

**Australian Productivity Commission**

**Inquiry into  
Progress in Rail Reform**

**SUBMISSION**

**GREAT NORTHERN RAIL SERVICES PTY LTD**

**Level 2, West Tower**

**Cnr Dudley Street & Footscray Road**

**WEST MELBOURNE Victoria**

**Telephone: (03) 9619 6329**

**Fax: (03) 9619 6331**

**OCTOBER 1998**

## **INDEX**

<b>1.0</b>	<b>Background</b>	<b>Page 3</b>
<b>2.0</b>	<b>Environment</b>	<b>Page 5</b>
<b>3.0</b>	<b>Scope</b>	<b>Page 7</b>
<b>4.0</b>	<b>Access Issues</b>	<b>Page 8</b>
4.1	Regulatory Requirements	Page 8
4.2	Safety Accreditation Costs	Page 8
4.3	Access Responsibilities	Page 9
4.4	Transparency and Accountability of Access Costs	Page 9
4.5	Access to Infrastructure	Page 10
4.6	Other Infrastructure Issues	Page 10
4.7	Liability Insurance	Page 11
4.8	Radio Communications Issues	Page 11
<b>5.0</b>	<b>Competitive Neutrality Issues</b>	<b>Page 13</b>
5.1	Road versus Rail	Page 13
5.2	Fuel Excise	Page 14
<b>6.0</b>	<b>Inter – Government Issues</b>	<b>Page 15</b>
6.1	Harmonisation of Standards	Page 15
6.2	Mutual Recognition	Page 15
<b>7.0</b>	<b>Other Issues</b>	<b>Page 17</b>
7.1	Legislative Deficiencies	Page 17
<b>8.0</b>	<b>Conclusion</b>	<b>Page 18</b>

**Submission to the Productivity Commission**  
**Inquiry into "Progress in Rail Reform" by**  
**Great Northern Rail Services Pty Ltd**

## **1.0 Background**

Great Northern Rail Services (GNR) was incorporated in Melbourne in July 1993 and has established itself as a quality provider of locomotives and crews, general train operations (freight and passenger) and vehicle maintenance services in Victoria.

Over the last five years it has purchased 25 locomotives, and GNR's own staff has refurbished 12 of these. These locomotives have been upgraded to the highest standards and incorporate many updated features.

The company has steadily built a strong operation and asset base over the past 5 years. While much of GNR's business in the past has traditionally come from the leasing of locomotives, in particular to the National Rail Corporation (NRC), the Company is presently diversifying its activities into other rail and rail related areas where it can profitably expand its services. Expansion over the past two years has seen additional staff employed including a Business Development Manager, locomotive drivers, and administration and maintenance personnel. GNR is currently expanding its locomotive fleet via the acquisition of a number of 1800 HP locomotives that will be available for operation on both standard and broad gauge. These locomotives will dramatically alter the scope of GNR's ability to provide optimum service to meet all client requirements.

GNR's main areas of operation are:

- ◆ Infrastructure Maintenance (ballast spreading, rail recovery, sleeper distribution etc)
- ◆ Maintenance of Locomotives and Wagons – In-Field and Depot.
- ◆ Locomotive Leasing (with own crew, or pure leasing)
- ◆ General Train Operations (provision of locomotives, crews and crew hire)
- ◆ Hook & Pull Operations (Your Train – Our locomotives and crew.)
- ◆ Terminal Shunt and transfer
- ◆ Intermodal Terminal Operation

Great Northern is well placed to directly compete in these markets. All locomotives are accredited for unrestricted operation within Victoria and its operations are very efficient. Great Northern is currently the only fully accredited and operational private rail operator in Victoria.

Over the last nine months Great Northern has invested in a fully integrated Management and Safety System (MASS) system to meet Rail Safety, OH&S, Quality Assurance and Environmental standards and requirements.

In November 1997, Great Northern was the first private company to sign an Enterprise Agreement with the Public Transport Union - Locomotives Division and accordingly became the first private company to operate locomotives with its own crews on the Victorian rail network effectively ending 140 years of total control of rail operations by the government in Victoria.

A historical perspective of the company, and milestones that have been achieved can be summarised as:

- July 1993** • Great Northern Rail Services incorporated
- July 1994** • First locomotives hired to NRC
- November 1994** • First privately owned and operated locomotives on PTC Network
- Operation of the first private commercial diesel hauled train in Victoria
- T373 converted to standard gauge by GNRS for operation on The One Nation project
- T381 based "in-field" on the One Nation project
- Great Northern undertake in-field maintenance of the Victorian One Nation ballast wagon fleet
- June 1995** • Contract with AN commences for the shunt, cleaning, train examination and full servicing of The Overland in Melbourne
- Four Westrail J class locomotives acquired and extensive modifications undertaken for (Driver Only) DOO shunt duties
- July 1995** • Arrangements in place for the private crewing of GNRS trains
- EBA in place and working party with PTULD established
- June 1996** • Great Northern locomotives used extensively for transfer and trip train movements in Melbourne metropolitan area
- August 1996** • J102 rebuilt and modified by GNRS, commissioned and accepted by NRC as the first DOO shunt locomotive to operate in Victoria
- September 1996** • In-field maintenance conducted for other private companies
- November 1996** • ISO 9002 certification achieved. Interim Rail Safety Accreditation achieved previously
- September 1997** • Track access application lodged with VicTrack
- EA revised with PTULD
- December 1997** • The first ever track access agreement signed with VicTrack for Access to the Victorian Network
- January 1998** • First private EA signed with PTULD
- First private locomotive and crew operated
- August 1998** • Purchase of 1800hp locomotives for rebuilding
- September 1998** • Leasing of Intermodal Terminal at Dynon ( ex TNT Contrans )

The industry is undergoing considerable rationalisation as a result of the privatisation of the State rail industry, and GNR as a local operator sees many opportunities for thriving in this new environment and improving rail services within Victoria.

GNR, as a specialist service provider, considers that the privatisation program can provide huge opportunities.

## **2.0 Environment**

To fully appreciate GNR's position and to assist understanding of the comments contained in this submission, it is necessary to understand the business philosophies on which GNR operates and the industry environment which strongly influences those philosophies.

GNR was the first "private" rail operator in Victoria when incorporated in 1993. At that time, privatisation of the Victorian Rail Network as we know it today was just getting underway with the privatisation of the Warnambool and Shepparton passenger Services occurring in 1994. GNR's business focus at that time was the overhaul of locomotives and leasing of those locomotives to other operators, which in actual fact, meant the Public Transport Commission (PTC) or National Rail Corporation (NRC). The running of our own locomotives with our own crews on 'Hook and Pull' tasks was a plan for the future.

Expansion of our leasing business and the addition of 'in field' maintenance of locomotives and rollingstock as well as full logistic and terminal services support for the 'Overland' allowed GNR to grow with the changing times. With the quickening pace of privatisation of the Victorian Rail Industry, discussions with the Public Transport Union (Locomotive Division ) were initiated to formulate an Enterprise Bargaining Agreement (EA) for the crewing of GNR trains with Company crews. In January 1998, these discussions were to culminate in the signing of the first private EA in Victoria for the crewing of trains with both GNR locomotives and crews.

Interim rail safety accreditation (AS4292 ), certification to ISO 9002 and subsequent implementation of a Management and Safety System (MASS) incorporating rail safety (AS4292), ISO 9000 compliance, OH&S (Victorian Safety Map) and environmental aspects were also put in place. All were necessary if GNR was to be ready to take full advantage of opportunities arising from the Victorian privatisation process. In late January 1998, GNR ran the first private train involving its own locomotives and crews on the Victorian network.

Since that historic first train, GNR have purchased additional locomotives that are presently under refurbishment for both expansion of its leasing operations and 'hook and pull' services. In addition, GNR have secured a long term lease on an Intermodal Terminal at Dynon to ensure the continued expansion of services to existing and future rail freight customers. With the scarcity of terminal facilities able to be accessed by third party operators, the securing of terminal facilities in Melbourne were mandatory if GNR is to remain competitive now and in the future.

GNR does not see road transport as an all-encompassing threat to its existence although like all rail operators, it operates within a system strongly biased towards road transport. Aspects of the road industry are seen as providing opportunities that can dovetail into our operations and allow us to provide value added services for our customers.

The present business environment is one that is changing almost daily. The sale of V/Line Freight is imminent and who is the successful bidder is, has a large bearing on GNR's future direction and marketing strategies. Likewise, anti-competitive actions by the present corporatised but Government owned V/Line Freight have significantly impacted on GNR's operations and opportunities. Similarly, the future decisions to be handed down by the Victorian Transport Reform Unit (TRU) regarding leasing / sale of the PTC assets has a large impact on GNR and what direction it will take in the immediate and long term. The impending sale of the passenger franchises also has an impact. While these issues will

be expanded later in this submission, it does demonstrate the fluid nature of the factors that significantly influence our business decisions and direction.

GNR, while committed to investigating all business opportunities, does not see itself as a competitor to the Interstate Operators such as NRC, FreightCorp or Australia Southern Railroad (ASR). Rather, it sees itself as a provider of flexible, cost effective and value added services which enhance the Interstate Operators ability to operate in both Melbourne and Victoria generally. The services we provide illustrate this philosophy and include:

- ◆ depot and in-field maintenance of locomotives and wagons
- ◆ locomotive leasing
- ◆ general train operations (provision of locomotives and crews)
- ◆ "hook and pull" operations
- ◆ terminal shunting and transfer work
- ◆ intermodal terminal operations

Past contracts and present negotiations would seem to significantly support our business direction. GNR may well become involved in interstate operations in the future, however it will be:

- ◆ as a sub-contractor
- ◆ as part of an alliance, or
- ◆ formal agreement with one of the major interstate operators.

GNR is presently very much seen by V/Line Freight as a competitor, particularly for work on the intrastate network and this is well illustrated by the anti-competitive tactics employed by that organisation in the last twelve months. Whether this attitude will prevail when the new operator takes over remains to be seen, however, GNR does not agree that it is the threat perceived by the present regime. The area in which GNR has been competing has been that of Infrastructure Maintenance. As it is a stated core activity of our operations, GNR will continue to compete vigorously for all available work in this area.

It is also appropriate to comment on the source of new business available to GNR. While a percentage is new business, the greater proportion is a mixture of business previously lost to rail and existing business where the customer is unhappy with his current provider. Without exception, the regional and short haul operators who work in the freight area and this includes GNR, must be customer driven and client responsive. The ability of an operator to react to client or customers needs in a timely, efficient and flexible manner is a crucial factor in the operators survival.

Prospective customers want swift replies to quotations and requests for tenders but above all, they want their goods or services delivered safely and on time. This is the challenge that all regional and short haul operators face above all else. When former rail customers are asked why they changed to alternative modes of transport, the answer is inevitably that their former provider was not interested in their needs or requirements. When GNR is approached by existing rail clients looking to change providers, it is often not the cost that is the compelling reason. The reasons put forward are:

- ◆ attitude
- ◆ lack of flexibility
- ◆ lack of concern for client needs.

Our customers want better service, more options and a competitive price. In other words, they want an efficient and cost effective solution to their transport requirements and it is our challenge (in fact all operators ) to provide the solutions.

### **3.0 Scope:**

The issues addressed in this submission reflect the terms of reference as laid out in the "Progress in Rail Reform" Issues paper.

While comments generally reflect the effects of stated issues directly on GNR's present or future operations, many reflect industry concerns and as such, need to be stated. GNR, as an active member of the Regional and Short Haul Operators Common Interest Group (RSHO) within the Australasian Railway Association (ARA) strongly supports the ARA initiatives which highlight many of the problems facing the rail industry. While it is realised that the ARA is putting in a submission in support of the whole rail industry ( this is appropriate given that it is the industry peak body), comments and material from the ARA included with this submission are included not to duplicate, but to signify GNR's strong support for the ARA views and activities.

As a Company involved predominately in the rail freight side of the industry, no comments relating to passenger train issues and Community Services Obligations (CSO's) are provided.

## **4.0 Access Issues**

As a private operator whose principal activities require third party access to both the broad and standard gauge intrastate network as well as infrastructure such as terminals, sidings and fueling / workshop facilities, appropriate access arrangements are critical to the survival of GNR.

In the report "Tracking Australia: an inquiry into the Role of Rail in the National Transport Network", it stated:

*'Improving access to rail infrastructure requires more than providing third parties with legislated rights to use that infrastructure. A number of other impediments, including the lack of competitive neutrality between road and rail, existing regulatory requirements, the allocation and availability of pathways, and physical access to infrastructure, also need to be addressed'.*

Of the issues raised in the above comment, those of regulatory requirements, availability of train paths and access to infrastructure have had direct impact on GNR operations. While GNR's sphere of operation in its own right is presently restricted to the Victorian Intrastate network, (part of which extends into the NSW towns of Deliliquin, Moulimein, Tocumwal and Oaklands ) it is quite possible that it could extend into South Australia and NSW in the future.

### **4.1 Regulatory Requirements**

The industry, particularly those operators who work across state borders, are presently burdened with onerous regulatory requirements. The plethora of regulations which include the areas of:

- ◆ safety and accreditation
- ◆ technical
- ◆ access and
- ◆ communications

are expensive imposts on all operators. As "Tracking Australia" noted "these regulatory requirements are inconsistent, or worse, contradictory, leading to multiplicity in compliance costs and constraints on operating ability". In the case of Short Haul operators, the burden of excessive regulatory requirements is often more significant and at worst, imposes an additional disincentive to entry onto the rail network and at best, restricts the opportunities for further expansion.

### **4.2 Safety Accreditation Costs**

In GNR's case, the impost of regulatory control has had a strong influence on its business strategies and operating costs. The costs of safety accreditation are significant and given the full cost recovery plans of the Victorian Rail Safety Directorate released in June 1998, they are likely to become an even greater burden. While the Government has yet to make any further announcement or decision on accreditation costs, there is a real chance that they will increase substantially. The ARA have also been very vocal on the issue of rail safety accreditation fees, seeing them in affect as an additional access charge calculated to achieve full cost recovery of departmental costs.

GNR supports the ARA view regarding fees. The payment of accreditation and access fees is not opposed generally, however the present inequities that exist with road are unfair and a disincentive to

growth, particularly for the smaller operators. Recent studies have shown that rail is taxed three times greater than road and that some of the taxes paid by rail are used to subsidise rail competitors, namely

the road industry. Perhaps fees should be based on services provided, not an arbitrary fee calculated to cover costs of an ever expanding bureaucracy with no accountability to the industry it is supposed to serve ( the planned Victorian Rail Safety Directorate model ). As John Kirk, Executive Director of the ARA suggested in a recent address on Uniform Regulation and Track Access, perhaps accreditation fees should also recognise the differing nature of rail operations ( ie; passenger, freight, mainline and shorthaul) and reward safe operators ( similar to the striking of WorkCover premiums in Victoria ).

### **4.3 Access Responsibilities**

What is of greater concern to GNR is Victoria's plan to vest responsibility for track access, train control and infrastructure to the purchaser of V/Line Freight Corporation. This has significant and overriding effects on GNR operations and despite some assurances from the Transport Reform Unit (TRU) re fair and equitable third party access arrangements, GNR remains skeptical that this is the best approach.

Up until June 1998, the responsibility for the above aspects was vested in the Victorian Rail Track Corporation (VicTrack). Formed on 1 July 1997 as an independent authority responsible for rail access in Victoria, one of its stated goals was to ensure methods of train control and scheduling were safe, fair and impartial to all customers. GNR's experience with VicTrack was that it was excellent organisation to deal with and was very customer focussed.

In GNR's view, this effectively delivers track access, train control and infrastructure responsibilities of the Intrastate network into the hands of one operator. Therefore, if other operators wish to have access to the network, especially those who are in direct competition with the controlling operator, they face the real possibility of being "controlled" to such a degree as to suffer restricted business opportunities. As a Victorian Intrastate Operator, this situation is of great concern because it has the real possibility of creating a monopoly situation for rail haulage in Victoria.

Further, the reality is that the present levels of service provision will not occur if responsibility for the functions of track access, train control and infrastructure (access to yards and facilities) are handed to an operator. A direct competitor requiring access to the network for the purpose of running a train can be effectively "frozen out". This can be achieved "legally" by causing undue delays in granting access and providing inappropriate paths for the running of trains. While acknowledging that an operator has recourse for any dispute through the arbitration process, the time required for the resolution will effectively mean that the operator will have lost the job because of the inability to meet contract conditions within acceptable time scales. The whole dispute resolution process is by its nature, long and involved and the realities of the industry make that a commercial nonsense.

### **4.4 Transparency and Accountability of Access Costs**

From a business perspective, timely access to information on track access charges and availability of train paths is pivotal to GNR's ability to respond to customer requests. As previously stated, prospective customers want solutions to their transport needs and they demand them in a prompt manner. "Tracking Australia" acknowledged that transparency and accountability of access pricing was a significant issue for operators and that " the extent to which access seekers are able to obtain adequate information on the prices charged" was the common thread in most submissions to the inquiry. It also noted that "Transparency pricing also constrains the ability of infrastructure owners to maintain

inefficient practices, by forcing them to commercially justify costs and revenue expenditure." It further noted that "transparency and accountability are critical to negotiation / arbitration approaches to access"

From an access user perspective, GNR strongly supports transparency of access costs as it promotes greater confidence in the process. More importantly, it allows for more accurate operational and investment business decisions. It is interesting to note that one of the recommendations coming from the inquiry into the role of rail in the national transport network included support for transparent and accountable pricing. However, the overriding factor for access pricing must be that it is affordable by rail operators and it allows them to compete effectively with road transport. (a view also supported by the ARA).

#### **4.5 Access to Infrastructure**

"Tracking Australia" states that evidence gathered during the inquiry indicated that "obtaining satisfactory access to existing terminals, such as South Dynon in Melbourne, may become a more significant issue as new interstate operators enter the market". Further comments in July 1998 by the Victorian Minister of Transport, The Honourable Robyn Cooper regarding the need for the Melbourne Freight Terminal to return to Victorian control (presently run by NRC ) obviously support those comments and highlight just how important terminal facilities in Melbourne are.

GNR's experience in Melbourne strongly supports the findings mentioned in the previous paragraph. Terminal facilities in Melbourne are at a premium and this is exacerbated by the fact that the Melbourne Freight Terminal (MFT) exclusively handles NRC freight. Although North Dynon has experienced some redevelopment in very recent times, it is essentially a V/Line Freight terminal with very little extra capacity available. With the impending sale of V/Line freight, it is hard to imagine that access to North Dynon will become easier. With NRC in control of MFT ( and very unlikely to give it up without a fight given it is so important to NRC and its future sale ) and North Dynon in V/Line Freight control, there is very little capacity for additional operators now or in the future.

Given that private operators such as Specialized Container Transport (SCT) and Colin Rees Transport (CRT) have either established or are planning to establish their own facilities with rail access in the Melbourne area, third party access to Melbourne terminal facilities will remain very difficult. For these reasons, GNR has recently taken out a lease on a depot at Dynon (the former TNT Contrans facility ) to ensure freight handling capabilities are available in Melbourne for GNR customers and to allow for future business opportunities.

#### **4.6 Other Infrastructure Issues**

However, the issue of infrastructure access is not just restricted to terminal facilities. For many years, it was the policy of the PTC and its predecessors to dismantle surplus infrastructure across the whole system. Facilities, including sidings, passing loops, terminal facilities and whole branch lines have disappeared during the last 20 years. When the privatisation of the Victorian Rail Network was started in 1993, the destruction of infrastructure, which might have been useful to new operators, continued unabated. As late as June of this year, rationalisation of facilities (crossing loops, sidings and terminal yards) was still occurring on the Broad Gauge North East line to Albury. One of the major effects of this rationalisation process is the reduction in train paths that accompany the loss of crossing loops. The North East Broad Gauge line now has only five crossing loops between Seymour and Wodonga inclusive. Any possible opportunities for new business on that line will be severely hampered by

available train paths and lack of yard loading facilities. Similar problems regarding rationalisation of facilities, particularly sidings throughout the State is presently occurring in NSW.

#### **4.7 Liability Insurance**

Another related issue involving access arrangements is the differing public liability insurance requirements across State boundaries. As was noted by the inquiry into the role of rail in the national transport network, present public liability insurance requirements are "both inconsistent and inequitable" In Victoria, liability coverage is a minimum of \$50M while South Australia is \$100M and New South Wales \$200M . If GNR wishes to pursue possible business opportunities into NSW, even on those Victorian Broad Gauge lines which extend into the State, regulations make it necessary that the additional insurance would be required. Despite considerable representation to the NSW regulatory body by its Victorian counterpart, the issue is still unclear.

Further, regional and short haul operators such as GNR are presently required to carry the same liability insurance as the mainline interstate operators despite a vastly reduced risk. Northern Rivers Railroad (NRR), a short haul operator in Northern NSW, argued at the inquiry into the roll of rail in the national network that they only operated two trains per week over a total distance of 246 kilometres, much of it on a branch where they were the only occupants. Yet they were required to pay the same public liability insurance as FreightCorp who operated many trains in Sydney and throughout NSW. NRR's situation parallels GNR's current position. The present situation places a significant impost on regional operators such as GNR. The need to review the method of calculation of premiums to reflect the level of risk involved is necessary. It is noteworthy that recommendation No 9 listed in "Tracking Australia" states:

*'The committee recommends that the Australian Transport Council review public liability insurance to ensure more appropriate coverage which reflects the level of risk and responsibility of the owners and operators of public rail infrastructure'*

#### **4.8 Radio Communications Issues**

A further issue concerning costs associated with access is that of radio communications. GNR along with every other operator involved in "Hook and Pull" operations has to endure the problems associated with the myriad of train control and radio systems presently in use across Australia. There is approximately 22 train control and 8 radio systems presently in use and each state require rail operators to comply with their regulations. This is in addition to having to comply with the different safety and accreditation standards across each state.

As a local Victorian intrastate operator, GNR's locomotive fleet is fitted with the required radio equipment for Victoria. This involves two radio systems; a 'train to base' Loco Display Unit (LDU) and SYNTRYX End to End (ETE) equipment. Attached to the LDU is additional equipment for two new safeworking systems; these being Driver Initiated Control Equipment (DICE) and Section Authority Working (SAW). Similar to situations in other States, the SAW system is unique to Victoria having been specifically developed for the exclusive use of the PTC. As such, the equipment is expensive and only available from them. With additional operators including GNR gaining accreditation to operate in Victoria, accessing of additional equipment is becoming a real problem.

The SAW system was developed by Motorola in conjunction with the PTC. It is now dated technology and Motorola sees it as obsolete equipment and are reluctant to become involved in manufacturing a small number of additional units. At present, GNR only has two LDU's to service its locomotive fleet.. With additional main line locomotives to come on line over the next few months, GNR's problem will become more acute. FreightCorp, the NSW operator also has an immediate need for 13 Units to allow it to expand its business into Victoria.

The problem will become even greater if GNR expands its operations over state borders or leases motive power to an interstate operator. Any such operations will require fitting of additional communications equipment to our locomotives to cover state regulatory requirements, in particular if the locomotives are to work as crewed leading units. It is not only the cost of additional equipment that is a problem, it is also finding suitable locations within the locomotive to put the equipment. This was a point A. Goninan & Co, a major Australian locomotive and rollingstock manufacturer acknowledged in its submission to the inquiry into the role of rail in Australia. They stated: "standards still vary from state to state. This meant that some locomotives require several sets of similar equipment incorporated into its design-an expense which could be abolished were national standard equipment installed"

Another example of a real problem facing operators in Victoria is the supply of 'End of Train Advise,' equipment. In conjunction with SAW, it is mandatory to have an 'End of Train Advisory' device fitted when using the standard gauge line from Newport in Melbourne to Pyrenees Loop, west of Ararat in Western Victoria.( part of the proposed 'National Track'). Presently, the only devices authorised are the PTC designed and developed ETAS (End of Train Advisory System) and the American DIGITAIR systems. The ETAS system was a PTC development and the license for its manufacture is held by V/Line and as such, is not available on the open market and very difficult to access.

To overcome problems in supply of ETAS units, NRC are converting to the DIGITAIR system that is costing between \$4000 and \$5000 per Unit. For GNR to purchase the same units sufficient for its needs, would incur a cost of \$25,000 each. Because of NRC's decision to purchase new units, GNR was able to purchase a number of ETAS units which after refurbishment, cost around \$10,000. These situations underpin the extra 'hidden costs' for operators entering the market and can create a monopolistic situation and restrict, in real terms, an operator entering particular segments of the network.

Cost, availability and logistics of fitting equipment are onerous to all operators, but in particular to smaller regional and short haul operators whose viability is threatened by the impost of such 'hidden' costs. While GNR acknowledges that there is no immediate solution to many of these problems, such examples add strong support to the call by the ARA for harmonisation of rail regulations, safeworking, operations and communications standards between states. They also strongly support the findings of the inquiry into the role of rail in the national transport network and the Committee's recommendations that the Commonwealth:

- ◆ provides a specific one-off grant to standardise signalling, radio and telecommunications, and safety operations for the national track
- ◆ consults with the States/Territories and appropriate parties, and immediately develop a national regulatory framework that promotes operational consistency in:
  - accreditation practices
  - and operating procedures and standards

across the national track system and associated jurisdictions to ensure effectiveness.

- ◆ ensures that the Australian Rail Track Corporation secures control and management of the national track, including those sections of the interstate network currently controlled by State authorities.

## **5.0 Competitive Neutrality Issues:**

### **5.1 Road versus Rail**

The Road versus Rail debate and the present inequities, which exist between road and rail, are already well documented, as are the recommendations to redress the very strong bias towards road. It is not intended to repeat what has already been done to redress the balance to more equitable level, however a comment is appropriate from the perspective of a regional and short haul operator.

As stated previously, GNR is not anti road and does see opportunities for integration of aspects of the road industry into its business. We believe that by complementing the strengths of each mode, we can serve our customers better and that has to be better for our business. There are many benefits in an integrated approach to transport and GNR supports the industry view that there is a role for both rail and road. For it to work properly though, comparable investment criteria must be applied to both road and rail and this can best be done by an integrated land transport strategy that recognises the merits of each mode and funds investment accordingly. However what does integration mean in this situation? Perhaps it is best described by David Hill, Research Officer with the ARA in a presentation to a conference on "Freight Transportation" in August 1998.

- ◆ "Integration means removing the distortions from the transport economy"
- ◆ "Integration means allowing all modes to operate efficiently on their merits"
- ◆ "Integration means using the same investment criteria for all transport infrastructure funding – not applying narrow commercial criteria to rail projects while applying broad social, economic, environmental and political arguments to road projects"
- ◆ "Integration means having integrated Transport Departments...."

The present disparity between road and rail can be best illustrated by the following comparisons:

- ◆ A truck registered in one state is not required to be registered in any other state; interstate rail operators require track access agreements from each state.
- ◆ Interstate trucks pay a flat national charge and do not require access contracts; rail operators must negotiate access contracts and pay access fees that vary between states.
- ◆ National operating standards apply to interstate trucks regarding regulations, speeds, load limits etc; rail operating standards vary between states.
- ◆ Accreditation in one state enables a truck operator to operate in any state; interstate rail operators must be accredited for safety and competency.

In summary, government policies have favoured road over rail in infrastructure funding and regulatory reform and it is imperative that this be redressed so as to allow the privatised rail industry to prosper. The 'flow on' effect coming from implementation of positive change will mean real benefits for regional and short haul operators by:

- ◆ reducing operational constraints
- ◆ creating new business opportunities
- ◆ reduction of costs for regulatory compliance

## **5.2 Fuel Excise**

Besides the excessive costs of regulatory compliance, the other financial constraint that is almost 'hidden', but has a huge effect on the cost of operations is the tax on diesel fuel. A great deal of argument, debate and lobbying has occurred on this matter already and it will no doubt continue. The attached discussion paper on the 'Economic Impact on Rail of Diesel Fuel Excise' by the ARA outlines the need and benefits of reform in this area and is fully supported. The benefits of any reforms in the fuel excise area would:

- ◆ improve rail's competitiveness with road
- ◆ reduce operating costs
- ◆ enable greater business opportunities

## **6.0 Inter – Government Issues:**

### **6.1 Harmonisation of Standards**

The historical problem of different standards across the rail industry in Australia and the adverse effects this has had on rail operations is already well documented. as is the need for harmonisation of regulations between states. The ARA has stated that it considers the harmonisation of regulations affecting interstate operations is equally as important as single management of track access to the interstate rail corridor. In GNR's view, the differences in regulations which cover a plethora of issues ranging from safety and accreditation, signalling, radio and communications systems through to technical and engineering specifications have adverse effects on all rail operators, not just those operating over the interstate network. Depending on their operations, any improvements gained towards the ultimate goal of uniform rail operating standards throughout Australia will have corresponding 'flow -on' effects to the regional and short haul operators such as GNR. While uniform standards are a long way off (if at all!), any progress towards it will reduce costs, both directly and indirectly to the operator. In GNR's case, this will not only have beneficial effects on its cost base, but expand the scope of its business opportunities.

GNR strongly supports the view of the ARA regarding the need for the harmonisation of rail regulations, safeworking, operations and communications standards across Australia, however it is not working in some areas. The harmonisation of technical standards is consistent with the conditions of the Inter-governmental Agreement (IGA) on Rail Safety and AS4292. The agreement, which came into effect on 01 July 1996 following agreement by the Commonwealth, State and Territory Ministers of Transports, provided for a national approach to the regulation of rail safety by a system of safety accreditation of owners and operators.

### **6.2 Mutual Recognition**

A key element of the IGA is the mutual recognition between accreditation authorities of accreditation based on Australian Rail Safety Standard AS4292. However, as both the ARA and the Committee looking at the Progress in rail reform noted in July 1998, the rail regulators are not applying consistent conditions for accreditation as determined by the IGA.

Mutual recognition should enable a prospective operator who conducts operations across state boundaries to only have to apply for accreditation in the state where his major operations are based. The state accreditation agency is to then liaise with the accreditation agencies in the other relevant states to enable mutual recognition of any accreditation the operator may require. While a simple principle, it has been difficult to achieve across all states.

Future GNR operations, both intrastate and interstate will require an effective mutual recognition regime to be in place, otherwise delays and additional costs will be experienced. The broad gauge lines that extend into NSW territory from Victoria were built under the Border Railway Act and the Victorian rail authorities were responsible for the line and permanent way. This Act wasn't amended when the NSW Rail Safety Act was proclaimed in 1996, therefore to use those lines now requires the operator to comply with NSW rail safety requirements. This also includes access to Albury station yards. The ambiguity of the legal situation has forced V/Line Freight to gain accreditation to operate on all the subject lines in territorial NSW. As such, they are presently the only operator accredited to operate on those lines.

The effect of this on GNR (or any other operator who might want access to these lines) is that accreditation would need to be gained from NSW. The added complication is that the operator would need to comply with NSW access requirements as well. While that might be acceptable for operation into Albury station limits, it is a ludicrous situation for those BG lines entering NSW from Victoria. They have no physical connection with the NSW intrastate network and have been operated totally by Victorian Authorities since they were built.

The Albury / Wodonga rail precinct has its own unique requirements. For GNR (or any other Victorian or interstate operator ) to gain access to Albury station ( for crew change, rollingstock interchange or shunting purposes), they require NSW accreditation. The same would apply for a NSW accredited operator wanting access to the Wodonga / Bandiana precinct for the same reasons. Under mutual recognition principles, the Albury / Wodonga / Bandiana precinct including both stations, yard limits and associated sidings need to be declared a neutral exchange zone where additional accreditation is not required.

This could be a hugh impost on the operator if the mutual recognition regime does not work. One would hope that common sense would prevail and perhaps Mutual Recognition should be extended to cover track access issues as well.

## **7.0 Other Issues:**

### **7.1 Legislative Deficiencies**

An area of direct concern for GNR is the inability of legislation to properly protect operators who wish to enter. Each State has, or is in the process of proclaiming, legislation that allows for third party access to their rail network. In Victoria, the Transport Reform Unit (TRU) has been overseeing the complete privatisation of the government transport system. Each State has built into their Act legislative controls designed to ensure free and equitable access for all participants.

Victoria's plan to vest access responsibilities into the hands of a private operator and protect third party access by legislative control is fine in theory, but it is unlikely to work effectively in practice. This is because it does not take into account the business practices of the industry nor the imperatives demanded by its customers. As outlined before, customers want their needs satisfied in a timely, efficient and flexible manner. If you can't deliver on time and within requirements, they will go elsewhere. If an operator is forced to seek redress or resolution through litigation or the arbitration process, then he has lost the job because of his inability to meet customer requirements within acceptable time frames.

As noted in a recent ARA address on Uniform Regulation and Track access, open access and on-rail competition are a problem whatever model or structure is used. The best solution is to provide good and effective legislation that can resolve disputes in a commercially acceptable time frame. While agreeing with the sentiment, I do not believe it will be effective. The USA model is often quoted as a definitive example of how it can work but as was further stated in the presentation, the USA have its Surface Transportation Board which is backed up with very tough anti-trust laws. Australia has the Australian Competition and Consumer Council (ACCC) which has yet to be tested in a rail case.

## **8.0 Conclusion:**

The last three years have seen considerable change occurring across the whole of the Australian Rail Industry. Corporatisation / privatisation of State networks are well advanced in most States and the enabling of legislation to allow third party access to the rail network across Australia is already in place in most States. Considerable efforts have been made towards a national uniform regulatory and safety regime with competitive and equal access for all participants. Much has been done to redress the present imbalance between road and rail. However, there is still much to be achieved.

From the regional and short haul operators perspective, the harmonisation of safety and accreditation standards including transparency and accountability of both accreditation and access fees is pivotal to the long-term future of operators. The burden of excessive regulatory requirements is very significant and is a major disincentive to entry onto the rail network. Also, it restricts opportunities for future expansion.

In the medium term, mutual recognition must be made to work as it applies a common sense solution in the present economic climate to problems created by a century of state ownership of the rail network. Its ability to reduce costs significantly to all operators, but especially to smaller regional and short haul operators, make this a priority issue.

Fair and equitable access to the network is another requirement crucial to third party operators survival. This must be backed up by strong and effective legislation that allows for the resolution of disputes in a commercially acceptable time frame. Anything else is just not acceptable, as satisfying the commercial considerations of customers is mandatory for survival. The same conditions for access to infrastructure such as terminal facilities are as essential as track access for smaller third party operators.

Overall, the need to pursue the timely implementation of the recommendations coming from the committee who recently inquired into the role of rail in the national transport network ('The Neville Report') is critical to ensuring that rail reforms are successful for the future.

Paul L. Moore  
Managing Director  
Great Northern Rail Services Pty Ltd

02 October 1998

Enclosures:

1. Copy of ARA Discussion Paper on Diesel Fuel Excise
2. Copy of RSHO Group Correspondence to Victorian Transport Reform Unit re Access Issues
3. Copy of Reply from TRU re RSHO Group Concerns