

23 April 2021

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

By email: matthew.schroder@accc.gov.au

Dear Matthew

**AUSTRALIAN RAIL TRACK CORPORATION LTD (“ARTC”)
RE: 2008 INTERSTATE ACCESS UNDERTAKING (IAU) EXTENSION APPLICATION TO THE
ACCC**

Further to discussions with the Australian Competition and Consumer Commission (“ACCC”), ARTC seeks the ACCC approval to extend the 2008 Interstate Access Undertaking (IAU) for a further period of **24 months**.

Pursuant to section 44ZZBB(1) of the Competition and Consumer Act 2010 (Cth), ARTC applies for an extension of the period for which the IAU is in operation by extending the end date of the period from 30 June 2021 to **30 June 2023**. This constitutes the replacement of the words “30 June 2021” with “30 June 2023” in Clause 2.3(a) of the IAU.

In a letter dated 17 December 2020, in respect of its future intentions for the renewal of the IAU, ARTC highlighted:

- the importance it placed on contractual and pricing certainty for its customers particularly given the unique circumstances of the COVID-19 pandemic; and
- its agreement with the ACCC’s proposition, from a stakeholder update published on 25 November 2020, that a further extension of the IAU was required.

ARTC also noted in that letter that the COVID-19 pandemic and the operational management of its impacts is the clear priority for its customers, and ARTC will therefore consult with customers on their views for an appropriate extension term for the IAU and their associated Track Access Agreements to ensure this critical focus is not diluted.

ARTC has been engaging with its customers in respect of this extension, as well as the ACCC in respect of both the extension and the progress of the Depreciated Optimised Replacement Cost (“DORC”) valuation of ARTC’s Regulated Asset Base on the Interstate Network.

Given that a draft DORC report is yet to be published and finalisation of this process is a condition precedent to the lodgement of the renewed IAU, ARTC considers that a two year extension is the most appropriate timeframe in order to provide the necessary certainty to stakeholders that a further extension is not required.

ARTC has publicly committed to adopt the ACCC's DORC valuation on the basis that it is consistent with established regulatory precedent, noting that the effective date of that valuation is 1 July 2019. The impact of this extension, therefore, will be to increase the temporal gap between that effective date and the likely start date of a renewed IAU of 1 July 2023. Given the time and resources devoted to developing this DORC, ARTC is committed to ensure that its accuracy is maintained and consistent with regulatory precedent. ARTC acknowledges that this requires a prudency assessment of capital expended on the Interstate Network during that temporal gap period. ARTC also acknowledges that this prudency assessment represents the greatest risk to the timing of the approval of the renewed IAU once submitted.

To this end, ARTC is committed to a process of working with the ACCC to provide necessary documentation and analysis required for this prudency assessment as early a date as possible. ARTC anticipates that the documentation it will provide includes initial Business Cases supporting projects, necessary approvals, funding documentation and project completion reports; with the specific requirements to be established in consultation with the ACCC.

ARTC's ability to provide the ACCC with the necessary documentation is contingent on the finalisation of the DORC valuation and the associated valuation methodology. Accordingly, ARTC will start providing the ACCC with the information required for the prudency assessment as soon as practicable after the DORC process has been resolved and on an iterative basis. ARTC expects to be able to provide the ACCC with all necessary documentation for the period to 30 June 2021 within 3 months of the ACCC's publication of the final DORC valuation. For capital expended post that period, ARTC will engage with the ACCC on appropriate timelines for provision of information based on project completion dates.

In the meantime, ARTC will continue to consult with all stakeholders on the structure of the renewed IAU and looks forward to the successful resolution of all these matters.

If you have any questions in respect of this letter, please do not hesitate to contact Jonathan Teubner on (08) 8217 4248 (Ph) or jteubner@artc.com.au (email).

Yours sincerely



Mark Campbell

CEO and Managing Director