

31 July 2023



David Hatfield
Director
Competition Exemptions
Australian Competition and Consumer Commission
Lonsdale Street
Melbourne VIC 3001

Submitted via email

Dear Mr Hatfield

Submission to the ACCC: Application for revocation of authorisation AA1000425 and substitution of AA1000644 – interested party consultation

Thank you for the opportunity to make a submission on the application for re-authorisation (revocation and substitution) received by the ACCC from One Rail Australia, Manildra Group, Pacific National, Qube, Southern Shorthaul Railroad, Sydney Rail Services, Linx Rail Pty Ltd and Aurizon (collectively, the **Applicants**) seeking an authorisation to collectively bargain with a number of Rail Network Operators (**RNOs**) including, but not limited to, Arc Infrastructure Pty Ltd (**Arc**) with respect to:

- the non-price terms and conditions on which the Applicants are seeking track access;
- the broad pricing principles that will apply for access to, and use of, respective networks, but not the actual prices that will apply as between RNOs and individual Applicants; and
- entering into and giving effect to bilateral contracts, arrangements or understandings between the Applicants and RNOs which contain common terms and conditions relating to track access arrangements (together, the **Application**).

The Arc network comprises approximately 5,500km of standard, dual and narrow-gauge track and rail infrastructure located within Western Australia. The Arc network connects to:-

- ports at Kwinana, Fremantle, Bunbury, Geraldton, Albany and Esperance;
- interstate freight terminals including the Forrestfield/Kewdale freight terminal, Kalgoorlie, Picton and Avon Yard; and
- the ARTC interstate network, providing a rail connection between Western Australia and the eastern states.

The Arc network provides rail services to numerous customers and above rail operators to facilitate the haulage of iron ore, alumina, caustic, bauxite, nickel and related inputs, woodchips, interstate and intrastate freight, grain, lime, coal and fuel. Passenger services such as the TransWA Prospector, Australian and Avon Link, and the Indian Pacific also traverse the Arc network.

Arc routinely engages with its customers and their nominated above rail operators in negotiations for access to the Arc network. The timeframe for these negotiations are often driven by the customer's commercial imperatives. It is Arc's experience that customers frequently have differing economic, commercial, and operational preferences, which in turn, necessitates bespoke contracting solutions.

Arc recognises that collective bargaining may bring efficiencies in negotiating terms for access in circumstances where there are commonalities in the access being sought by the Applicants. In general terms, the circumstances in which above rail operators seek access to the Arc network are diverse, which may limit the potential efficacy of collective bargaining in the context of the Arc network and the interstate network more broadly.

Arc notes that many of the individual entities party to the Application have not previously sought access to the Arc network or the broader interstate network. We also note that there are above rail operators currently operating substantive services on the Arc network and interstate network who are not a party to the Application and therefore may not benefit from the collective bargaining process.

Given these complexities, it is Arc's view that the voluntary nature of the proposal is critical, as it provides each party with the ability to determine if collective bargaining will assist or hinder the negotiation process and outcomes in the given circumstances. On this basis, Arc has no objections to the Application. Arc remains committed to working with industry, our customers, and above rail operators to find new opportunities to support the transportation of freight on rail and will support the ACCC's determination in relation to this Application.

Should you have any questions or wish to discuss any of that set out herein, please do not hesitate to contact the writer via [REDACTED] or [REDACTED].

Kind regards,

[REDACTED]

Tim Cooling
Head of Commercial & Regulatory