

Submission to the ACCC

**Response to ACCC Position Paper
Regarding the Final Indicative
Service Variation to the ARTC
Hunter Valley Access Undertaking**

September 2014

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1 INTRODUCTION AND BACKGROUND

Asciano welcomes this opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) August 2014 Position Paper regarding the Australian Rail Track Corporation (ARTC) request to vary the Hunter Valley Access Undertaking (HVAU) to incorporate the Final Indicative Service (FIS) characteristics and related access charges into the HVAU. Asciano has previously made a submission to this ACCC regulatory process in March 2014.

Asciano is a major operator of coal trains in the Hunter Valley and supports initiatives to encourage optimal utilisation of the Hunter Valley coal chain capacity. Asciano broadly supports the proposed FIS as it appears to facilitate the efficient utilisation of system capacity. Asciano does not hold coal access rights in the Hunter Valley and consequently does not pay access charges. Given this, Asciano largely limits its comments on access pricing in the Hunter Valley coal chain to broader issues related to the impact of access pricing on regulatory transparency, regulatory certainty, train operations and coal chain capacity.

While Asciano broadly supports the proposed FIS, Asciano has previously outlined its concerns relating to the details of the FIS and the related access pricing in its March 2014 submission to the ACCC. While Asciano is making this additional September 2014 submission to this ACCC regulatory process Asciano is seeking that in making the final decision on this matter the ACCC take into account issues raised in the March 2014 Asciano submission.

This submission contains no confidential information and is public.

2 ISSUES RAISED BY THE ACCC POSITION PAPER

The ACCC Position Paper has raised several issues as outlined below.

ARTC Pricing Methodology

Appendix A of the ACCC August 2014 Position Paper includes a detailed outline of the ARTC pricing methodology. The provision of this Appendix A has assisted in providing a further level of transparency to the proposed ARTC access pricing approach. Asciano believes that similar information should be provided in future regulatory consultations relating to ARTC access pricing.

Transparency of ARTC Approaches to Differentiation Factors and the Determination of Access Charges

The ACCC Position Paper notes that numerous stakeholders have outlined concerns with the transparency of ARTC's access pricing approach. Asciano's main concerns are with the transparency related to the use and derivation of differentiation factors and the transparency related to the derivation and application of access charges for indicative and non indicative services.

Differentiation Factors: As noted in its March 2014 submission, Asciano is particularly concerned that the differentiation factors used by ARTC may be weighted differently at different times (as stated by ARTC and as outlined in the ARTC Position Paper at pages 66 and 67). The further information provided at Appendix A of the ACCC Position Paper has assisted in reducing some of Asciano's concerns regarding the transparency of the operation of the differentiation factors and the weighting of the differentiation factors; however further information from ARTC is needed to support the weightings given to the differentiation factors.

Asciano believes that in order to promote pricing certainty and transparency the weighting used for differentiation factors for indicative services should be explicitly included in the access undertaking and any changes to the differentiation factors or the methodology should be subject to a transparent regulatory process (including stakeholder consultation).

In addition Asciano understands that the differentiation factors are intended to be used to determine prices which apply to non-indicative services. Asciano believes that the manner in which these factors are used to determine prices for non-indicative services should be transparent to the relevant users and operators (as appropriate).

Indicative Services: The derivation of the indicative service access pricing in Appendix A in the ACCC Position Paper is a complex process. The complexity of this pricing approach may limit the ability of the access pricing to provide incentives to ARTC to reduce costs and increase capacity and send appropriate price signals to users. Asciano believes that the issue of the complexity of the pricing approach and its possible consequences on incentives should be considered in the next Hunter Valley access undertaking.

Non Indicative Services: As outlined in its previous submission Asciano is believes that a clear and consistent approach from ARTC is needed to determine access prices for non-indicative services. Asciano believes that in order to ensure access pricing certainty ARTC should provide a level of transparency in regard to its pricing model prices for non-indicative services, and in particular ARTC should outline how the model would apply to different non-indicative services which are expected to use the Hunter Valley coal network.

Asciano recognises that Appendix A of the ACCC Position Paper provides an additional level of transparency for the calculation of access charges for indicative services. Asciano is seeking that ARTC indicate whether the FIS access pricing methodology will be applied to other services; this will allow stakeholders to be able to estimate charges for non-indicative services. (In applying such a methodology to non-indicative services Asciano recognises that there may be a need for flexibility to ensure outcomes remain beneficial to the relevant parties).

In its March 2014 submission Asciano stated that as a non-indicative train more resembles an FIS the non-indicative train should receive an access price closer to the FIS price than a train that less resembles the FIS. If the ARTC pricing methodology is applied consistently between FIS and non-indicative trains then this principle should be met.

Overall the ARTC needs a consistent and transparent approach to negotiating access pricing for non FIS services. Such an approach should be based on the FIS pricing methodology with a recognition that some flexibility may be needed to ensure outcomes remain beneficial to the relevant parties. Such an approach will provide increased access pricing certainty for non-indicative trains.

FIS and the 2016 Hunter Valley Access Undertaking

The current HVAU expires in June 2016. ARTC may propose a new indicative service at this time. Asciano recognises that the efficient train configuration will change over time. Asciano believes that the indicative service should be reviewed at each undertaking reset but should then be locked in for the duration of the undertaking to provide a level of certainty to access pricing, train operations and rolling stock investment.

Asciano believes that in the regulatory process used to consult on the next HVAU a document similar to the document at Appendix A of the ACCC Position Paper should be provided by ARTC in its initial HVAU documentation package.

Use of GTK as the Sole Pricing Unit

Asciano has previously made comment¹ in this current regulatory process regarding the appropriateness of GTK (Gross Tonne Kilometres) as the sole access pricing unit. Asciano's position is that that GTK is an appropriate pricing unit for the non-take or pay component of access pricing and net tonnes is a more appropriate pricing unit for the Take or Pay component of access pricing (as the primary function of the Hunter Valley rail system is to move coal and the use of net tonnes as a pricing unit more closely aligns with this function and thus is more appropriate in sending pricing signals to participants in the supply chain).

Asciano believes that the complexity of the detail contained in Appendix A of the ACCC Position Paper supports Asciano's view that reducing the pricing complexity to two GTK based charges may not efficiently reflect cost structures or provide incentives to improve network productivity. Asciano believes that the issue of the appropriateness of GTK as the sole pricing unit should be re-examined in the regulatory process relating to the next HVAU.

3 CONCLUSION

Asciano broadly supports the FIS proposed by ARTC and recognises that the additional information provided in Appendix A of the ACCC Position Paper has assisted in addressing some concerns. Asciano believes that information similar to that in Appendix A should be provided more regularly by ARTC.

Asciano has some concerns relating to the details of the implementation of the FIS including:

- the weightings used for the differentiation factors should be clarified via a regular transparent process. In addition the differentiation factors and weightings used for non-indicative services should be transparent to the relevant users and operators;

¹ See for example the Asciano Submission to the ARTC in November 2013.

- the methodology for the calculation of access charges for non-indicative services should be clear and consistent, while allowing some flexibility. If the ARTC pricing methodology as outlined in Appendix A of the ACCC Position Paper is applied consistently then concerns surrounding this issue may be lessened. This approach will provide additional pricing certainty for non-FIS access holders and train operators.

In addition Asciano believes the FIS should be reconsidered in the regulatory process relating to the next HVAU to ensure the FIS remains appropriate in the medium term.