IAU, dating back to its first inception in 2002.

2002 IAU – KEY PRINCIPLES DEFINED

Prior to the approval of the 2002 IAU, ARTC operated under state-based access regimes in South Australia and Victoria. Following that approval, the 2002 IAU provided for open access to tracks on the interstate network managed by ARTC in Victoria and South Australia, extending to Broken Hill in NSW and to Kalgoorlie in Western Australia. Critically, that 2002 IAU codified the core underlying principles acknowledged by the ACCC in accepting ARTC's voluntary undertaking, particularly the impact of competitive constraints and the under recovery of full economic costs:

- Intermodal competition exists;
- ARTC is not vertically integrated;
- Charges set by ARTC in the marketplace result in revenues that fall significantly below a level that would allow for the business to earn an adequate long-term economic rate of return. To mitigate against this, ARTC would seek to grow volumes on the network;
- ARTC has adopted the concepts of equity and openness as key elements of its pricing policy in order to stimulate market confidence and growth in the rail industry;
- ARTC's cost structure will reflect efficient practice; and
- ARTC would not achieve full recovery of its economic costs due to the competitive constraints on below rail pricing provided by road transport.

The 2002 IAU was an essential development in the establishment of the commercial framework for rail access and it:

- Entrenched the separation of the above and below rail markets and enhanced competition in the contestable above rail market.
    - Given Government ownership of both above and below rail, the non-discriminatory open access provisions of the IAU was essential to deliver confidence to new private entrants into the rail market – consistent with the aims of the National Access Regime and the Hilmer Report; and
    - Note, there is no longer government ownership of Above Rail freight operators.
- Provided the high level of prescription on key commercial and access process issues required to deliver certainty on a range of issues to facilitate private entry into the market, including:
    - the appropriate allocation of liability between ARTC and above rail operators; and

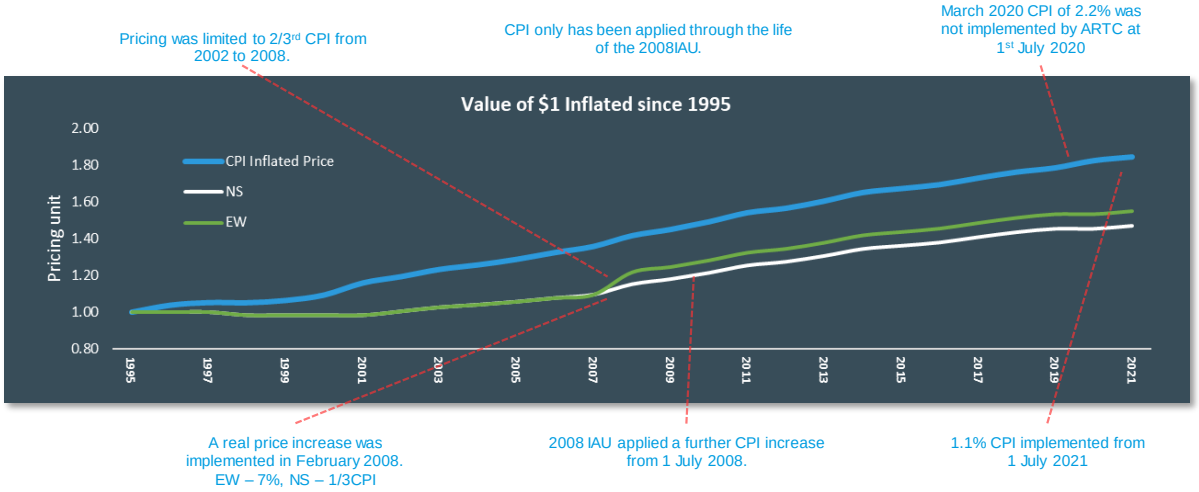
- pricing certainty and transparency to encourage competition in a developing market; especially where the above rail market incorporated public ownership.

INTERSTATE ACCESS PRICES – REAL PRICE DECLINES

The pricing incorporated into the 2002 IAU was based on then existing rates reflecting an historical split of integrated freight rates between above and below rail to encourage above rail entry. That is, rail charges for interstate freight have never been developed from a cost based, bottom-up building block assessment. The consequent inability to recover economic costs was highlighted in ARTC's Explanatory Guide for its submission on the 2018 IAU where it compared actual revenue to the forecast ceiling in 2008 highlighting this significant under recovery.

With the necessary capital upgrades undertaken on the network since ARTC's incorporation to improve its performance and rail's ability to compete with road and sea, this gap to economic ceiling has only broadened and will only increase further with additional investments in network capacity such as Inland Rail.

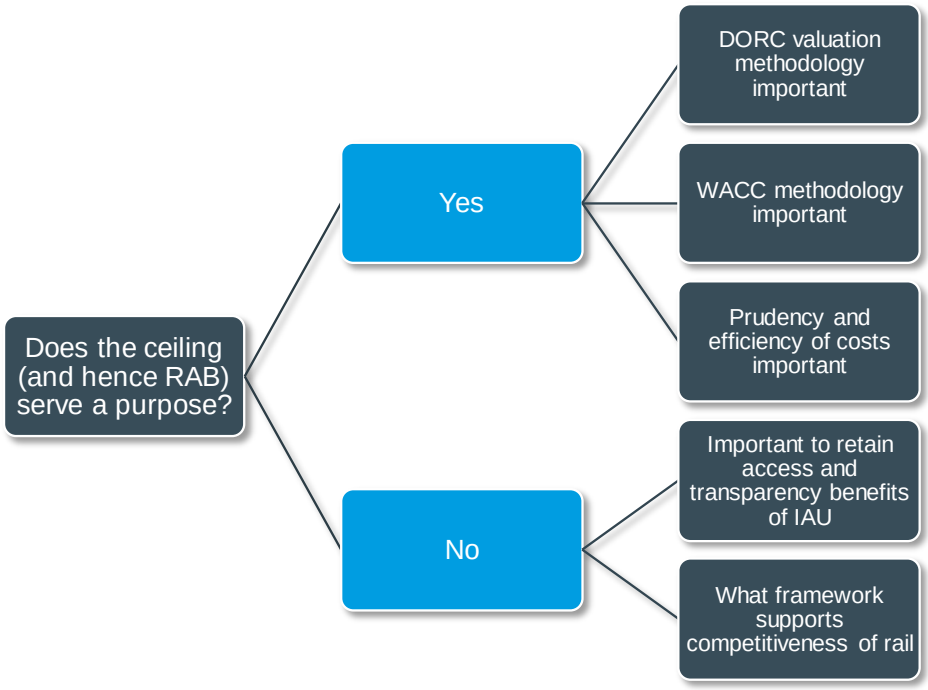
Notwithstanding this significant increase in the cost base of the network, ARTC has overseen a reduction in real pricing over the period as demonstrated in the below figure:



This analysis highlights that despite the RAB, and the consequent ceiling, never playing a role in developing pricing, the real price of below rail access is significantly lower in real terms than it was over 25 years ago. ARTC therefore agrees with the ACCC in respect of the role, or lack thereof, of the RAB and ceiling in the IAU, which is further supported by the absence of any access dispute under the IAU throughout its near 20 year history, and will address its views on an appropriate framework further below.

APPROPRIATE IAU FRAMEWORK

The under recovery of the ceiling also informs ARTC's approach to responding to the DORC valuation, as the degree required for that response is a function of its relevance in the IAU as per the figure below:



Given ARTC agrees with the ACCC on the lack of relevance of a RAB based ceiling, it believes that the priority of this response should focus on what framework is appropriate rather than its specific concerns with the RAB Valuation by GHD.

COMMERCIAL FLEXIBILITY

As outlined above, ARTC's intention in the 2018 IAU was to provide a more commercially flexible framework within a band defined by the floor and ceiling, notwithstanding the lack of impact of the ceiling on those decisions. ARTC is still committed to developing a framework that delivers the necessary commercial flexibility to improve rail's competitiveness. The process from that point has highlighted the cost of focusing on the ceiling, with no consequent benefit, and ARTC is pleased to apply that specific learning to its proposed future framework.

The discussion above on the IAU history has highlighted the key commercial and access benefits of the IAU have been its the priority, consistent with the focus of National Access Policy. It has also highlighted the consequent lack of flexibility in pricing that results from a high level of regulation.

ARTC firmly believes that the process of commercial negotiation for access drives the most efficient outcome for the industry by allowing an exchange of rights and risks, resulting in the most competitive freight offering for rail. This is further enhanced by the principles of transparency and non-discrimination which have been present throughout the history of the IAU.

The ACCC has consistently recognized the merits of commercial negotiation in developing undertakings, provided that the negotiated outcome is not a result of the exercise of monopoly power. ARTC agrees with the demonstrated ACCC position on the value of commercial negotiation. The needs of the freight market continually evolve which means that rather than having the negotiation take place ahead of an Access Undertaking submission, the negotiation of commercial terms is on-going and not limited to a point in time when the Undertaking is approved. The IAU therefore requires the flexibility to negotiate pricing within term, based on constantly changing market dynamics. However, there is a need to provide certainty in respect of access and a process to resolve any disputes that may arise; and to do this in a timely and balanced manner.

VALUE OF ARBITRATION

ARTC's clear intention is to reach agreement with its customers and not to revert to arbitration. However, access to arbitration provides clarity on the process for resolving disputes.

ARTC strongly believes that this process should be undertaken in a transparent and timely manner which ensures that the exercise of market power by any party is constrained; consistent with previous ACCC positions on the value of negotiated agreements. ARTC is conscious of the need to address these requirements and believes that the arbitration framework is the critical piece to meet all of these requirements. That is, allowing for an independent commercial arbitrator therefore uses a mechanism endorsed by the ACCC as both the timeliest method to resolve disputes whilst providing an appropriate constraint on the exercise of market power. ARTC believes that such a framework is consistent with the ACCC's legislative obligations under Part IIIA.

LESSONS FROM OTHER INDUSTRIES

The lessons from other industries are instructive; in particular the mechanisms introduced to the gas transmission industry in what was known as Part 23 of the National Gas Law which were then recommended to be applied to Airports in the ACCC's September 2018 submission to the Productivity Commission's 2018-19 review of Airport regulation.

NATURAL GAS TRANSMISSION

In respect of natural gas transmission, the eventual Part 23 framework that arose from what has been termed the Vertigan report, was developed as a consequence of an ACCC review into the operation of the east-coast gas market. In that review, the ACCC identified that the threat of regulation did not constrain the pricing behaviour of pipelines, leading to conclusions that market power had been exerted in negotiations. The ACCC recommended an amendment to the regulatory coverage test to strengthen regulatory constraints. The Council of Australian Governments commissioned Max Vertigan to undertake a review; whose recommendation was not to impose more regulation on an industry, but rather to develop a framework that promoted transparency of costs and provide access to commercial dispute resolution to resolve pricing disputes.

ARTC has noted the ACCC's support for this mechanism as highlighted in a quote from a 2016 article "Michael Vertigan's path to improbable gas reform consensus" Matthew Stevens, Financial Review Dec 14, 2016 (emphasis added):

"I think the Vertigan recommendations are terrific and very clever," ACCC chairman Rod Sims said after Federal Environment and Energy Minister Josh Frydenberg had led the COAG Energy Council to its rapid-fire endorsement of the pipeline law review and its reform platform.
"The only goal the ACCC had (in the East Coast Gas Review) was to give the shippers some negotiating muscle with them pipelines. What COAG has agreed to today is ***a much more direct and speedier way to get that outcome****. It is much better than what we recommended," Sims admitted*

ARTC also notes the submission by the ACCC to the 2019 Gas Pipeline RIS, especially in respect of strengthening of the information provisions. ARTC is committed to increasing transparency of its information as per the discussions with the ACCC over this regulatory period; but notes the true value of this transparency is where the asset value and cost performance of the infrastructure owner is a determining factor in the arbitration. This is not the case for the IAU given the above commentary on the ceiling.

AIRPORTS

ARTC further notes that the ACCC's support for the value of a commercial arbitration mechanism in providing timely outcomes that constrain the use of market power lead to a recommendation, supported by ARTC at the time, for such a mechanism to be applied to Airports in its September 2018 submission to the PC Airports Review (emphasis added):
"The ACCC considers that c**ommercial negotiations would be further supported if the parties are provided with a fall-back option of seeking arbitration**. This would address the imbalance in bargaining power between monopoly airports and airlines, particularly small airlines. **Arbitration could be undertaken by a**

commercial arbitrator to ensure that outcomes are reached in a more timely manner."

ARBITRATION FOR RAIL

Given the ACCC's support for commercial arbitration frameworks in constraining (demonstrated) use of market power in industries which have lower market concentration amongst Users than rail, and owners which are more profitable, ARTC believes that such a mechanism, supported by transparency of performance and investment, would benefit the rail industry in meeting the challenge of growing intermodal competition.

Importantly, given the privatized nature of those industries and the extensive expansion capital invested into their infrastructure, ARTC believes such a framework could manage the commencement of operations for Inland Rail.

Finally, ARTC notes that the state-based regimes applicable to other segments of the standard gauge interstate freight market (in WA and SA-NT) rely on commercial arbitration for resolution of pricing disputes.

DEVELOPMENT OF AN ARBITRATION FRAMEWORK

ARTC envisages that the arbitration framework could be defined within the current pricing clauses of the IAU, such that the flexibility and time benefits can be realized without threatening the access, commercial framework and transparency benefits of the existing IAU.

ARTC therefore offers to work with the ACCC, its customers and other stakeholders to implement the necessary changes to the IAU to embed a commercial-arbitration framework within the IAU in time to allow approval ahead of its June 30 2023 expiry.

This would provide an undertaking which enables ARTC and the industry to grow and innovate to meet the challenges of intermodal competition and deliver a framework that is simple and supports:

- Open and non-discriminatory access;
- Provision of transparency on ARTC performance; and
- Provision of access (for all players) to timely and flexible dispute resolution process.

ARTC would be prepared to consider a longer term undertaking on this basis given its confidence in the framework; providing more extensive certainty for the industry on access issues.

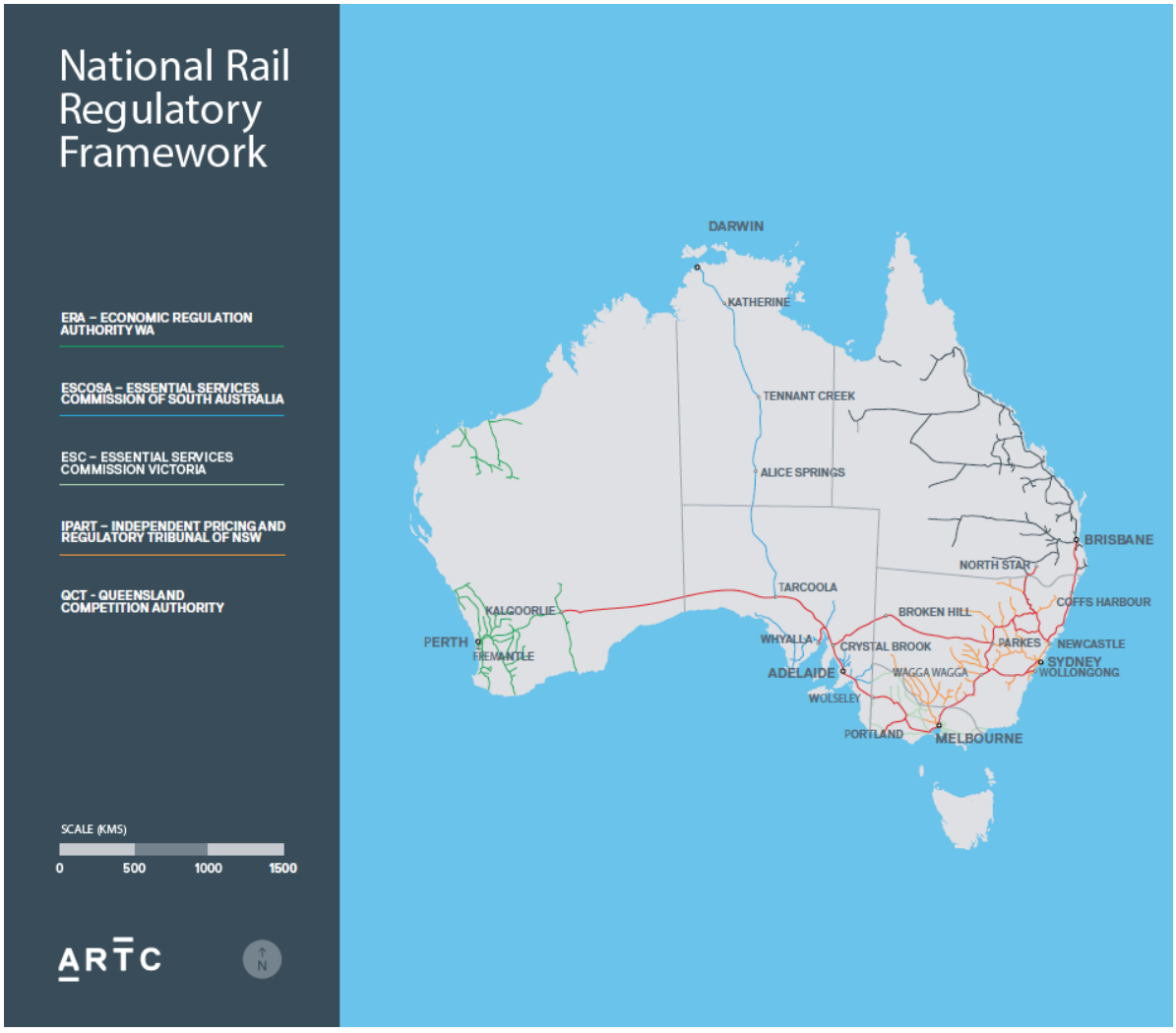
Importantly, ARTC believes that this framework would deliver consistency with other segments of the interstate freight network, which operate in regulatory frameworks based on commercial dispute resolution and which are opening up to the provision of more transparency. The absence of disputes across the history of the IAU, combined

with the lack of role of the ceiling in determining pricing, demonstrates both the value of the framework lies in ARTC's commitment to the process of open and non-discriminatory access, and the lack of need for heavy handed regulation. The ACCC may want to consider in its Issues Paper on alternative frameworks other models which meet these criteria which have been proposed, but not accepted; including the behavioural undertaking option proposed by Pacific National for access to the Acacia Ridge Rail Terminal and the Deed Poll option put forward by Queensland Rail as part of the recent QCA Declaration review.

NATIONAL RAIL REGULATION INCONSISTENCY

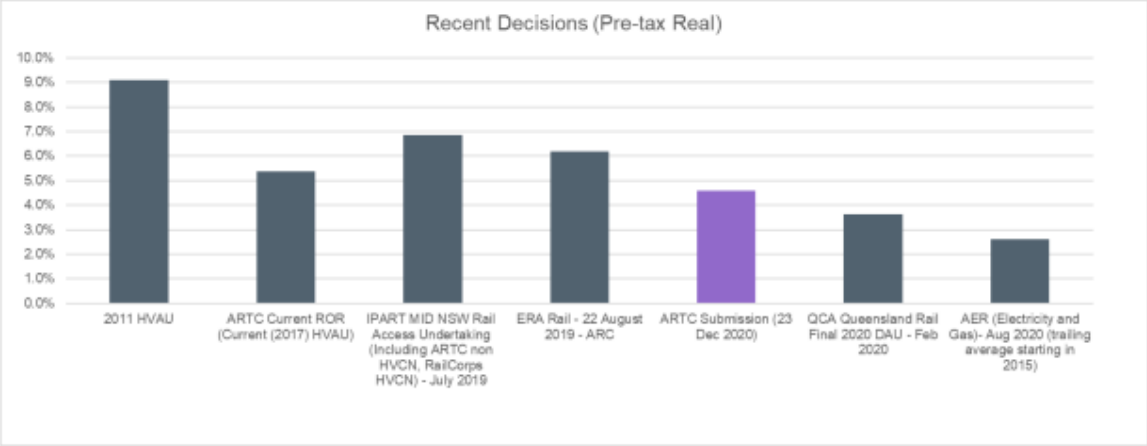
In addition to voluntary undertakings under Commonwealth legislation, each state has legislation and an economic regulator applicable to defined assets within its jurisdiction. The outcome of this is a complex mix of state and Commonwealth regulation of assets; where the regulatory approaches in each state differ.

The inconsistency of the rail regulatory approach is highlighted in the below map demonstrating the interaction of state and Commonwealth regimes.



The impact of these differences is most easily demonstrated by looking at their approach to determining the efficient, benchmark return for a rail operator. Each regulator takes its own specific approach to the calculation of the WACC and each of these decisions is based on different assumptions covering WACC parameters, delivering vastly different results. This is highlighted by Figure 3 (at p50) of the recent ACCC Draft Decision to consent to ARTC's March 2021 proposal to vary the HVAU:

Figure 3: Recent ROR outcomes (Pre-tax Real)

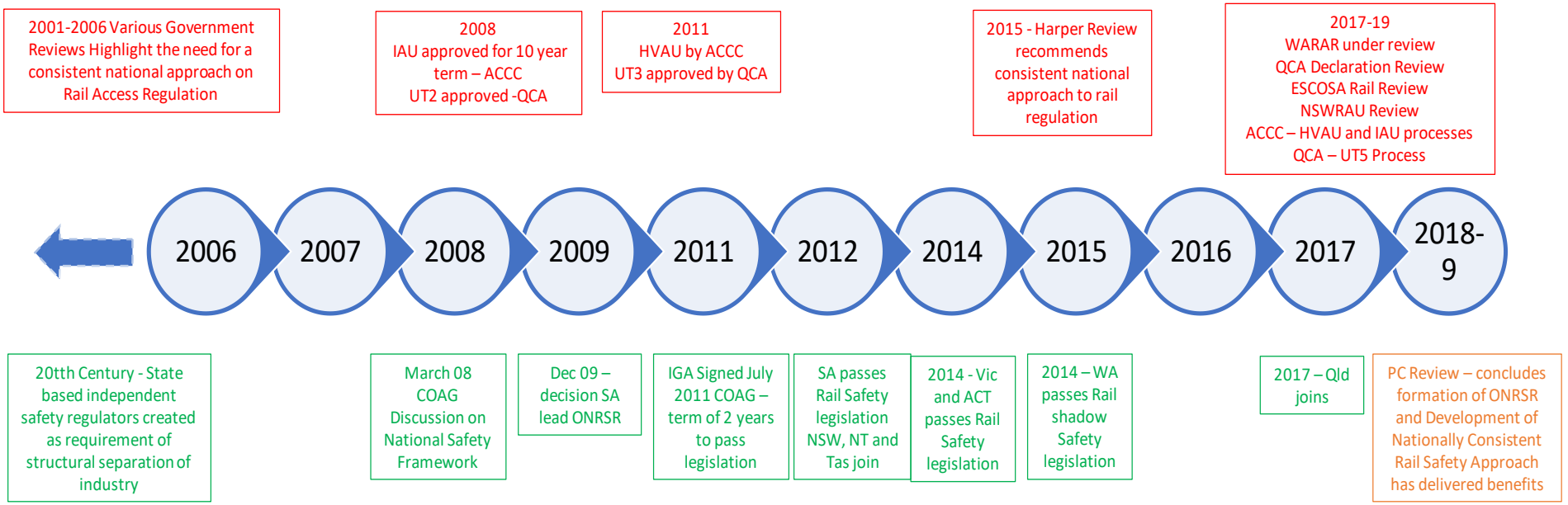


Note: Queensland Competition Authority (QCA) decisions are post-tax nominal. To convert into a pre-tax real value, the ACCC has used 2.38% inflation, which is consistent with the inflation used by the QCA within the building block calculations.[69]

PROCESS FOR CONSISTENT RAIL REGULATION

The renewed IAU would provide a model for other regimes to implement to create national consistency of rail regulation. This development of nationally consistent regulation would follow the process applied in the development of consistent national safety regulation a model of how this can be developed by allowing state regimes to opt into that process.

The chart below highlights the approximate 9 years from the COAG discussion on developing a National Rail Safety framework to the opt-in of the final state of Queensland; whilst also demonstrating the benefits of a consistent national approach to rail regulation have been advocated for the same period, but with no action.


2001-2006 Various Government Reviews Highlight the need for a consistent national approach on Rail Access Regulation
2008
IAU approved for 10 year term – ACCC
UT2 approved -QCA
2011
HVAU by ACCC
UT3 approved by QCA
2015 - Harper Review recommends consistent national approach to rail regulation
2017-19
WARAR under review
QCA Declaration Review
ESCOSA Rail Review
NSWRAU Review
ACCC – HVAU and IAU processes
QCA – UT5 Process
2006
2007
2008
2009
2011
2012
2014
2015
2016
2017
2018-9
20tth Century - State based independent safety regulators created as requirement of structural separation of industry
March 08 COAG Discussion on National Safety Framework
Dec 09 – decision SA lead ONRSR
IGA Signed July 2011 COAG – term of 2 years to pass legislation
SA passes Rail Safety legislation NSW, NT and Tas join
2014 - Vic and ACT passes Rail Safety legislation
2014 – WA passes Rail shadow Safety legislation
2017 – Qld joins
PC Review – concludes formation of ONRSR and Development of Nationally Consistent Rail Safety Approach has delivered benefits

Whilst there are many detailed lessons in respect of that process which can be applied to improve its efficiency, the key learning is this process takes a significant amount of time. ARTC therefore believes that it is imperative to resolve the IAU in the first instance; where that resolution then provides the basis on which national consistency can be approached. That way, the benefit for rail on ARTC's network are realized immediately and are not held up by the lengthy process to secure cooperation and alignment of all states.

ARTC's proposed framework could use an aggregate DORC value for the Interstate Network as a starting valuation, against which it can report on annual capital and operating expenditures, on the same basis as the gas pipelines do. However, if there is a dispute on pricing for the Interstate Network, this would be resolved by focusing on the commerciality of the service in dispute, rather than a cost based build up. This updated asset value therefore has a different role to play for the IAU than for gas; however, its inclusion would benefit its potential application to other rail networks.

SUPPLY CHAIN RISK MANAGEMENT

Whilst policy changes take significant time, competitive market changes occur quickly, and rail needs to be best positioned to respond to these challenges. A recent study by the Productivity Commission into critical supply chains (Vulnerable Supply Chains, Productivity Commission, Interim Report, March 2021) highlighted the growing commercial focus of participants in supply chains and their need to commercially manage these risks. In particular findings 5.2 and 5.3 stated that:

- risks are best managed by those that have direct incentives to mitigate them;
- that firms will employ a range of strategies to effectively manage risk; and
- that all levels of government have responsibility for ensuring regulations are fit for purpose.

The last finding highlights the need for regulatory frameworks which promote the individual risk management decisions of firms within the supply chain and their ability to negotiate the terms of service they require. This requires a regulatory framework that supports commercial flexibility. Therefore, ARTC's proposed framework is consistent with the recommendations of the PC in delivering a fit for purpose rail regulatory regime that promotes the commercial flexibility required for participants to manage their supply chain risk.

The study also highlights the value of developing a nationally consistent framework for both rail and the broader freight supply chain. As above, ARTC supports these developments, but believes these must be undertaken in parallel to the development of a commercially based IAU framework given the significant time required to deliver a balanced outcome across the national freight supply chain.

What is clear, however, is that, in keeping with the recommendations of the PC report, this framework needs to maximize the contracting ability of individual firms accessing the network, whilst ensuring a transparent, non-discriminatory access regime is in place. ARTC's proposed commercial arbitration framework meets this requirement.

RAIL INNOVATION

End users' modal choice for rail within the freight supply chain is driven by the collective service offering of above and below rail. Innovation in terms of that service offering will be required to ensure both current services remain competitive but also to attract future services. A framework that encourages both above and below rail to innovate collectively and efficiently based on an agreed allocation of risk is required. Commercial negotiation does this.

Historic examples of rail innovation at an infrastructure level include:

- Introduction of wayside technology to improve rolling stock maintenance and performance;
- Infrastructure investment to increase train lengths to 1,800m, axle loads and double stacking
- Upgrade of asset condition to improve reliability (eg re-railing, signalling upgrades)
- Establishment of centralised train control centres and use of computer based and telemetry signalling systems Adoption of public communications networks (Telstra) to provide unified coverage and equipment on the ARTC network.

Further innovation is required to allow rail's service offering to compete in the modern supply chain and includes:

- Investment in more energy efficient rolling stock;
- Sophisticated use of data and technology to improve network performance;
- Development of automated train safety management systems, such as ATMS;
- Introduction of technology for inspecting and maintaining track and improving network resilience; and
- Investment in new terminals

As above, the implementation of these innovations relies heavily on commercial agreements. Therefore, a framework that promotes and supports such agreements, and resolve any issues in a timely manner, is critical to spur the innovation rail requires to meet the future challenges of the freight supply chain.

BENEFITS OF ARBITRATION FRAMEWORK

ARTC believes that inserting a commercial arbitration mechanism for resolving pricing disputes into the IAU would have significant benefit to the rail industry and

help promote rail's competitiveness in the intermodal freight market and grow rail volumes, consistent with its charter. This framework will have the following key benefits:

- Retain the critical aspects of the IAU that support customer entry by maintaining:
    - Open, non-discriminatory access for all services;
    - The risk allocations between above and below rail that have underpinned ARTC's management of the network;
    - Transparency of pricing for services to ensure all existing and potential operators compete on a level of playing field.
- Promote commercial flexibility by encouraging the development of services consistent with the specific requirements of users rather than continuing with a 1 size fits all approach that constrains product innovation; within a transparent and non-discriminatory environment
    - This is critical to meet the evolving commercial needs of freight supply chain participants by providing more innovative commercial products to manage their supply chain risks;
- Ensure pricing is based on the commercial realities of the rail freight market and not on an economic, cost-based approach which is not fit for purpose for the Interstate Rail network;
- Encourages innovation in rail's service offering reflecting collective approaches of above and below rail based on agreed allocations of risk;
- Provides a process which can adapt to market changes as they occur, not based on a regulatory timetable;
- Provide clarity on the dispute resolution and process and ensure it is finalized in a timely manner, compared to lengthy regulatory processes, a key issue raised by Operators across this process;
- Limits the cost and burden of participants in engaging in complex regulatory processes with limited benefit to them; and
- Provides a pathway for national consistency of regulatory approach.

INTERMODAL COMPETITION

The ACCC has sought information related to intermodal competition. ARTC notes that its customers are directly engaged in this competition and have access to more specific data on road v rail competition, however the below reflects ARTC's assessment of the state of intermodal competition, from both a policy and modal volume performance perspective.

GOVERNMENT POLICY IMPACTS

Government policy has a significant impact on the competitiveness of rail freight. The policy, and investment, decisions made in respect of sea and road freight directly impact on rail's competitiveness as highlighted in the volume charts.

SEA DEVELOPMENTS

The Commonwealth Government is considering the relaxation of the adjustments to (already limited) constraints on international coasting shipping legislation; some of which could potentially improve sea's competitiveness on the east-west.

ROAD DEVELOPMENTS

Road is benefitting from political decisions made in respect of both its pricing and its productivity. Together these developments ensure the competitive advantage of road is deeply entrenched. The developments are:

- The decisions made in 1992 in respect of the development of the PAYGO model which sets a cap of road costs to be recovered by heavy vehicles as the marginal capital cost of road expenditure. That means;
    - Any return on capital being earnt by road owners is specifically excluded;
    - Heavy vehicles are treated as the marginal user such that only the incremental costs over and above base domestic usage is recovered
- The continued application of fuel excise as the mechanism to charge for Heavy Vehicle Access which is not cost reflective and substantially favours long haul regional truck movements.
- Decisions by the SA, NSW and Victorian Governments to permit increased payloads for heavy vehicles as part of high-performance freight developments and road train access reform; which are not supported by changes to PAYGO to recover the increased cost impact of longer, wider and heavier trucks.
- Decisions by CoAG to freeze road access charges and ensure that, even based on the incremental allocation methodology administered by the National Transport Commission in the PAYGO model (which ARTC submits ensures heavy vehicles do not pay their stand alone costs), road is significantly under recovering its cost impact (as demonstrated in the table below)
    - Further, decisions made on the allocation methodology within PAYGO benefit Heavy vehicles, with an estimate based on data used in Victoria increasing the under recovery of road costs by the current pricing to 21% as per the current NTC RIS paper consulting on changes to the PAYO methodology

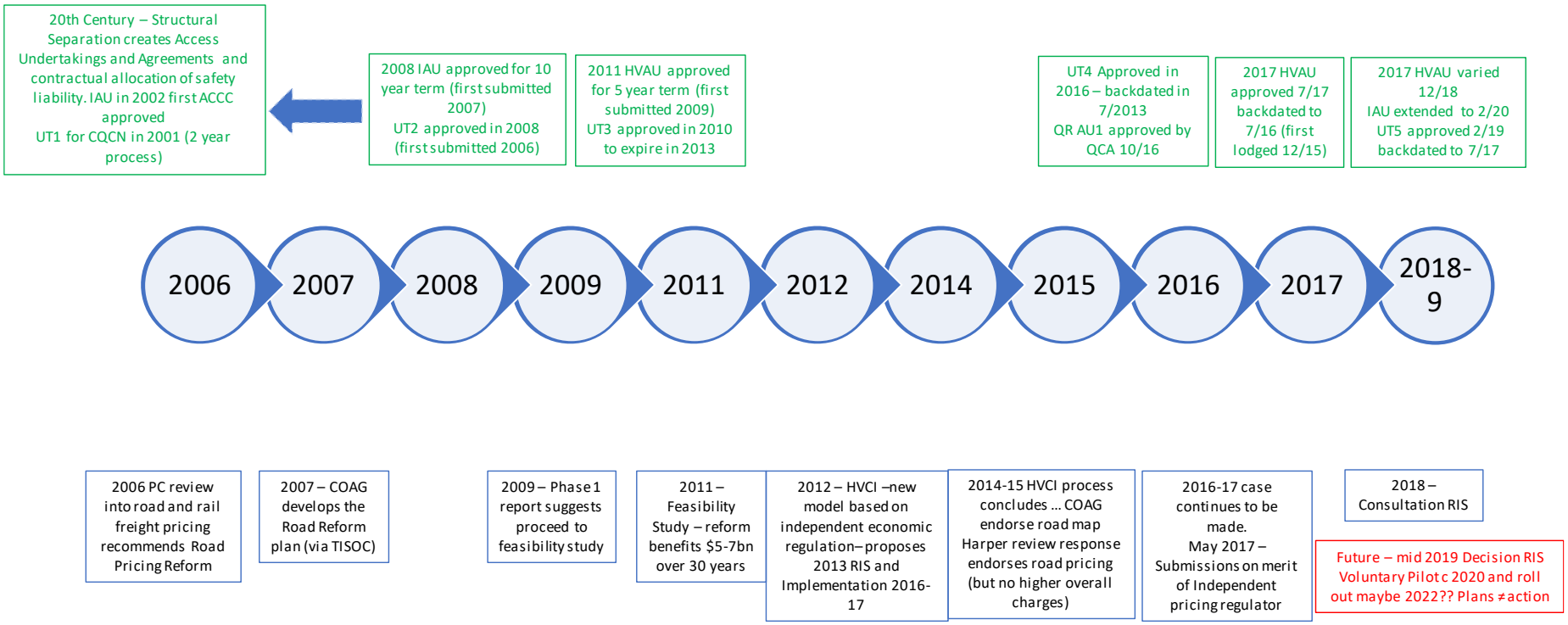
Table 1. Cost allocation options – estimated heavy vehicle cost base and revenue gaps

Estimated revenue gap 2021–22	$m	Gap ($m)	Gap (%)
Estimated revenue from heavy vehicle charges in 2021–22	3,449		
2021–22 heavy vehicle cost base – current	3,817	368	10.7
2021–22 heavy vehicle cost base – modified current	3,934	485	14.1
2021–22 cost base VIC DTF/DOT	4,184	735	21.3

The policy decisions to increase payloads has not been matched with appropriate adjustments to the PAYGO mechanism; further entrenching the advantage of heavy vehicles. That is, the additional weight, which causes additional road damage, has not been reflected in higher road access charges. The lack of mass reflective road pricing ensures that the impact of higher payloads is to reduce the per tonne cost of road freight; unlike rail where high variable cost structures limits the price benefits of higher volumes.

The approval of the National Heavy Vehicle Regulator to promote longer and heavier trucks, driving increased investment in high performance vehicles is a significant risk to rail's competitiveness.

The failure of road policy to deliver any meaningful access and pricing reform, especially when compared to rail, is clearly displayed in the chart below:


20th Century – Structural Separation creates Access Undertakings and Agreements and contractual allocation of safety liability. IAU in 2002 first ACCC approved
UT1 for CQCN in 2001 (2 year process)
2008 IAU approved for 10 year term (first submitted 2007)
UT2 approved in 2008 (first submitted 2006)
2011 HVAU approved for 5 year term (first submitted 2009)
UT3 approved in 2010 to expire in 2013
UT4 Approved in 2016 – backdated in 7/2013
QR AU1 approved by QCA 10/16
2017 HVAU approved 7/17 backdated to 7/16 (first lodged 12/15)
2017 HVAU varied 12/18
IAU extended to 2/20
UT5 approved 2/19 backdated to 7/17
2006
2007
2008
2009
2011
2012
2014
2015
2016
2017
2018-9
2006 PC review into road and rail freight pricing recommends Road Pricing Reform
2007 – COAG develops the Road Reform plan (via TISOC)
2009 – Phase 1 report suggests proceed to feasibility study
2011 – Feasibility Study – reform benefits $5-7bn over 30 years
2012 – HVCI –new model based on independent economic regulation– proposes 2013 RIS and Implementation 2016-17
2014-15 HVCI process concludes … COAG endorse road map Harper review response endorses road pricing (but no higher overall charges)
2016-17 case continues to be made.
May 2017 – Submissions on merit of Independent pricing regulator
2018 – Consultation RIS
Future – mid 2019 Decision RIS Voluntary Pilot c 2020 and roll out maybe 2022?? Plans ≠ action

Rail is therefore highly exposed to a cycle of innovation and improved regulation delivering greater truck payloads and decreasing train capacity utilization; making rail uncompetitive on key north-south routes on price alone (with no allowance made for the value of time).

Note the following sections are redacted as they contain commercial in confidence data.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

DORC AND WACC ASSESSMENTS

As stated above, ARTC agrees with the ACCC that a RAB based ceiling serves no purpose in the pricing decisions under the IAU. ARTC therefore does not intend to devote the costs and resources required to deliver a systematic rebuttal of its key concerns, given the negligible value in pursuing such an approach. However, if the DORC and WACC assessments should become relevant into the future, ARTC considers it important to have its concerns on the record such that they can be assessed at that later date.

The aggregate level of the DORC valuation calculated by GHD is consistent with the RAB value proposed by ARTC in March 2018. From this perspective, ARTC is comfortable that the appropriate valuation of the aggregate Interstate Network is reasonably reflected in the DORC Valuation provided by GHD. This is highlighted in the table below:

Segment	ARTC Value ($ m)	GHD RAB Value ($m)	GHD DORC Value ($m)
Dry Creek to Parkeston	$1,724.9	$1,815.7	$1,829.7
Dry Creek to Melbourne	$1,073.4	$902.8	$962.5
Crystal Brook to Parkes	$1,211.9	$1,388.2	$1,399.6
Tottenham to Macarthur	$2,700.1	$2,869.1	$2,968.5
Newcastle to Acacia Ridge	$1,967.5	$2,038.7	$2,052.2
SSFL	$1,095.0	$315.1	$316.6
MFN	$198.9	$39.7	$112.4
Cootamundra to Parkes	$259.0	$299.2	$302.2
Port Augusta to Whyalla	$98.9	$101.6	$191.6
Dry Creek to Pelican Point	$24.5	$117.3	$117.8
Tarcoola to API	$3.9	$7.5	$7.5
Appleton Dock to Footscray		$150.2	$196.9
Moss Vale to Unanderra	$99.5	$203.5	$205.9
Total	$10,456.5	$10,248.6	$10,573.5

However, ARTC has significant concerns with elements of the methodology used by GHD which significantly impacts the valuation on specific assets. Given one of the purposes of the DORC valuation was to provide an accurate assessment of the value of the network at the asset level, based on the concerns below, ARTC does not believe that the DORC valuation as it currently stands provides an accurate representation of the asset value for the purposes of assessing a ceiling value.

ARTC's concerns reflect the following areas:

- Assumptions in the DORC Valuation;
- Assumptions in optimizing the network configuration;
- Treatment of grant funded assets; and
- ACCC's WACC methodology

DORC ASSUMPTIONS

ARTC's key concerns with the DORC calculation are:

- The valuation ignores the existing status and uses of land and therefore any site-specific third-party costs based on adjusting for that status which significantly reduces the asset value for specific segments, especially the SSFL.

    - For example $428m of SSFL 3rd Party payments covering service relocation, land acquisition, land access, works to 3rd party property are excluded;
    - Based on this valuation standard, no company would invest in a greenfield freight railway as it ignores significant and genuine costs incurred in dealing with corridor specific realities;
- The rates assumed are constant for urban areas but do not reflect the differences that arise in different operating areas, such as Adelaide and Sydney. The impact of this is reflected in the assessment that the replacement cost of Dry Creek to Outer Harbour in Adelaide is greater than the MFN in Sydney, which is inconsistent with ARTC's project reality;
- Overall the rates assumed by GHD are much lower than what ARTC has experienced in contracting for major projects. Given the actual rates experienced by ARTC are the outcome of competitive bidding processes, ARTC is unsure of the basis of GHD's assumptions. Particular areas where the assumptions are lower than reality are:
    - GHD Contractor mark-ups are extremely low at an equivalent total mark-up of approximately 18%;
    - GHD has no allowance for ARTC management costs above and beyond the Contractor which ignores the costs we incur to plan and manage these projects
- Earthworks replacement cost is not realistic based upon a number of assumptions:
    - Earthworks cut to fill assumptions are extremely optimistic, and in our opinion not practical. For example:
        - GHD have assumed 100% of cut material can be re-used.
        - GHD have assumed no treatment required.
        - The above combined is extremely unlikely as the top 100-300mm is usually soil or poor residual material that cannot be used for rail formations.
    - GHD's rate for cut to stockpile is less than $10/m3. This is extremely low and we believe has not been achieved in even massive mining projects.
    - GHD's rate for stockpile to fill is approx. $6.50 for fill. This is unrealistic as fill needs to meet compaction specifications for the alignment.
- GHD's track rate is low at approximately $800/m, which is approximately 20% below what has been experienced for 60kg rail with either steel or concrete sleepers (noting GHD have allowed for timber sleepers in some areas of the MEERA).
- GHD bucket items together that should not have the same rate applied, for example, miscellaneous structures include "retaining walls, sheds etc".

- GHD's ETCS valuation significantly underestimates the value by not costing the communication and power requirements across the network.

OPTIMIZED NETWORK CONFIGURATION

The methodology explained GHD's valuation paper highlights that they have optimized traffic across the network over a week. This assumption does not reflect the contractual obligations which ARTC has in operating the network based on specific paths. That is, where there is peak demand for network utilization at a specific time, ARTC does not have the ability to push aspects of that utilization into a less congested time and smooth operations over a week, rather than provide the optimized paths that it has contracted for.

ARTC's internal modelling suggests that the impact of configuring the network as assumed by GHD would add approximately 2 hours to the transit time for Melbourne to Brisbane and 1 growing to 2 hours for Melbourne to Perth. In addition, the optimised network would greatly reduce operational flexibility and recovery capability for the Interstate Network. These two issues combined could significantly increase costs for Users further reducing the value of rail's service offering.

These delays and user impacts combined therefore would impact significantly on the competitiveness of rail in key markets and impose a significant economic disbenefit on the economy.

Given the importance of time to rail's competitive offering in the interstate freight market, as reflected in the path-based commitments in ARTC's access offering, ARTC believes that the optimized network as proposed by GHD would lessen rail's competitive offering and create an efficiency loss for the Australian economy.

GRANT FUNDING

As outlined above, from its an inception, ARTC was tasked with improving interstate rail infrastructure through better asset management and a program of commercial and grant funded investment whilst operating the business on commercially sound principles. That is, it has always been understood by ARTC and its shareholders (as well as state government stakeholders) that upgrading the rail network would require significant investment, some of which would be grant funded, but this did not detract from ARTC's requirement to manage the network commercially. This has been reflected in its relationship with its shareholders, who have provided a mix of equity and grant funding, where there has been no differentiation between grant or equity funded assets in their return expectations. This demonstrates that the grants provided by the Commonwealth were provided with the expectation that ARTC would earn revenue from those assets.

The ACCC's Statement of Approach set a two-stage threshold test for exclusion of Grant Funded Assets in the RAB:

- *Was the grant provided with a commercial purpose – that is, was there an expectation that ARTC would earn a commercial return from the grant funded asset; and*
- *Were assets able to be separately identified as being funded by the grant?*

As above, ARTC has stated it believes the first test has been satisfied as its shareholders do expect ARTC to earn a commercial return on grant funded assets as they do not differentiate between grant and equity funded projects in its dividend expectations. ARTC understands this was confirmed in a 2020 meeting between the ACCC and ARTC's Shareholders.

ARTC is therefore concerned that the treatment of grant funded assets ignores this reality, but rather relies on the absence of specific wording in grant funding documentation stating the commercial purpose. That is, the ACCC has ignored 20 years of actual performance by ARTC and its shareholders and focused on a very specific test within documentation, which neither ARTC nor its shareholders were aware had to be met. ARTC is therefore concerned by the arbitrary and retrospective ACCC decision to focus on specific words (to meet a standard which had not been set) and reject the extensive history of performance in treating grant and equity funded assets as commercially equivalent.

OPERATIONAL RISK IMPACTS

ARTC is also concerned about the operational impacts of the ACCC approach. That is, the regulatory building block model relies on a RAB value to provide compensation for the operational and contractual risks accepted by ARTC in operating segments of the network. This model is very explicit that operational risk is compensated through the return on capital derived from the product of the WACC and RAB. If the RAB for a segment is set at 0 due to it being grant funded, this necessarily implies that ARTC cannot be compensated for its operational risk in contracting and managing the asset. This scenario is of great concern to ARTC and would require an assessment of the commercial and operational risks it is prepared to accept on assets it can not receive a return for in exchange for accepting that risk. This would create significant inefficiencies in contracting on the network by requiring different contracts for different assets, further limiting rail's competitiveness.

COMPETITIVENESS IMPLICATIONS

Finally, ARTC would note that if the ACCC's approach was extended to roads in the event that heavy vehicle road reform lead to a economic approach to road pricing, the starting RAB for roads would be 0 given they have all been grant funded. Such an outcome would exacerbate the competitive disadvantage that Rail is already subject to against road pricing, creating further distortions in the already imbalanced competitive balance between road and rail. Given ACCC supports for road pricing reform, ARTC does not believe this is a consequence that the ACCC desires.

GRANT FUNDING CONCLUSION

ARTC therefore concludes that it's Commonwealth grants were provided with a commercial purpose, as supported by the providers of those funds. Therefore, the first leg of the ACCC's test for exclusion of grant funding has not been satisfied and so grant funded assets should be included in the RAB and the unintended consequences of separate contracting for separate segments based on risk recovery (and the impact on overall rail competitiveness) is also avoided. ARTC has been working with its shareholders on wording to include in future grant funding documents to ensure this issue is resolved going forward.

WACC

ARTC has significant concerns with the ACCC WACC assessment for the IAU. These concerns have been long held, however given ARTC's views on the lack of role of the ceiling (and hence WACC), it was comfortable to avoid an in-depth economic debate on the parameters. However, given this response reflects the counter factual that the ceiling does matter, ARTC is happy to record its concerns. These concerns reflect:

- ACCC approach to market parameters;
- ACCC assessment of Asset Beta for the IAU;
- National inconsistency.

MARKET PARAMETERS

ARTC has long held concerns that the approach of the ACCC to WACC parameters creates an inconsistency. Ultimately the theoretical assumption behind the WACC calculation is to assess the return expectations of a benchmark investor. In some parameters, such as inflation or market risk assessment, the ACCC approach assumes the investor takes a long-term view and eschews the short term market volatility from alternative approaches. However, in other parameters, such as the risk-free rate, the ACCC takes a much shorter-term horizon and effectively assumes the investor reassesses their expectation on a daily basis. These two assumptions appear inconsistent and ARTC has consistently supported the approach to calculating market rates used by IPART, where a balance of short- and long-term assessments is used; thereby removing this inconsistency.

ARTC notes that there is extensive academic debate on these issues, which suggests there is a degree of subjectivity in the choice of calculation methodology. The outcome of this subjective assessment is clearly highlighted in the ACCC's Table 1 of the Consultation Paper – where, due to the approach on market parameters, the assessed efficient return for ARTC on the Interstate Network has fallen by 120 basis points. In the scenario where the ceiling matters, this would reduce ARTC's return by over $120m pa based upon the volatility of markets.

Markets can move both ways, and where rates rise, this would impose significant costs on the industry purely due to a calculation methodology.

This table clearly highlights the impact of importing market volatility into return expectations and is the clearest demonstration of ARTC's concerns with the market-based methodology used by the ACCC. ARTC strongly prefers the approach to calculating market rates used by IPART to avoid this market volatility in its return assessment.

Table 1 - WACC parameters and variable values

	2008 IAU 30 July 2008	2018 IAU Draft Decision 20 December 2018	DORC valuation 1 July 2019
Risk-free rate (Rf)	6.39%	2.78%	1.39%
Debt risk premium (DRP)	2.85%	1.73%	2.20%
Debt Issuance cost (DIC)	0.125%	0.095%	0.095%
Market risk premium	6.00%	6.00%	6.00%
Asset beta (βa)	0.65	0.60	0.60
Tax Rate (T)	30%	30%	30%
Gamma (γ)	0.50	0.50	0.50
Inflation (π)	2.50%	2.45%	2.41%
Equity beta (βe)	1.29	1.20	1.20
Return on equity	14.14%	9.96%	8.57%
Return on debt	9.37%	4.61%	3.68%
Equity (E)	50%	50%	50%
Debt (D)	50%	50%	50%
Post-tax nominal (vanilla) WACC[23]	11.76%	7.28%	6.13%
Pre-tax nominal WACC	13.00%	8.16%	6.88%
Post-tax real WACC	9.03%	4.72%	3.63%
Pre-tax real WACC	10.24%	5.57%	4.37%

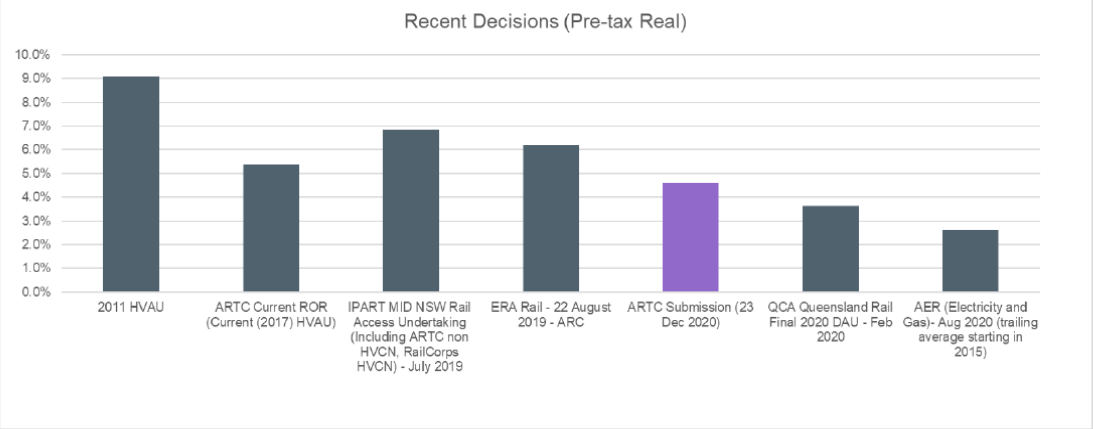
The table also highlights that, in 2018, the ACCC assessed the asset risk for the Interstate Network had reduced since 2008. This assumption was based on a view, unsupported by any statement from ARTC, that it viewed revenue risk on the interstate as low as it proposed a perpetual RAB. Further, the ACCC analysed US Class 1 Railroads as comparators for ARTC's asset risk and, based on that analysis, concluded that unregulated, integrated rail monopolies in the US are higher risk that ARTC's below rail network.

ARTC does not support either view.

In its April 2021 Draft Decision for ARTC's proposed extension to the Hunter Valley Access Undertaking, the ACCC acknowledged subjective differences in establishing efficient rates of return for rail networks based on different economic approaches; especially market-based parameters. Whilst ARTC does not intend to debate the academic merits of each approach, the chart from the HVAU decision demonstrates the impact of this.

ARTC's network ends in Kalgoorlie and Arc operates the extension of the interstate network into Perth, with the assessed efficient return for that sector by the WA ERA highlighted in the reproduced chart below and slightly above 6% (on 22 August 2019). This is over 160 basis points above that assessed as the efficient rate of return by the ACCC; notwithstanding that the relevant segment is the most competitive rail segment in the network from an intermodal perspective. This difference highlights both ARTC's concerns with the subjectivity of WACC methodology, but also reinforces the benefits of a consistent national approach to remove such variability.

Figure 3: Recent ROR outcomes (Pre-tax Real)



Note: Queensland Competition Authority (QCA) decisions are post-tax nominal. To convert into a pre-tax real value, the ACCC has used 2.38% inflation, which is consistent with the inflation used by the QCA within the building block calculations.[69]

UPDATE OF CAPITAL INVESTMENT DATA

ARTC has highlighted its commitment to transparency of its performance, which includes capital projects. The extent and method of the provision of this data is, however, a direct function of the decision on the appropriate framework to apply. That is, if a RAB based ceiling plays a role in the IAU, such capital will be subject to prudency reviews for RAB roll-ins which defines a level of supporting information in excess of what is required than for transparency of performance.

ARTC's commitment to provide data within 4 months of the finalization of the DORC was to support the ongoing accuracy of the RAB roll forward amount as part of the process to renew the IAU from 1 July 2023. This assumes a specific framework for the IAU, and an ongoing role for the DORC.

ARTC will ensure that transparency of capital performance is part of its engagement with customers, stakeholders and the ACCC in developing its proposed framework. However, until there is clarity on what that framework will be, ARTC believes that committing the extensive cost and resources required to meet a prudency

requirement that may not be relevant, would be an inefficient use of its constrained resources and funds.