

# **SUBMISSION TO THE PRODUCTIVITY COMMISSION** **ON THE PROGRESS IN RAIL REFORM**

## **Introduction**

This submission is made up predominantly from excerpts taken from the SCT submission to the House of Representatives Standing Committee Inquiry into the Role of Rail in the National Transport Network.

The concerns raised by the majority of the industry at that inquiry and at every other inquiry remain, in the main, unresolved and appear to just get past along from one inquiry to the next supporting bureaucrats and consultants but doing nothing for the industry in general.

The following is a summary of the major concerns as seen by SCT:

- An ineffective track access regime The original concept of the ARTC appeared to be a vast improvement on what was in place at the time but in reality what we now have is nothing more than a token gesture of reform in this area. Most operators have expressed their concerns regarding the inconsistent approach between states, the poor track condition, the lack of long passing loops, inconsistent and prohibitive speed limits the inability to double stack containers from Melbourne and the far from worlds best practice maximum axle weights. These problems can only be effectively addressed if we have a national track access provider. We do not have this and it does not seem like we ever will.
- An inconsistent and fragmented approach to Accreditation Again the original concept for Safety Accreditation was agreed to and openly accepted by the industry in general. Unfortunately, what we now have is a confusing, bureaucratic and parochial approach to this issue which is placing an unnecessary additional financial burden on rail operators. This financial burden is far in excess of the fairy tale figures in the Legislative Impact Statements in circulation.

Adding to the problems is the fact that there at least 5 different committees or organizations that have been involved in or are involved in assessing the current accreditation process. These organizations do not appear to exchange information because the same questions are asked of the same people who give the same answers and the status quo remains.

The financial penalties placed on rail operators by the inefficiencies outlined in the two areas above is causing rail transport to become less and less viable when compared to

other modes, especially sea, and unless resolved we will see an escalation of the current move of freight volumes away from rail.

**There is a need for a “true” National Rail Track entity.**

Our concern is that it is easy to form a so called "National Track Authority"; but its scope may be small or it may be large. **The key is not that it is called a "National Track Authority". The key is that it has authority over the national track.**

We believe that a National Track Authority must have, as a minimum, absolute responsibility for:-

- a. Determination and allocation of paths.
- b. Pricing of paths.
- c. Single accreditation of operators.
- e. Sole determination of safe working practices, procedures and standards.

To date SCT (and other operators) have needed to negotiations of each of these aspects has been difficult and complex and have required true negotiations where there have been trade-offs given and taken to reach an acceptable compromise and solution.

The difficulty with the state-based arrangements in SCT's experience with negotiations has not been that multiple telephone calls were necessary but that each state started out with different requirements and perceptions. It is the removal of the different perceptions and requirements that is needed (or the ability to remove the differences) not limiting the number of people that can be spoken to.

Where complex and/or difficult negotiations are required and trade-offs may be necessary, **it is important that there is face-to-face negotiations.** An intermediary or additional layer of bureaucracy only interferes with the ability to arrive at an end solution.

It should be noted that, even with the present different and individualistic state approaches, private operators did manage to obtain (satisfactory) access albeit the process was difficult. Our belief is that if the mooted agency approach had existed at the start of private rail operators attempting to get access to the tracks, competition still would not have commenced on any part of the Australian rail track.

We also believe that to be effective an access pricing regime should have transparency as to rates, although we do not necessarily require there to be transparency of track management costs and track maintenance costs. Ultimately, track access rates are market driven. If cost-based rates are too high then there are no operators; if too low, then Crown money is left on the table. We were particularly comfortable with the AN access regime because we knew what everyone else was paying. We believe that both the NRC

and Toll were also comfortable with the AN regime, whereas no-one seems particularly comfortable with the secrecy of the other access regimes.

The freight industry is characterised by being a particularly low-margin business. This is balanced by it also having a high asset turnover so that the combination does lead to an acceptable return-on-investment industry. A sound and profitable operator generally has a margin of around 3%, and this can readily be seen in the annual reports of the various publicly-listed transport company's. With such a low margin, it is particularly important to ensure that one's costs do not exceed a competitor's.

Track access charges generally are some 25% to 40% of a rail operator's costs with SCT's percentage being somewhere in the middle of that range. As rail access charges are the only "non-contestable" charges or costs and there is thus no market mechanism to ensure equality of costs, it becomes particularly important to ensure that there is an alternative mechanism to ensure such equality.

Without openness of pricing, there is always the suspicion that someone else has been given a better deal. Of course, this means that everyone would know what SCT is paying and we accept that.

Overall, we believe that there need to be a separation between:-

- (a) the management of the track (the principal role we believe of a track authority);
- (b) the setting of and collection of access fees; and
- (c) the capital spending on at least upgrading the track.

The first two activities can sensibly be undertaken by a track access authority. It is important though, that the last is recognised as a separate and distinct function. The determination of the level of such spending should be heavily influenced by factors outside the sphere of influence and knowledge of a track-owning authority, such as the impact of spending or not spending on the requirement to invest in roads. Also, for similar reasons, it should not be influenced by the level of revenue raised by track access charges.

This is perhaps where the rail industry can take a leaf from the road segment of the economy. Road does not operate a closed shop, where access fees (registration fees and the diesel fuel levy) would be collected and specifically returned on exactly a one for one basis for road spending, with the spending authority then require to borrow the balance (or receive a separately-identified grant.) As with road, any fees collected by the rail access authority rightly belong in consolidated revenue, just as is done with registration fees and the diesel fuel levy. Otherwise, it is all too easy for governments to starve rail of any additional funds.

In some ways, this discussion is similar to whether the access should be on a cost-related or market-priced basis as discussed earlier in this section.

It should be noted that significant expenditure may be required from time to time to enable efficient use of the track but these amounts are minor relative to the alternatives on road. Also, any proposed capital spending would not be the end of the program. As with road, there should be expected that there will be a continuing expenditure on track upgrading. It is in the Nation's interest to do so.

Also, rail has been funded in the past primarily by repayable loans whereas the money that has been spent by the government on roads has been by way of grants or direct expenditure. Such a difference is not a sensible way for Australia to ensure economically-rational spending on our infrastructure when selection between alternatives is a key consideration - ie where is the biggest bang for the buck? (However, as noted above, there is a high risk that with the emergence of track-owning authorities that this past aberration will be repeated.)

In summary, then, there are three separate issues with respect to:-

- (a) Managing.
- (b) Collecting revenue.
- (c) Maintenance/upgrading of the track.

These must be addressed independently. Any attempt to wind them together will inevitably lead to distortions to the detriment of Australia.

Each state has defended strongly its own individual access and safety regimes and all have consistently refused to take positive steps towards a common good. NSW alone employs 109 administrative people in its access corporation. Yet this duplication burdens rail in Australia with additional costs estimated by SCT at more than \$100 million pa. - possibly \$250 pa million if one includes all consequential implications.

In summary, competition has now commenced on rail. Everybody, including the governments can take pride at the relatively painless way that this has happened. However, it is now at the crossroads. No subsidy is required, but unless there is a more enlightened approach and more government support and commitment to a level playing field and stability in the "rules", then the future will see a diminution of the competition. Australia will be the loser.

To resolve the problems detailed, above, a true National Track Access Authority should be established. To reiterate, though, its role at a minimum needs to be:-

- a. Determination and allocation of paths
- b. Pricing of paths

- c. Train control
- d. Single accreditation of operators
- e. Sole determination of safe working practices, procedures and standards.

The rail funding mechanism also needs to be determined independently of the costs of track access operation and maintenance-as is access to roads. It needs to address what should be the sources of revenue to fund the rail infrastructure costs. It should not be constrained by the "ring-fencing" by track-owning authorities. In particular, it should consider the various activities to be funded and how this would be done? In particular, it would enable specific comparison with the road-activity funding mechanism. It would not debate the specific capital requirements of rail versus the capital requirements or history of road.

Finally, the infrastructure spending requirements and national benefits need to be assessed.

This would address the benefits to Australia of some significant government capital spending on rail. It would address how the present infrastructure is being allowed to fall to bits. It could compare the road versus rail capital expenditure and the economic payoffs to Australia.

Without the separation into the three separate components as above, it is doubtful if each can be wholly assessed without imposing constraints by perceptions of and interactions with the other activities.

In summary then:-

(a) A true national track access body should be established, but only if it has control over:-

- Determination and allocation of paths
- Pricing of paths
- Train control
- Single accreditation of operators
- Sole determination of safe working practices, procedures and standards

Otherwise the present state-based approach is preferable and should be retained.

- (b) Funding of track operations needs to be a separate and independent activity from the revenue raising from access to rail.
- (c) Investment decisions for both road and rail need to take into account the impact on the other mode and the relative returns from investment in one area versus an investment in the other.
- (d) Governments need to become more responsible in providing for competition on a level playing field.

