

GLENCORE

Friday, 12 July 2013

Mr Matthew Schroder
General Manager
Fuel, Transport and Prices Oversight Branch
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Email: transport@acc.gov.au

Dear Sir

Re: ARTC Hunter Valley Access Undertaking (HVAU) 2013

I refer to the recently released Consultation Paper on ARTC's compliance with pricing principles in the Hunter Valley Rail Network.

In August 2012, Glencore (then Xstrata Coal) with a number of Hunter Valley producers presented to the ACCC a number of concerns regarding ARTC's compliance with the HVAU, primarily relating to below rail infrastructure issues and potential over contracting of paths. Whilst items identified in the consultation document relate to specific issues of ARTC's capital and or operational efficiency and prudence, we believe that a number of fundamental issues associated with ARTC's general compliance with the HVAU still need to be addressed in order that these issues of capital efficiency can be appropriately addressed.

As such, Glencore offers the following comments for consideration in conjunction with the items raised in the Consultation Paper regarding the general compliance of ARTC to the HVAU, consistent with the issues raised in our submission last year. The comments following focus primarily on ARTC's compliance with the HVAU and utilise extracts from ARTC's recently released *2013-2022 Hunter Valley Corridor Capacity Strategy report*, and *HVCCC Coal Chain Capacity Assessment & Strategy*. Comments as follows;

1. Prudence of Capital Expenditure.

In item 3.1 of the Consultation Paper it notes the process undertaken by ARTC via the RIG/RCG regarding the 'endorsement' of capital expenditure. It is important to consider in the context of this clause that whilst projects are put to the RCG for endorsement and assessment, the RCG has a number of times noted concerns regarding the perceived high cost base of key projects and challenged via the RCG the ARTC to justify and reconcile the identified cost base OR the project methodology (alliance structures etc). However, in a situation where the network has been congested or constrained, and the development of key infrastructure would potentially reduce the

GLENCORE

constraint or congestion, a delay imposed by the RCG to allow the ARTC to review, prepare and provide information (and where available, reconciliation) of the cost base was a number of times considered a high risk delay given the potential cost in capacity to the system. As such, in assessing the 'prudence and efficiency' of the ARTC capital expenditure, Glencore believe it appropriate that the ACCC further assess the effectiveness and efficiency of the cost structures imposed on the access holders by ARTC via the use of alliances in major projects, as the overhead and "contingency costs" were perceived by Access Holders (including Glencore) to be excessive;

The following comments relate specifically to the section regarding the transition of contractual arrangements under the HVAU and should be read in conjunction with the industry (access holder) presentation to ACCC dated 15 August 2012. Comments as follows;

1. ARTC has contracted capacity well in excess of its available Track System Capacity;

As identified in the recently released Hunter Valley Corridor Strategy, the heaviest coal volumes are obviously at the lower end of the Hunter Valley (Zone 1 to port). The Strategy identifies that the expected high growth rates will occur in the Ulan area and Gunnedah basin (in percentage terms), highlighting a focus on these zones in the Strategy. However, These tonnes will progress through Zone 1 and into the Port, potentially adding to further congestion IF the previously identified congestion projects associated with the port approaches are not resolved in parallel;

The HVCCC's draft revised 2014 System Assumptions modelling identifies that there will again be a shortfall in track system capacity against track contracted capacity in 2014. In 2013, this shortfall is the result of delayed delivery of critical track infrastructure. The revised 2014 system capacity assessment has again identified shortfalls, noted as due to;

- delayed delivery of significant infrastructure;
- significant alterations in the demand origins of increased demand;
- alterations in asset maintenance programs, particularly below rail; and
- Terminal system capacity incremental improvements.

Forward contract volumes are in part conditional on ARTC projects being delivered in time and to budget and HVCCC Coal Chain Capacity assessment i.e. NOT ARTC's assumed saleable track capacity.

2. ARTC has considerable work to do in relation to congestion and system issues at port arrival and departure approaches to meet demand (inadequate train paths to the discharge point);

The current configuration of the KCT arrival roads is identified in the recently released HV Corridor Strategy document as "a major constraint on current volumes" i.e. a congestion point. Given this is a known issue of constraint it would be beneficial for ARTC to actively assess arrival road configurations and infrastructure that would mitigate congestion at this critical point, BEFORE they consider and develop capacity at the origin points of the system (specifically noting the item in the Capacity Strategy regarding the growth in the Ulan and Gunnedah Basin zones).

3. Restricted Saleable Capacity in tonnes for prospective volume

GLENCORE

In the recently released Hunter Valley Capacity Strategy document, a number of tables identify the maximum (or limit) of saleable capacity by sector line. It is relevant to note that in some line sections a reduction in pathing and capacity volumes is present from 2014. This is allegedly due to the increased amount of surge capacity (the target monthly tolerance cap increasing from 6.5% to the full 10%) causing a potential decrease in saleable paths. Other capacity changes are allegedly due to an assumed change in the average train size servicing that zone / sector.

Irrelevant of the reasons, it seems absurd that the manipulation of average train sizes or the changing of the tolerance cap could see a theoretical reduction in capacity in future years i.e. ARTC could potentially contract more capacity with a producer in early years than later, based upon this assessment methodology, but a producer cannot plan to utilise its full capacity in the earlier years as the capacity theoretically reduces in subsequent years;

4. ARTC is not managing the Network efficiently

- ARTC should review & take a more proactive approach to its operational procedures. For example, ARTC controllers need to manage the sequencing of services more effectively (distance between trains, order into terminals/dump stations) to maximise the available capacity of the track between Maitland to Sandgate - a known section of congestion;
- ARTC need to better manage and monitor other operational challenges on the network such as such as unapproved Operator provisioning, brake tests, roll-by inspections, and unauthorised empty train holding;
- ARTC should be actively encouraging the increase in average train size, which in itself would facilitate capacity increases without additional track infrastructure. A net increase in train size has allowed for some network infrastructure projects to be delayed or deferred (noted in the recently released Capacity Strategy) and as such, ARTC should be proactively encouraging above rail operators to increase train sizes to maximise available track capacity;
- ARTC with assistance from HVCCC & service providers needs to manage the noted gap between “contracted” & “system” capacity. Focus needs to be towards improving alignment of track contracts to track system capacity (i.e. ↓ track contracted volume & binding those volumes by both load point & terminal specific exit point) as well as recognizing the enablers for maximising track system capacity and incorporating operating (track & terminal) & management strategies. It is a farrago that ARTC does not reconcile their contracted ‘track capacity’ with the known (declared) ‘System Capacity’, being the actual capacity that the rail system can actually move;

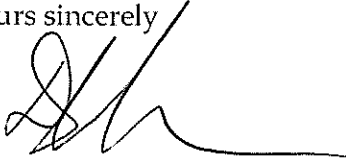
In consideration of the issues identified above regarding our concerns about the appropriateness (prudence and efficiency) of capital expenditure of key projects, plus our ongoing and unresolved concerns regarding ARTC’s assessment of capacity and subsequent management of the network, we believe that a number of the comments noted in the audit

GLENCORE

for the 'True Up' test need to be challenged and tested BEFORE any subsequent access holder liability is applied i.e. the validation of track capacity 'sold' to Access Holders, the statement that *"no system shortfall was recorded in the period"* and that only *"minor exceptions"* were noted by the auditor in assessing such.

If you would like to discuss any of my comments further or require any additional information, please call me on 02 4925 6418.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Don McLachlan', with a long horizontal line extending to the right.

Don McLachlan
Operations Manager, Coal Assets Australia
Glencore
DMcLachlan@xstratacoal.com.au