

# *DRAFT*

## **PRODUCTIVITY COMMISSION INQUIRY INTO PROGRESS IN RAIL REFORM WA GOVERNMENT SUBMISSION**

This submission to the Productivity Commission's Inquiry addresses a number of key issues facing the Rail Industry today and in particular, outlines the rail initiatives being pursued in WA. It will focus particularly on developments relating to Industry Structure and Competition and on the national rail scene.

### *Industry Structure and Competition*

A number of strategically important changes have occurred or are in the process of occurring in the area of structure and competition:

- on rail competition
- the future ownership of Westrail
- introduction of competition in the provision of services to the rail system

Each of these will be discussed in turn below.

#### **(i) On-rail competition**

From 1980 to 1995, WA progressively opened up the rail system to competition from road transport and this led to significant improvements in rail efficiency which has in turn been reflected in lower freight rates and elimination of past chronic rail deficits (in 1997/8 Westrail recorded an operating profit of \$46.2m).

For large parts of its business, Westrail faces stiff competition from road operators able to utilise efficient, large combination vehicles such as road trains. Nevertheless, for some traffics such as large scale bulk hauls, rail is the only economical means of transport and this confers an effective monopoly on Westrail. In addition, some other rail operators believe they can provide services more efficiently than Westrail and have been pressing for access to the WA network.

For these reasons, on-rail competition offers the possibility of extending the benefits of competition gained from inter-modal competition. As a result, the WA Government has decided to introduce a Rail Access Regime to govern access to the WA Government network. Access has been possible for several years following an amendment to the Railways Act but to this point has only resulted in operators not in competition with Westrail securing access (eg interstate operators). The Regime will provide a legally enforceable right to negotiate access through an Act and subsidiary legislation in the form of a Code. The legislation to establish the Regime is currently before Parliament and passage is expected in the current session.

The Bill, based on Westrail continuing as a Government owned integrated rail service, will:

- provide for the establishment of a Rail Access Code;
- designate a regulator with monitoring and enforcing functions;
- specify administrative arrangements (ring fencing) that Westrail is to have in place;
- amend the *National Rail Corporation Agreement Act 1992* to enable National Rail to compete for intra-state services; and
- consequently amend the *Government Railways Act 1904* to remove existing barriers to competition.

The Code, as subsidiary legislation, will:

- establish the railway network and infrastructure opened to access;
- outline the negotiation process, including avenues for dispute resolution;
- specify the matters to be considered in access agreements;
- identify the information requirements of the Regulator; and
- outline the pricing principles to be applied.

At this stage only selected parts of the network are nominated in the Access Code, these being the parts where competitive access is most likely to be sought. However, the Code provides for inclusion of other parts of the network subject to the Minister considering certain criteria (these criteria reflect those in the National Access Regime as set out in Part IIIA of the Trade Practices Act).

The selected parts of the railway network opened to access include:

- the standard gauge line between Kalgoorlie and Kwinana;
- the standard gauge line between Kalgoorlie and Leonora;
- the standard gauge line between Kalgoorlie and Esperance;
- the narrow gauge line between Kwinana and Bunbury, including the spur lines serving the alumina industry; and
- the railway lines between Cockburn and North Fremantle.

A full copy of the Bill and Code is available to the Commission if required. Modifications to the Regime to make it applicable to a privatised Westrail are

currently being examined. WA intends to shortly submit the Regime to the National Competition Council for certification as an effective regime.

The metropolitan network is largely confined to suburban rail passenger services with few points of interaction between passenger and freight services. At present, Westrail operates the passenger services under contract to Transperth and a large proportion of the contract payment constitutes a Community Service Obligation (estimated to be \$83m out of a total contract payment of \$105m in 1997/98). At this stage there are no plans to introduce competition to this service through either network access or competitive tendering.

## **(ii) Future Ownership of Westrail**

In July of this year, the Government announced its intention to sell the freight business of Westrail (at this stage no decision has been made about passenger services, urban and non-urban).

The Government's decision reflected both financial and transport policy objectives: the former derives from its responsibility as custodian of taxpayer funds invested in the rail network; the latter reflects the need to promote an efficient transport system.

The rapidly changing Australian rail market with emerging private owners and open access pointed to both objectives being best served by an early sale of Westrail. Indications are that private ownership can lead to lower cost structures suggesting there may be benefits to rail freight users from selling Westrail. At the same time the emerging private operators could be a threat to Westrail if it remained in Government hands and had to compete against businesses with lower cost structures - this could lead to both loss of business and reduced sale value. Westrail's concentrated traffic base makes it particularly vulnerable to competition.

In addition, a number of new opportunities for Westrail lie interstate and private ownership is likely to enable it to be more responsive to those opportunities. Government owners, as custodians of public funds are properly more risk averse than private owners. Competitive neutrality concerns, as they relate to any perceived advantages of government ownership, would also not be an issue for Westrail in private hands. Business outside WA's boundaries offers the prospect of providing a broader base to Westrail's freight operations allowing either a greater spreading of overheads or offsets to business lost within WA to other competitors. In either case there are benefits to both WA rail freight users and the sale value of the business.

A critical aspect of the Government's decision was to sell Westrail's freight operation as a "vertically integrated" entity (ie the infrastructure and above rail operations would be sold as a joint enterprise).

This is a difficult issue and one that received a great deal of attention in the lead up to Government's decision. Some parties have pushed strongly for the "separation" model

involving a track authority to maintain, develop and sell access to the infrastructure - this is argued to be more supportive of on-rail competition.

The results from researching approaches adopted elsewhere were not conclusive. There is little direct experience with vertically integrated railways operating competitive access regimes such as is being proposed for WA. On the other hand, the experience with Government-owned track authorities has not always been positive.

The Government, while drawing on experiences elsewhere, therefore sought to develop an approach which best suited the Westrail network's particular characteristics, in particular its extensive, low traffic density nature and the wide availability of road transport as a competitive alternative.

The conclusion that the vertically integrated model was best suited to Westrail reflected the following assessments:

- Because it is dealing with the total rail transport market, a vertically integrated operator is more likely to have better overall commercial knowledge which can be applied to achieve better above and below rail pricing decisions. Under the separation model the need to negotiate access prices for services reduces the flow of information required for efficient decision making.
- While vertical separation can be expected to increase market responsiveness and product innovation, there is some evidence that lower risk increases the ability of companies to fund innovation - vertical integration is considered to provide lower risk to the purchaser than does the separation approach. In addition, innovation requiring a coordinated above and below rail response is more likely to occur with an integrated railway.
- Vertical separation can lead to a potential loss of control over infrastructure investment and maintenance decisions for the purchaser of the business, thereby increasing risk and reducing the value of the business.
- Loss of coordinated internal decision-making as a result of separation can create additional costs and impacts on revenue.
- In the case where density is light and intermodal competition is high such as the Westrail grain lines, vertical integration enables the railway to maximise efficiency. This may be of advantage in being able to compete effectively with other modes.
- Because an integrated operation has the greatest scope to maximise the commercial revenues of the railway and can more effectively differentially price to capture marginal business it is likely to minimise future financial demands on Government.

A number of important issues remain to be determined before the final sale package is approved by Government. Apart from technical aspects associated with the sale itself, policy issues such as network retention, access pricing and path priority for passenger

services etc will require resolution. A Sales Task Force has been established to develop a complete package for Government's consideration before the end of the current financial year.

As mentioned earlier, passenger operations are excluded from the sale process. Operationally, they are quite distinct from freight operations so few synergies would be realised from joint sale of freight and passenger operations. In both transport policy and funding senses the two businesses are also quite different, with passenger operations serving many basic mobility needs and being the only component of the Westrail system subject to Community Service Obligation payments.

### **(iii) Introduction of Competition in the Provision of Services to the Rail System**

Westrail, as an integral part of its modernisation program, has been active in seeking opportunities to out-source a number of activities previously supplied in-house. In particular:

- in 1996 Westrail became the first rail authority in Australia to contract out all of its track maintenance and construction work. Westrail manages the program, safety controls and long term planning of the network while the contractors provide the resources to undertake the work.
- major locomotive repairs and servicing of locomotives and wagons was contracted out in 1996.
- mobile trip servicing of locomotives in the Albany area has been contracted out enabling locomotives to be fuelled in locations where it best suits the train operating schedule.
- the cleaning of all country passenger rolling stock, catering and maintenance of the Prospector (Perth-Kalgoorlie) railcars and refurbishment of the Australind (Perth-Bunbury) railcars were all transferred to the private sector.
- gantry crane operations at Kalgoorlie have been operated under contract to a private sector operator since July 1997.

These and other initiatives have contributed to the significant improvement in Westrail's performance, as illustrated in the table below.

### Comparison of Westrail Performance Indicators

	1992/3	1997/8
Number of employees	4659	1627
Total revenue	\$396m*	\$410m
Profit	-\$11m*	\$46m
Freight Tonne Km	4970m	7909m

\* expressed in 1997/8 dollars

#### *Rail Issues at the National Level*

WA's views on the national rail scene were expressed in the Government's submission to the Inquiry into the Role of Rail in the National Transport Network conducted by the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform (see Attachment A). These views remain pertinent today though some important advances have been made at the national level, notably:

- the establishment of the Australian Rail Track Corporation to provide a focus for the management of the interstate track network.
- the "Maunsell" report into rail regulation uniformity and subsequent steps through the Australian Transport Council committee structure to implement the report's findings.
- significant progress in the implementation of the Inter-Governmental Agreement on Rail Safety both within and across jurisdictions (see Attachment B).
- the recognition in the "Tracking Australia" report of the need for significant government involvement in the national rail system if it is to achieve its potential.

WA is a strong supporter of all of these developments and is committed to participating in their successful implementation. Concerns have been raised about the potential impact of the sale of Westrail's freight operations on the ARTC. However, the State has made it clear that it will carry its obligations under the IGA through to any new owner via conditions attached to the sale. It has also offered to consider any proposals from parties such as ARTC which seek to ensure that the concepts embodied in the IGA are effectively delivered in a post-sale environment.

Mr Mark Vaile, MP  
Chairman  
House of representatives Standing Committee on  
Communications, Transport and Microeconomic Reform  
Parliament House  
CANBERRA ACT 2600

Dear Mr Vaile

***Inquiry into the Role of Rail in the National Transport Network***

I refer to your letter of 13 August inviting submissions to this inquiry and your subsequent address to the Rail Summit in Melbourne on September 10.

I am pleased to provide the attached submission to the inquiry. The content largely expands on my views on national rail reform that I raised at the summit.

Improvements to operational processes and the quality of service delivery together with an urgent requirement for major infrastructure investment are the keys to a competitive and successful national rail network. The Commonwealth Government in particular needs to provide funding that delivers \$1 billion in infrastructure improvements to the national rail grid over the next ten years. This is vital if rail is to become more relevant within the Australian transport network.

I believe that up-graded and efficient track and infrastructure is the key to rail becoming competitive with the road freight task. Other issues related to access, private sector investment, standardisation of systems and improved utilisation of existing capacity, whilst being important, are all contingent on a network that significantly improves travel times while also allowing for increased freight carriage capabilities.

I trust that this view clarifies my key concerns and helps the inquiry to a successful outcome. I would be pleased to expand on my views and would welcome a visit to Western Australia by the inquiry committee.

Yours sincerely

Eric Charlton, MLC  
**MINISTER FOR TRANSPORT**



# INQUIRY INTO THE ROLE OF RAIL IN THE NATIONAL TRANSPORT NETWORK

## Introduction

The following submission is provided in response to the invitation from the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform into the *Inquiry into the Role of Rail in the National Transport Network*.

The comment follows the order of the five identified 'emerging issues' as provided in the *Information and Issues* paper released by the Committee in August.

### 1. Effective and Efficient Use of Rail

Effectiveness and efficiency within a revitalised national rail network will primarily evolve from:

- commercial principles and philosophy being adopted by track owners and service operators. Within this commercially focused approach governments and their agencies also need to recognise their social and community responsibilities.
- the system being operated as a single network in respect to pricing, investment and operational standards and practices, with safety regulation being handled independently of owners and operators, be they public or private.
- operational and infrastructure standards being set and deficiencies within the network being identified, prioritised and rectified. Critical to this is the issue of funding.
- current barriers to access being removed through the introduction of a single point of entry (the 'one-stop-shop' concept).

This approach to harmonising interstate rail was broadly agreed to at the Rail Summit on September 10 1997 and the general thrust of the summit outcome is supported by Western Australia. The resultant rail reform program will result in clear determination of responsibilities, the removal of duplication, progress towards the removal of operating inconsistencies and an improvement in customer focus, particularly for freight transport customers.

Critical to improved efficiency is the issue of infrastructure improvements and it is vital that government funding at both Commonwealth and State levels is increased, particularly over the next ten years. Around \$1 billion is considered necessary in this period simply to bring

The national rail network up to a standard where it is competitive with other modes. Without this injection of funds the rail system will continue to deteriorate and users will increasingly turn to other modes for transporting freight. Increasing heavy road freight usage will lead to significantly increased funding requirements for the maintenance of roads, in particular the national highway system.

While no comment is made on Community Service Obligations (CSO's) as such, we believe that the committee should recognise community benefits and related long term cost savings associated with the development of the national rail system. Improvements to rail infrastructure will alleviate pressure on the national road system and this issue needs to be qualified and quantified in respect to community benefits and savings. Improved rail infrastructure will lead to an increased market share of the freight task for the rail mode, thus enabling road freight to be contained at environmentally sustainable levels.

In addressing community impacts rail infrastructure improvements will lead to:

- reduced road 'wear and tear' and avoidance of a major funding escalation in road maintenance if rail is not reformed;
- reduced growth in the amount of heavy road traffic and associated accidents and resultant community costs;
- improved linkages to ports and other transport and freight termini thus reducing adverse impacts on metropolitan roads and community disruption;
- reduced environmental impacts from fuel emissions. The reduction in adverse environmental impacts of rail freight tonnage as against commensurate road freight tonnage needs to be recognised.

The momentum of change within the Australian rail environment has increased significantly in the past year. This is largely driven by legislated competition reform together with recognition within the industry that operational practices have to change for a national rail system to survive.

## **2. Private Sector Participation**

Private sector involvement in both rail operations and infrastructure should be supported. Western Australia:

- supports increased private sector operator access to both its component of the national grid and its intrastate system. The State is currently developing an access regime to facilitate this;
- supports mechanisms that increase the attractiveness of private sector investment in rail infrastructure, for example through tax incentives;
- believes that the issue of ownership of existing infrastructure and any future variations to ownership is a matter to be determined by each individual jurisdiction;
- believes that rail, on both a national network and intrastate basis should be independently regulated to ensure that safety standards of public and private operators and infrastructure owners are not compromised.

It needs to be recognised that immediate large scale investment by the private sector in rail infrastructure is unlikely given the present poor state of important sectors of the national rail system. Governments will need to take a lead in this respect as only when the national rail

grid is competitive with other modes, is commercially focused and is in a position to deliver investors with a net return on investment, will rail be seen to be attractive.

### **3. Access and Utilisation of Rail Network**

Both national and intrastate rail networks need to be considered when addressing access issues.

Western Australia believes that the principles adopted at the Rail Summit will facilitate development of a simple and transparent access regime for the national rail system. The concept of a designated national system, operated as a single network and providing operators with access through a single point of entry should result in a 'whole of network' access regime.

Contingent on this happening responsibility for determining access should rest with whatever body or arrangement is agreed to and put in place to effectively manage the 'one-stop-access-shop' and the single network.

This State is also developing an access regime for both inter and intra state rail. However responsibility for the former may be assumed by any future body put in place to manage the national rail network.

The major concern to Western Australia is the issue of protecting access for intrastate traffic on any Western Australian component of the designated national network.

Rail's future market share of the transport freight task is directly related to other terms of reference governing the inquiry, for instance:

- the issue of efficiency and effectiveness is critical. Rail will continually struggle to retain market share, much less increase its utilisation, if the efficiency and effectiveness factors are not seriously addressed by governments and the rail industry;
- if the efficiency and effectiveness issues are not resolved then the issue of private sector investment could become irrelevant;
- with substandard infrastructure world's best practice would be difficult to achieve in operational and service delivery areas.

### **4. Investment and Ownership Arrangements**

Current investment in rail infrastructure is inadequate as sectors of the national network are not capable of providing speed and tonnage capabilities that are competitive with other modes. While the Commonwealth Government's announcement at the Rail Summit of a \$250 million capital investment over four years is very welcome it remains far from what is needed for a national rail system overhaul.

Historically rail infrastructure development has been funded from borrowings whereas road infrastructure is largely funded through Commonwealth excise and vehicle license fees. Rail also pays fuel levies but does not receive the same proportionate funding that applies to roads.

While the initial infrastructure overhaul should be funded by governments through special levies and taxes, track and infrastructure management, ongoing development and maintenance should be funded by operators through access charges on a user pays basis.

If the infrastructure overhaul for a national rail network was initially funded by governments and improved to a level that it was attractive from an operational and customer perspective, ongoing incentives would still be needed to encourage future private investment. It is doubtful that even a zero rate of return on investment can currently be achieved and substantial work is required to develop a formula where a net return on investment is achievable without pricing rail out of the transport market.

## **5. International Best Practice**

There is broad consensus that interstate rail services are performing well below market requirements.

For a national rail network to aspire to world's best standards Governments need to undertake:

- an assessment of the rail operations in other countries in order to learn from their experiences and to allow for the adoption of best practices, where appropriate for Australian conditions. This is a part of a significant ongoing research function and a research body similar to Austroads needs to be considered to enable any research program to be facilitated;
- a study that establishes the appropriate operational and service delivery standards that would be required on the national rail network for it to become fully competitive with road freight operations. This specification is critical as Governments need to be clear on where rail is now and where they want it to be in 10 years;
- a major audit of any designated national rail grid to identify what gaps exist between the existing track and infrastructure and the agreed to standards that are being sought.

Western Australia supports the commercial principles for new infrastructure and track access arrangements proposed at the Rail Summit. These must include performance obligations on the part of both service providers and infrastructure operators and owners. However these performance standards need to be recognised in the context of a system that can deliver world's best practice. However this is contingent on the national rail system being given the major infrastructure overhaul that it needs and deserves.

Department of Transport  
Western Australia

September 1997

## **DEVELOPMENTS IN RAIL SAFETY AT A NATIONAL LEVEL**

The rail safety regime in Australia, while relatively new has made significant progress in developing a consistent, value-added rail safety accreditation system for the rail industry.

It was clear from proceedings at the International Rail Safety Conference held in Sydney in August 1998 that Australia is implementing world best practice systems for safety regulation, and other countries including Canada are changing their systems based on approaches being implemented in Australia.

Nationally it is agreed that safety accreditation should be based on the following philosophy:

- (a) the administration processes to ensure safety be based on principles of co-regulation through a consultative approach and mutual co-operation;
- (b) railway owners and operators are accountable for conducting their railway activities safely. They will assess their own safety risks and ensure that the identified risks are controlled by applying technical and management standards they have proposed to accreditation authorities and demonstrated will provide reasonable safety for their type of railway;
- (c) accreditation authorities accredit and monitor the safety performance of owners and operators by consistently applying nationally agreed administration processes based on a compliance audit approach rather than a prescriptive inspection based approach;
- (d) accreditation authorities setting the minimum requirements for scope and content of safety management systems; and
- (e) accreditation authorities recognising codes of practice developed by the rail industry for national application and accepted nationally by way of a formal process.

### ***Significant achievements in Australia include :***

- Development of an Australian Standard on rail safety management (AS4292) which provides a framework for developing railway safety management systems and a basis for safety accreditation;
- An Inter-governmental Agreement on Rail Safety (IGA) signed by Commonwealth, State and Territory Governments. This provides the framework for a national approach to rail safety. Key principles in the IGA are:
  1. States to implement rail safety legislation to require:
    - safety accreditation of railway owners and operators; and
    - mutual recognition of accreditation given in other states.
  2. Accreditation to be consistent with AS4292;
  3. A mechanism for independent investigations;

4. Establishment of a national information exchange on rail accidents; and
  5. Support for the development and adoption of safety standards.
- Establishment of the Rail Safety Committee of Australia with industry representation to coordinate implementation of the IGA;
  - Passage of rail safety legislation in all States with only Western Australia and Tasmania yet to proclaim their Rail Safety Acts. Northern Territory is currently developing its legislation;
  - Effective implementation of a one-stop-shop approach for mutual recognition – several railway operators have received mutual recognition in States where legislation is in place;
  - Substantial progress implementing a national compliance audit approach to ensure no duplication of rail safety audits;
  - Establishment of a panel of independent rail accident investigators;
  - Standards, processes and systems developed for notification and exchange of accident / incident data;
  - Development of national guidelines for accreditation applications in consultation with industry;
  - Major input into progressing development of uniform operational and technical standards;
  - An independent survey of industry regarding rail safety accreditation which showed a high level of support (94%) for rail safety accreditation;
  - Substantial progress developing 'Notes on Administration' - a manual for use by all State Accreditation Authorities to ensure they consistently apply nationally agreed processes for accreditation, accident reporting, compliance audits and accident investigation. These processes are being developed in consultation with industry and will be completed by December 1998

The outcome of these and other initiatives will be a nationally consistent approach to rail safety regulation based on principles of co-regulation with accreditation of interstate operators arranged through a one-stop-shop approach by the jurisdiction in which their major operation is located.

Perceptions held by a small element of the industry that there is a lack of co-ordination, and inconsistency between States are generally unfounded and the above actions will ensure they are wrong. Most criticism of regulation when analysed, relates to problems of uniformity of standards on the national railway track system. This is the responsibility of track owners, not of rail safety Accreditation Authorities.