

17 December 2020

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 Limited**  
**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 5 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; and
- 19 June 2020 to 30 June 2021.

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.

On 8 November 2019, the ACCC published its Statement of Approach stating that a full Depreciated Optimised Replacement Cost (DORC) revaluation is the most appropriate approach to valuing the Regulated Asset Base (RAB) on the Interstate network for ARTC's replacement Interstate Access Undertaking.

ARTC applied for a 12-month extension of the IAU to 30 June 2021 on the assumption this would provide sufficient time for the ACCC to conclude the DORC revaluation process, ARTC to lodge a renewed IAU and the ACCC to approve that submission within its legislated timeframes. The ACCC accepted ARTC's application to extend the IAU to 30 June 2021 on 19 June 2021. This extension resets the notification date of ARTC's intentions in respect of submitting a revised IAU to 30 December 2020.

On the 25<sup>th</sup> of November 2020, the ARTC published a letter to stakeholders advising them that a draft DORC report would not be published until February 2021. In this letter, the ACCC stated:

*"In accordance with clause 2.2(b) of the 2008 IAU, ARTC will submit a written statement outlining whether or not it intends to submit a new undertaking to the ACCC for its consideration, no later than six months prior to the expiry of the 2008 IAU. The 2008 IAU also states that if ARTC intends to submit a new voluntary undertaking to the ACCC, it will also apply to the ACCC for an extension of the*

*expiring undertaking. Therefore, we expect to have further information in relation to ARTC's intentions in this regard before the end of the year"*


ARTC agrees with the ACCC that this delay ensures that a further extension of the IAU from its current expiry on 30 June 2021 is required.

ARTC considers that contractual and pricing certainty for its customers is critical, especially given the unique circumstances associated with the current Covid pandemic; the effects of which continue to be volatile and require the full operational focus of ARTC and its customers. ARTC understands that Covid and the operational management of its impacts is the clear priority for its customers and will therefore consult with them 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 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 2021, based on stakeholder and ACCC consultation in respect of timing and contractual certainty.

If you have any questions in respect of this letter, please do not hesitate to contact either Simon Ormsby on (08) 8217 4314 (Ph) or [sormsby@artc.com.au](mailto:sormsby@artc.com.au) (email) or Jonathan Teubner on (08) 8217 4248 (Ph) or [jteubner@artc.com.au](mailto:jteubner@artc.com.au) (email).

Yours sincerely



Mark Campbell  
**Chief Executive Officer**