



28 February 2024

Mr Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch
Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Email: transport@acc.gov.au

Dear Sir,

Rail Operators Group - Submission on the ARTC 2024 Draft Interstate Access Undertaking

I refer to the Australian Competition & Consumer Commission's (ACCC) request for submissions regarding the ARTC's proposed 2024 Draft Interstate Access Undertaking (**Proposed IAU**).

The Rail Operators Group (**ROG**) (which includes the largest rail freight operators in the country) welcomes the opportunity to provide a submission to the ACCC in response to the Proposed IAU.

Members of the ROG share the desire to see real reform that will deliver an inter-operable and resilient rail network that boosts rail's ability to actively compete with road freight in the interstate and regional freight markets. One of the fundamental issues facing rail freight operators is that it is necessary to 'access' multiple rail networks in order to deliver an effective and connected interstate rail freight service. This process entails dealing with constraints and inefficiencies for rail freight operators given the complexity associated with the obligation to align the operating rules, procedures, communications and regulatory requirements across multiple operating regimes.

In addition, whilst aspects of ARTC's Proposed IAU and performance as a network manager are positive, under the current framework rail operators have limited ability to achieve real change across the interconnected links of the interstate rail networks. This results in a misalignment in regulatory, commercial, and operational elements for operators.

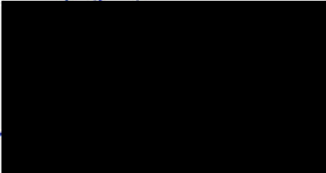
ARTC's shareholder (the Commonwealth Government) has provided clear direction that improving the operation of the rail freight market requires increased alignment of rail network managers. The ARTC's Statement of Expectations regarding its objectives, empower it to play an active and leadership role in achieving this, including to:

- provide safe, efficient and effective access to users of the interstate rail network,
- operate, manage, maintain, and improve track infrastructure,
- pursue a growth strategy for interstate rail and rail's share of the interstate freight market and foster a commercially viable Australian rail industry, and
- implement the recommendations of *'The Delivery of Inland Rail: An Independent Review, January 2023'* and deliver the Inland Rail project.

This submission focuses on some changes the ROG considers ARTC could make in order to fulfil the responsibilities outlined above.

This submission is made on behalf of the following ROG members; Aurizon, One Rail Australia, Pacific National, Qube, Manildra Group and Southern Shorthaul Railroad. Some individual members of the ROG have also made their own separate submissions to the ACCC, focusing on their own priority topics.

If you would like any additional information or to discuss any of the matters raised in this letter, please do not hesitate to contact [REDACTED]

A large black rectangular redaction box covering the signature of the Chairman of the Rail Operators Group.

Chairman, Rail Operators Group



Rail Operator Group (ROG) submission to the Australian Competition and Consumer Commission (ACCC) on Australian Rail Track Corporation (ARTC) 2024 Draft Interstate Access Undertaking (draft IAU)

Introduction

The ROG was formed in 2018 for the purpose of facilitating collective negotiation with Transport for New South Wales (TfNSW) on the Standard Track Access Agreement to apply to two NSW rail networks: the Metropolitan Rail Network (MRN) and the Country Regional Network (CRN). The ACCC granted authorisation to the ROG for this purpose until October 2023.

On 1 February 2024 the ACCC granted authorisation to the ROG in respect of discussions and collective negotiations with all mainland Australian rail infrastructure managers¹ (RIMs) in respect of access arrangements, including broad pricing principles. This authorisation is valid until October 2033.

Members of the ROG operate rail freight haulage services across Australia, including on ARTC's Interstate Network. Some ROG members also provide integrated supply chain services, including rail and road transportation, port services and material handling for a range of mining, metal, industrial and agricultural customers. Qube Logistics (Rail) Pty Ltd (Qube), Pacific National Pty Ltd (PN) and Aurizon Operations Limited (AO) operate services across rail networks from Queensland (Qld) to New South Wales (NSW), Victoria (Vic), South Australia (SA), and Western Australia (WA).

The ROG welcomes the chance to participate in the ACCC's consideration of ARTC's draft IAU.

¹ A Rail Infrastructure Manager (RIM) is the accredited operator of a rail network. ARTC is the accredited RIM for the owns and leases from various Governments. ARTC's safety management system for the basis of its accreditation with the Office of National Rail Safety Regulator (ONRSR).



Overview and ARTC's role

ARTC was created after Commonwealth and State Governments agreed in 1997 to form a 'one-stop' shop, offering a single process for operators wanting to access the national interstate rail network.

The ARTC Interstate Network is only part of the Interstate Rail Network (as defined in the draft IAU page 38²) and a rail freight operator accessing the Interstate Rail Network requires access to the ARTC, Sydney Trains, UGL Linx, Queensland Rail, Arc, Aurizon Bulk Central, Metro Trains Melbourne and V/Line networks, as well as private networks and sidings at supporting freight terminals.

Most services accessing ARTC's Interstate Network will also need to access other rail networks, typically multiple other rail networks, to complete their journey.

Rather than minimising the structural impediments to a seamless national rail network, and encouraging the growth of interstate rail, the various RIMs have developed stand alone access arrangements, with different systems and standards that disadvantage rail vis-à-vis road freight, and disincentivise entry and investment.

ROG members' shared experience navigating multiple rail networks, each operating under different regulatory frameworks, might best be described as "frustrating". First there is duplication of negotiations and ongoing agreement management. Second, there is inconsistency between jurisdictions in access terms and conditions as well as technical and operating requirements. Third, operators must piece together *an attractive service offering* for customers (i.e. an efficient, aligned train path from origin to destination, accounting for the constraints imposed by passenger priority on freight traveling inter-city) from the network segments that individual RIMs have responsibility for. Finally, despite various Government policy statements directing national rail harmonisation, the Government owned network managers do not act in alignment with Government policy or each other.

The costs of fragmented rail access regulation in Australia have been strongly communicated by ROG members; most recently, in submissions to the ACCC review on The Regulatory Framework for ARTC's Interstate Network, the Independent Pricing and Regulatory Tribunal (IPART) review of the NSW rail access undertaking, and the Queensland Competition Authority review of the Queensland Rail (QR) access undertaking. Similar themes were highlighted by stakeholders responding to the 2023 National Freight and Supply Chain Strategy Review.

The Future of Freight reports³, also highlight that Australia's fragmented approach to rail access regulation exacerbates the complexity of operating train services across a national footprint with different rail gauges, and inconsistent technical and operating requirements.

² ARTC defines the interstate rail network in the draft IAU as the Interstate Rail Network extending to locations off the networks it manages, including Kwinana (WA), Port Kembla (NSW) and Westport (Vic).

³ Australian Railway Association (ARA) and Freight on Rail Group (FORG) (2023); The Future of Freight Summary Report; October 2023; p.18.



The price continues to be paid by rail freight operators and their customers. But it will also be paid by the Australian economy more broadly if the productivity improvements predicted to flow from an ‘integrated’ Interstate Rail Network are not realised, including:

- Substantially lower regulatory burden and compliance costs.
- Reduced regulatory risk because of technical and commercial standardisation.
- Aligned regulatory objectives such as network reliability and resilience and mode shift, leading to increased industry confidence, and bolstering investment and innovation.

The signs are already there – despite the rapid growth of domestic non-bulk freight volumes in recent decades, rail’s share has dropped: from 22.8% in 1976-77, to 16.7% in 2021-22⁴. The decline is most pronounced on inter-city corridors and particularly the north-south freight corridors⁵. This is reinforced by recent analysis that only around 2 percent of contestable freight between Australia’s two largest cities, Sydney and Melbourne, is moved by rail.⁶ This is despite increasing concerns around road traffic congestion, increased noise and air pollution, greenhouse gas emissions and infrastructure maintenance costs. According to the Australasian Railway Association (ARA) Value of Rail report, shifting 1% of road freight travelling between Australia’s major capital cities to rail would save more than \$71m per year in social costs created through emissions, crashes and accidents and health costs from emissions⁷. Achieving value for money for the government and taxpayer resources invested won’t happen until utilisation increases, particularly on the north-south freight corridors.

The National Rail Action Plan⁸ is Government’s response to the significant inefficiencies in the rail sector, most notably in the relationship between networks. This is supported by a Memorandum of Cooperation to support National Rail System Interoperability for future major rail investments.⁹ The Memorandum of Cooperation specifically highlights inconsistent access regulation as a concern that needs to be addressed through partnership between the rail industry and governments.

ARTC has a clear leadership role to play in developing and harmonising processes and systems for the Interstate Rail Network given its shareholders Statement of Expectations¹⁰ regarding its objectives, including to:

⁴ BITRE

⁵ Australasian Centre for Rail Innovation (ACRI), Rail Freight Productivity Review: Establishing an Efficient Freight Transport Network

⁶ Synergies Economic Consulting (2023); The Future of Freight – Improving Modal Share (Workstream 1); October 2023; p.3

⁷ ARA (2020) Value of Rail 2020, The rail industry’s contribution to a strong economy and vibrant communities, November 2020, prepared by Deloitte Access Economics, page 10

⁸ National Transport Commission, National Rail Action Plan, see <https://www.ntc.gov.au/transport-reform/national-rail-action-plan>

⁹ Memorandum of Cooperation to support National Rail System Interoperability for future major rail investments, between Infrastructure and Transport Ministers, Australian Rail Investors, Owners, Network Builders, Major Manufacturers, Rail Infrastructure Managers and Rail Operators

¹⁰ <https://www.infrastructure.gov.au/sites/default/files/documents/australian-rail-track-corporation-interim-statement-of-expectations.pdf>



- provide safe, efficient and effective access to users of the interstate rail network,
- operate, manage, maintain, and improve track infrastructure,
- pursue a growth strategy for interstate rail and rail's share of the interstate freight market and foster a commercially viable Australian rail industry, and
- implement the recommendations of 'The Delivery of Inland Rail: An Independent Review, January 2023' and deliver the Inland Rail project.

The ROG recommends that ARTC commits in the IAU to:

- Delivery of Government objectives, including to manage its rail network in a way that promotes improved interoperability and harmonisation across the national rail network.
- Take a leadership role in the development of interoperability and harmonisation solutions.

Network performance indicators

ARTC has said that interoperability will be promoted through the proposed Interstate Network Development Strategy (INDS). The INDS will be an outline of what ARTC believes growth scenarios will be and what investment is required to support that. ARTC will report on the completion of capital projects in the annual update of the INDS.

However, the draft IAU places no obligations on ARTC to support delivery of identified growth scenarios, or to align projects with outcomes that will improve rail sector productivity, such as:

- Tangible improvements in key freight performance metrics and
- Improved interoperability between networks.

In recent years, in addition to new rolling stock, rail freight operators have delivered significant private investment in freight terminals, including sites in Sydney (Qube and Aurizon), Melbourne (Qube and SCT), Adelaide (Aurizon), Brisbane (SCT) and Parkes (PN and SCT). This is in addition to expansion of operations at existing sites. Operators and third parties have also invested in new and expanded regional and metropolitan IMEX terminals, with trains from these locations also accessing the ARTC interstate network.

No matter how well intentioned ARTC's development strategy, industry will be reluctant to invest further in rolling stock or terminals without delivery of tangible improvements in:

- network resilience, with particular focus on adaptation of the network to reduce the expected impact of climate-change related weather events,
- track condition and maintenance standards, with resultant reductions in speed restrictions,
- network reliability and transit times,



- network availability with improved train pathing and timetabling and increased capacity,
- network interoperability.

ARTC previously developed strategies such as the North-South Corridor Strategic Investment Outline¹¹ and failed to deliver the objectives set out in the plan. Rail freight operators invested heavily in new locomotives and wagons based on ARTC's objective of growing rail volume on the north-south corridor but were left unable to compete against the trucking industry for non-bulk volumes largely due to excessive transit times.

Members of the ROG appreciate the dilemma that RIMs face in translating objectives like *'improving the reliability and resilience of the network'* into infrastructure projects. However, experience suggests that without clear, accountable obligations on ARTC and objective key performance indicators, market outcomes for operators will not improve and Governments will not achieve mode shift.

Optimally, ARTC would be accountable through the INDS for providing defined increases in capacity, for example through shorter transit times, or more paths, or fewer service disruptions. An alternate approach involves providing operators with sufficient performance information regarding the 'service' available on the ARTC interstate network for an objective comparison and assessment over time.

Individual rail operators do not have the commercial leverage to drive inclusion of performance obligations on ARTC into individual access agreements, so the ROG believes that a core set of common performance indicators should be included in the draft IAU and published by ARTC. A set of individual service KPIs, consistent with the aggregate system performance indicators, should also be included in the Interstate Track Access Agreement (ITAA) to ensure new entrants obtain the benefit of this information.

Although we realise it is beyond the scope of the ACCC's current process, adoption of a consistent suite of core KPIs, not just by ARTC but all RIMs managing adjacent networks, would harmonise performance metrics over much of Australia's Interstate Rail Network. This would be a positive step towards standardisation of one aspect of access for rail freight operators. It would also provide a useful source of data for comparison of network performance going forward. In the context of pursuing a growth strategy for interstate rail and boosting rail's share of the interstate freight market, such data could assist to identify bottlenecks and areas for investment.

The ROG recommends that ARTC commits to modifying:

- the performance indicators listed in its draft IAU to include the proposed common KPIs listed in Aurizon Operations' submission to the ACCC on ARTC's 2024 Draft Interstate Access Undertaking.
- the KPIs listed in Schedule 5 of its ITAA to include the proposed common KPIs listed in Aurizon Operations' submission to the ACCC on ARTC's 2024 Draft Interstate Access Undertaking.

¹¹ [ARTC, North-South Corridor Strategic Investment Outline, 2007](#)



As the above performance reporting does not provide a measure of ARTC's success improving productivity through advancement of interoperability and harmonisation objectives, the ROG recommends ARTC includes a status report in the INDS of key projects related to these objectives. This would be consistent with an explicit undertaking in the IAU by ARTC to manage its network to promote improved interoperability and harmonisation across the Interstate Rail Network and take a leadership role in developing solutions.

The ROG recommends that ARTC commits to report in the INDS on progress against the achievement of improved interoperability and harmonisation across the national rail network.

Optimised pathing

When an operator seeks access to ARTC's interstate network, this is as a component of an access solution for its entire journey. However, ARTC's draft IAU presents a framework for negotiating and contracting access to paths on ARTC's network as a stand alone service, with no recognition of the co-ordination required with adjoining network owners in order to provide a path of value to an operator.

For example, for inter-city containerised freight services, premium paths have an efficient transit time (from origin to destination) with desirable departure (late evening) and arrival (early morning) times. In this market, access to premium paths is critical both to enable efficient train operations and to provide a service suitable to the largest possible customer base. But the scheduling of a premium path requires effective co-ordination and connection between the adjoining networks - there is no value for an operator in a fast transit across ARTC's network if it then incurs significant delays connecting to a path on the adjoining network.

There is currently no efficient process for creating optimised pathing for new or varied services across the broader interstate network. In all cases, an operator needs to work separately with each RIM to identify how paths can be scheduled around that RIM's existing Master Train Plan¹², with no co-ordinated process for schedule modification or optimisation. Indeed, ARTC does not even have regular access to Arc Infrastructure's MTP for the Eastern Goldfields Route connecting from ARTC's network boundary to Perth, or Queensland Rail's MTP for the section from Acacia Ridge to Fisherman Island in Brisbane.

There are many examples of where this has resulted in new services achieving sub-standard crossing outcomes and excessive delays at network boundaries, such as:

- One operator initially obtained new east coast interstate train paths based on a speed limit of 115km/hr, however the speed limit was dropped to 80km/hr when it was identified that there would be no change in the overall transit time from the reduced speed, highlighting the extended crossing delays embedded in the original train schedule.

¹² ARTC's train paths are shown in its Master Train Plan. Other networks refer to similar documents a Standard Working Timetable, Network Service Plan etc



- Another operator obtained train paths for inter-city containerised freight services on the east – west corridor which have a much longer transit time than the scheduled paths for existing operators, driven by several long crossing dwells required to accommodate the scheduled paths of opposing trains.

ARTC’s draft IAU needs to change from an inwardly focused document – setting out how ARTC negotiates access to discrete train paths on its network – to an outwardly focused document – which establishes how ARTC will negotiate and provide access to a component of a total integrated train path required for the operator to run its train service.

The ROG recommends that ARTC commits in the IAU to:

- take the lead in co-ordinating with adjoining RIMs to identify available (origin-destination) train paths, including efficient network connections, suitable for an operator’s needs.
- strengthen the mechanisms in the draft IAU and ITAA to allow pathing to be optimised from origin to destination (i.e. including adjoining networks). This will require that ARTC’s rights under the ITAA to modify existing schedules recognise that the ARTC paths are one segment in a complete path, and schedule optimisation must be co-ordinated with corresponding processes for adjoining RIMs.

Stronger discipline on network performance

Although there is ample available capacity on ARTC’s interstate network over a 24 hour timeframe, there are binding capacity constraints at critical times and locations (including on adjoining networks) which mean that it can be very difficult to secure paths appropriate for an operator’s needs. This is particularly the case for premium paths, with ROG members’ experience confirming that there is no ability to schedule additional premium paths for key origin-destination pairs (eg Melbourne-Perth, Sydney-Perth, Melbourne-Brisbane) by simply ‘fitting around’ existing scheduled paths in all RIM MTPs. Despite ARTC publicly claiming there is sufficient growth capacity on all corridors, operators and ARTC are aware of the key congestion points on the network.

Experience in the coal networks in the Hunter Valley and Central Queensland demonstrates the value of more disciplined network performance in supporting additional train services and higher throughput. The ROG considers that there is similarly opportunity for a stronger emphasis on more disciplined network performance to yield benefits on the interstate network.

Given the capacity constraints within premium path windows, the ROG believes that premium paths should be prioritised to highly disciplined services, i.e. those operating with high utilisation and high reliability. Not only will this support increased utilisation of rail infrastructure in capacity constrained



windows, but any additional availability of premium paths is likely to promote competition in the rail haulage market for inter-city freight, consistent with the objectives of the National Access Regime.¹³

The ROG recommends that ARTC work with industry (through the ROG) and adjacent RIMs to:

- to define parameters of premium paths (including hours of operation through congested sections).
- identify mechanisms to strengthen the incentives for disciplined network performance, with a particular focus on premium paths. This could potentially include both pricing and non-pricing mechanisms. More flexible arrangements could be applied to non-premium paths to provide a better option for non-time sensitive, overflow and seasonal freight.

These arrangements will ultimately be incorporated into ARTC's IAU and ITAA.

Increased transparency of whole of network performance

Improved transparency of whole of network performance is another important tool for improving performance, particularly given the existence of binding capacity constraints at certain times and locations across the interstate network. Not only does transparency enable a greater understanding of when network delays and cancellations occur, it provides the opportunity to interrogate root causes for these events and develop strategies to effectively address these root causes. This is particularly important for the extensive and highly interconnected interstate rail network, where the occurrence of a delay can be far removed from its original root cause.

The ROG recommends that ARTC commits in the IAU to:

- provide all operators on its interstate network with real time data on network performance, including the actual operation of all train services compared to schedule, with visibility on train cancellations and delays for each scheduled path.
- provide data via a software format that allows the data to be readily dissected and analysed by all recipients.

The ROG acknowledges that this is likely to require amendment to the confidentiality provisions in the ITAA.

Transition to Inland Rail

The ROG proposes that the Scope of the draft IAU is broadened to include Inland Rail. This is needed to deliver improved visibility and certainty for rail operators around future access pricing and around how service disruptions resulting from Inland Rail construction will be dealt with.

¹³ Section 44AA of the *Competition and Consumer Act (2010)* sets out the objectives of Part IIIA, which include to promote the economically efficient operation, use of and investment in the infrastructure by which services are provided (in this case the interstate rail network), thereby promoting effective competition in upstream and downstream markets.



The 2023 *Independent Review of Inland Rail* outlined the importance of Inland Rail to meeting Australia's growing freight task. In response to that review, the Australian Government confirmed the national importance of Inland Rail to increasing resilience and improving supply chain productivity between Melbourne, Perth, Sydney, Newcastle, the Illawarra and Adelaide, to meet Australia's growing freight task.¹⁴

It is our understanding that upon completion Inland Rail will form part of the Interstate Rail Network. In readiness for this, ARTC should be seeking to grow freight volumes on the north south corridor and should also be signalling how access will be priced.

The future success of Inland Rail is contingent upon rail operators investing in above rail assets. As currently drafted, the IAU does not provide the certainty or incentive required for such capital investment. Nor does it provide rail operators with confidence that ARTC is seeking to build north south rail volumes ahead of Inland Rail. Rail freight mode share has been falling on this corridor, and only 11% of freight now goes by rail. The mode share proportion gets as low as 2% of freight between Melbourne and Sydney.¹⁵

Growth of rail freight on the north south corridor should be a key priority for ARTC and access charges must be set at levels that allow it to effectively compete with road transport. This corridor simply cannot sustain future annual CPI price escalations.

The IAU also needs to consider how service disruptions resulting from Inland Rail construction phases will be dealt with by ARTC. Rail operators need visibility of how Inland Rail construction will be managed and how impacts on the Interstate Rail Network will be minimised. The IAU framework should consider mechanisms to address disruption and possessions likely to arise from Inland Rail construction.

The ROG recommends that ARTC commits in the IAU to:

- prioritising growth of rail freight above other pricing principles for north south freight corridor traffic to improve modal share.

Conclusion

National disasters in recent years have laid bare the importance of a well-functioning freight supply chain and the critical role rail networks play in that supply chain. The ROG expects to see the growing importance of network resilience reflected in the IAU.

Freight activity competes with passenger transport for road and rail networks and resources and inadequate freight rail capacity will result in substantial increases in road freight, constraining the road network.

¹⁴ <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/rail/inland-rail>

¹⁵ Synergies Economic Consulting (2023); *The Future of Freight – Improving Modal Share (Workstream 1)*; October 2023; p.3



Nineteen percent of Australia’s direct greenhouse gas emissions derive from the transport sector. Of that 19% only 2.6% are attributable to rail (both passenger and freight rail). The potential of rail to support the Government’s emissions reduction target of 43% below 2005 levels by 2030, and net zero by 2050, cannot be overstated.

Forecasted freight demand¹⁶, combined with environmental and social factors, make improvements to the Interstate Rail Network urgent. Improved resilience and in turn improved rail freight reliability for customers will be critical to encouraging modal shift from road to rail.

ARTC is in a key position to ensure rail plays a central role in the development of Australia’s transport infrastructure networks, as well as moulding an efficient, future-focussed regulatory and policy framework that moves rail freight forward.

The ROG looks forward to working with ARTC to achieve this.

¹⁶ NTC estimates the freight task increased 50% in the 10 years to 2016 and is forecast to increase another 26% by 2026 - <https://www.ntc.gov.au/current-projects/who-moves-what-where-project-work-complete/>