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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO PROGRESS IN RAIL REFORM

MRS H. OWENS, Presiding Commissioner
PROF D. SCRAFTON, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON WEDNESDAY, 28 OCTOBER 1998, AT 9.33 AM

Continued from 27/10/98

MRS OWENS: Good morning, and welcome to the second day of the public hearings of the Productivity Commission's public inquiry on progress in rail reform in Sydney. I would like to welcome our first participant to the hearings. It's the New South Wales Department of Transport. Would you like to give your name and your affiliation for the purposes of the transcript.

MR AUSTEN: My name is John Austen. I'm the principal economist, policy, for the New South Wales Department of Transport.

MRS OWENS: Thank you, and thank you for coming this morning. We have got your two-page submission summary, and I understand that you will be providing us with a fuller submission at a later time.

MR AUSTEN: That's right.

MRS OWENS: So thank you for that. That will give us some basis on which we can structure some questions. But I was wondering if you would like, John, to make any opening comments.

MR AUSTEN: I could run through basically what we plan to put in the submission and that might provide a bit of direction to the discussion, if that would be a help?

MRS OWENS: That would be a great help. Thank you.

MR AUSTEN: Okay. The purpose of the government's submission to the Productivity Commission is to give some background to rail in New South Wales, and to raise some transitional and strategic issues for the commission's consideration. The submission is structured on some background to the industry after the Industry Commission's report in 1991, and current developments, and what we see as being the major issues we're going to be facing in the coming years.

Starting with major reform since 1991, the first significant reform or the first basic reform we had after 1991 was the creation of the National Rail Corporation. The National Rail Corporation was formed under and in the governmental agreement which is backed by acts of parliament. It separates interstate rail freight from other rail activities. The corporation commenced operations in 1993 and it was an example of two main trends or key changes in the Australian rail environment. The first is a vertically separated rail operator, because it has operated without owning track since 1993, and secondly, it's the first example of a national rail operator in Australia.

The second significant change in New South Wales was the Rail Safety Act in 1993 which removed from the State Rail Authority regulatory responsibilities for rail safety. The policy purpose of that was to make it easier or to reduce a perceived barrier to entry or a regulatory barrier to entry into the rail industry. Other jurisdictions now are following suit with their own Rail Safety Acts which are based broadly on the same principles.

The third significant reform was an intergovernmental agreement on rail safety in which the jurisdictions agreed to basically a scheme of accreditation for rail safety rather than detailed regulation, and a process which is intended to lead to mutual recognition. In 1996 New South Wales had major structural reforms in which there was vertical separation in the industry; that is, the essential facilities of the industry were separated from the rail operators and placed into the Rail Access Corporation. The government-owned rail operators were split into freight and passenger, and the track and rolling stock maintenance functions were placed within a separate organisation. The main impact of the reforms was to allow for open access onto the New South Wales rail system.

The next significant reforms were in 1997, which were two intergovernmental agreements, one in September 1997 called the national rail summit agreement, and that agreement agreed to an interstate network which would be operated and managed as a single entity and as a single process for access. The November Australian Transport Council meeting in 1997 agreed that the Commonwealth would establish the Australian Rail Track Corporation, which was to be the corporation responsible for delivering the open access and single process for investment which was envisaged in the September agreement.

In summary, the reforms have left significant changes in the structure of the industry. There's vertical separation of train operations and track, there's separation of freight and passenger rail operation, and now there is explicit recognition of national level issues. While the structure has changed, the task is largely the same. The New South Wales system basically comprises four elements. There's an urban transit task, there's an interstate freight task, there's a bulk coal haulage task, and then there's a residual task or what we call the branch network.

The urban passenger task is around 270,000,000 passenger journeys a year, which is a very significant scale. It raises about $350,000,000 in revenue each year. The system itself extends to Broadmeadow in the north to Macarthur in the south and to Lithgow in the west, which makes it a very large rail system. It's all standard gauge track. The second part of the system is the interstate system which extends through the urban system and onto standard gauge lines that connect with other state capitals. That handles in Australia about 16 billion net tonne kilometres each year, and I think around 30 to 40 per cent of that is in New South Wales.

The third task is bulk freight, especially of coal in the Hunter Valley. Coal is the most significant freight task in New South Wales in tonnage terms and in revenue terms. At present there's over 50,000,000 tonnes of coal moved a year to the port of Newcastle by rail, and about 6,000,000 is moved to Port Kembla. The branch network handles traffic such as grain and minerals, and there is some minor passenger activity on it. All this network is standard gauge and that creates some unique issues for New South Wales among the rail systems.

In our reforms we have run into a number of transitional issues, and they have come about because the reforms have increased the transparency and competitive pressures within the industry, and the organisations have had to respond to those. The first group of issues comes out of the access negotiations and arbitrations and the Rail Access Regime. In New South Wales access is granted by the Rail Access Corporation. Under a Rail Access Regime that allows for negotiation and arbitration of all terms and conditions of access, including pricing. Initially there was uncertainty as to what prices would be struck. The government's view was that it was better to have those prices negotiated and arbitrated rather than to be imposed on particular traffic, and that reflects the fact that all of the traffic uses basically all of the tracks.

The access regime was submitted to the Competition Council to initiate a process of certification for effectiveness. Discussions have gone on with the Competition Council. We envisage it will be resubmitted in the near future for final certification. There will be some changes to the initial regime arising out of that certification process. I can go into those in more details, if you like.

The second group of issues relates to coal pricing, because coal, as I said, is the most significant commercial traffic on the New South Wales network. The commission's previous report indicated that coal prices in New South Wales were excessive. The previous and current government in New South Wales decided to phase out what was considered to be the excess component of coal prices over what is known as the coal moratorium period, which is referred to in the competition principles agreement to the middle of the year 2000. The way in which that is being sought to be done in New South Wales is through adjustment components in access prices. The adjustment components fall by 25 per cent a year. At July 2000 coal prices will be negotiated and arbitrated like other access prices, and under the same pricing principles.

I might have mentioned or I should have mentioned under the Rail Access Regime issues, one of the issues raised by industry with the department and with the minister was the lack of certainty as to the definitions in the regime, and views as to whether the cost capital was excessive - whether the rates of return were excessive. Those matters have been referred to the Independent Pricing Tribunal in New South Wales. The pricing tribunal will be reporting to the premier in February on those issues. That is part of the certification process. That will have implications for coal pricing in New South Wales because it will affect the end point of the transition process.

Another group of transitional issues relates to establishing relationships between vertically separated organisations. The relationships would have to exist whether or not the organisations were separated. What vertical separation does is require a formalisation of those relationships, such as train path priority, out of order running, pricing relationships; all those things are implicit in a vertically integrated organisation but in a vertically separated system they need to be made explicit. The range of things that need to be dealt with which have come up in New South Wales and also that came up in the United Kingdom is very large. The policy debate on vertical separation relates to whether the benefits of competition and contestability, which an open access system allows you, outweigh the gains and the trade-off between investment and maintenance of rolling stock and track.

The next key transitional issue New South Wales is going through is the sale of the National Rail Corporation, or more accurately the sale of the Commonwealth's equity in the National Rail Corporation. That was announced some years ago and since that announcement governments have been struggling to sell National Rail because of uncertainty as to the meeting of their obligations to the corporation under the national rail agreement. Without the meeting of those obligations it's very difficult to sell National Rail because it's uncertain what is for sale. New South Wales and the Commonwealth have currently invoked dispute-resolution proceedings to clarify those obligations. We understand they will be sorted out fairly soon by which time the sale of National Rail Corporation can go ahead.

Infrastructure maintenance in New South Wales is also an important transitional issue. Rail Access Corporation embarked on what is called a contestability roll-out program over 4 years in which various areas of infrastructure maintenance was made contestable in various areas of the state and at various points in time. At the time of the structural reform, the government created two state-owned corporations, Rail Access Corporation and FreightCorp, but the infrastructure maintainer was still a public authority for rail services. The government decided early this year that rail services should become corporatised and, in doing that, it decided to suspend the infrastructure maintenance program until July 1999.

There is a range of other transitional issues but they are probably the main ones we are facing at the moment. On top of those there are some strategic issues for which there is no clear transition process. The first strategic issue facing New South Wales is the relationship between the national system and the New South Wales system. We imagine that will also become increasingly an issue in other jurisdictions but it first comes up in New South Wales because we have all the standard gauge track. The predominant user traffic in GDK terms of the interstate lines is interstate traffic, but only to some extent.

On the south side interstate traffic predominates up to about Moss Vale. It doesn't predominate in from Macarthur into the Sydney area. From the north side interstate traffic - my understanding is it predominates to about Gosford or Wyong but it doesn't predominate south of there. So what effectively we are left with is a hole in the national network, in which interstate traffic in GDK terms doesn't predominate. In financial terms, the interstate traffic certainly doesn't pay as much as the other traffics pay, and so in economic terms it's not a predominant traffic item.

Governments want to create a national system through Australia and that national system will have to have access into Sydney. Our understanding is Sydney handles between 35 and 40 per cent of all interstate freight movements. So there is a key strategic issue as to how the Sydney system, which is basically an urban transit system, relates to a national system. At the September rail summit, ministers agreed that a plan be developed for a Sydney freight track. That will be part of the resolution of that issue, and New South Wales has drafted an initial plan for that which went to the Australian Transport Council in February this year.

The second key issue for New South Wales, because of this relationship between national and regional systems, is that the consistency in policy direction are among jurisdictions. New South Wales is affected by decisions in other jurisdictions, probably to a greater extent than other jurisdictions are affected by decisions in New South Wales. If policies are inconsistent among governments or over time, then New South Wales can have difficulties on its system and, in particular, the interface between its national and regional systems.

The third strategic issue facing rail in New South Wales, and probably throughout Australia, is what the industry calls competitive neutrality, which basically relates to whether there is fair and equitable pricing for long-distance trucking compared with what's called intermodal rail or interstate rail. That gives you a bit of a feel for where we're coming from.

MRS OWENS: Thank you very much, John, for that. I think it was particularly useful to get some of those transitional issues out and it might be a very good place for us to start. I think our interest in New South Wales comes from a number of directions, but I think one aspect is that what's happening here is a bit different from what's happening in other states. So it's a very interesting, I guess you could call it, experiment. As we've gone around other states there has been reference to what's happening in New South Wales. There's been reference to the access regime here and the safety regime and so on. I think it's interesting for us to see that you recognise that there may be transitional issues, that there is an ongoing program of adaptation and ongoing policy development that's going on within the new regime.

I was interested in what you said about the - you talked about a number of transitional issues but the first one was the access regime and you said there has been a revised version of the regime that has been resubmitted to - - -

MR AUSTEN: Soon will be.

MRS OWENS: Will be - and you said if we wanted more details we could - - -

MR AUSTEN: Yes, sure.

MRS OWENS: I don't know whether you want to go into more detail now or whether you'd like to put that into your submission.

MR AUSTEN: I can put it in my submission. I can tell you the general direction of changes by the Competition Council. The Competition Council took the view that people other than rail operators should be able to hold access rights. The government agrees with that view. It has amended its legislation to enable that. The significant policy issue is to ensure that the access rights are used for rail purposes; that is that train operations occur under access rights.

MRS OWENS: So that would allow say a coal company to run a train, if they wanted to?

MR AUSTEN: Yes, the Transport Administration Act has amended the definition of "rail operator" and it now includes people who can contract the services of the rail operator. So somebody can hold an access contract, contract out somebody - a rail operator - to fulfil the access in terms and conditions under the act.

PROF SCRAFTON: The contractor can be involved in the negotiation.

MR AUSTEN: Yes, we imagined that would have happened - - -

PROF SCRAFTON: Anyway.

MR AUSTEN: - - - anyway, but the Competition Council thought it was better to make that explicit. Our issue with that was that the allocation of access rights, if they're defined as train paths, needs a degree of expertise which is probably only found in a rail operator rather than a person who thinks, "I'd like to own a train path." The train path will have to reflect the train specifications and speeds and origins, destinations, height dimensions, out of order running type issues. So we were strongly of the view that since we want access to be used for rail purposes, we would need a rail operator involved in these negotiations.

MRS OWENS: I suppose if you're a coal company it gives them the opportunity to do the negotiations in a subcontracting sort of arrangement.

MR AUSTEN: Sure.

MRS OWENS: They get to sit at the table and get involved in those negotiations which will have a direct impact back on their costs. So that's the main change?

MR AUSTEN: That's one of the main changes. Another significant change is greater information requirements placed on Rail Access Corporation to provide information to the access market on what's available, what time - you know, what their expectations can be.

MRS OWENS: That's really to enable greater transparency, is it?

MR AUSTEN: Yes. The other significant feature is the reviews by the Independent Pricing Tribunal of the costs of rail safety and the definitions of the pricing principles, the rate of return and asset valuation matters, which although they are not picked up precisely in the regime, those reviews are associated with certification of the regime.

MRS OWENS: I think if you can give us some of that detail in your submission, that would be very useful for us. One of the other areas you talked about was the relationships between vertically separated organisations, and trying to weigh up the benefits and the costs of providing more competition and accessibility and the gains from having a sort of vertically integrated arrangement where you can coordinate the investment in rolling stock and so on.

MR AUSTEN: Yes.

MRS OWENS: I think in Western Australia they have done that calculation and I think it has come out the other way, and their argument is that the calculation can differ, depending on the state, depending on the circumstances.

MR AUSTEN: I think that's probably right. In New South Wales, because all of the traffics use all of the network, we have this question of who is the predominant user of various parts of the network, how to allocate access rights among the various users. That issue doesn't arise in the Queensland urban system. In the New South Wales urban systems we have to allocate rights to interstate trade, to long-distance passenger trains including private operators, to the urban traffic and to bulk commodities such as coal, which is held in the middle of the metropolitan area on a freight-dedicated track but has to traverse the passenger tracks to get to Port Kembla. So we have got a more complex equation on the same set of tracks.

PROF SCRAFTON: I would just add my thanks too, John, for the outline that you have given because it just helps us a little bit. There are a lot of questions obviously that arise, and New South Wales is an interesting model in that it is different from what is happening in some other areas and it has been in place for a couple of years plus. So thanks for that.

The other thing that perhaps we ought to mention by way of introduction is that in your notes you talk about other reviews and other studies and I guess by way of introduction we need to, not exactly apologise because the treasurer tells us what we have to do, but we recognise that there is an additional burden. It followed on from the House of Representatives and the black coal inquiry, both of which were very important to New South Wales, but we say to you that we do have the submissions that you made to those organisations and access to the transcript. So we would be more interested in picking up on the sort of developments in the last year or so since I guess the state would have made its submission to the House of Representatives in the 6 months or so since you last appeared before them.

One of the things that I would like to ask you is a fairly straightforward question. What exactly is the role of DOT and your office in particular in relation to this package of reforms? It's an enormous compass that you've got and how do you fit into all that as a department?

MR AUSTEN: The department as a whole is more at arm's length from the rail entities than it used to be. Probably the best example I can give for that is the National Rail Corporation in which the department plays what could be called an active shareholder's role; that is we meet with the corporation every quarter to discuss the corporation's issues, whether they have particular issues with the access or operations in New South Wales; what the government can do to help them as a government or as a shareholder - they're looking to us to provide advice.

Extending beyond that to the entities which are closer to home, we also have a shareholder or portfolio interest in those entities. We are responsible for the safety regulatory framework. We have contracts for CSOs with FreightCorp, State Rail and Rail Access Corporation and my particular area takes an overview of policy in the context of national transport and national competition policy as distinct just from rail policy. So the driving forces of rail policy aren't solely rail issues. They're wider national issues - where do we fit in the national transport system; what are we required to do to fulfil the competition principles agreement and other intergovernmental agreements we've entered into?

Probably the most recent example of that is the discussion about this competitive neutrality issue, which in previous years may have been an argument by the rail industry to seek direct subsidies. It's not that any more. It's about what is the optimum land transport policy for Australia and, as an important subset of that, for New South Wales. Again because we have the standard gauge track we are more exposed to that type of issue than some of the other jurisdictions.

PROF SCRAFTON: Thanks for that.

MR AUSTEN: I will just explain that exposure. The Specialised Container Transport sought a declaration of access over certain New South Wales rail track, and they were granted that declaration fairly readily on the view that the standard gauge track is clearly an essential facility of national significance, which was our judgment at the time - before the structural reform. We thought the track would be subject to declaration.

PROF SCRAFTON: Could I ask you a specific question related to that. In the House of Representatives recommendations they recommended that we take a reverse onus approach to the matter of declaration. As it stands now, if the NCC makes a recommendation to the federal treasurer or to a state premier, if the recipient does not respond within, I think it's 60 days, then the recommendation in effect fails or is left in limbo. The House of Representatives recommended that that be reversed, and unless the appropriate federal or state minister does respond, then the recommendation should stand. Have you in New South Wales considered your reaction to that recommendation, or is it something that you - - -

MR AUSTEN: No, we haven't, but might I point out there that the declaration process applies to more than railways, so that the issues which would come up would go across all industries, and it would also go across the private sector. I understand there's a declaration process at the moment between the Robe River railway and one of the - - -

PROF SCRAFTON: That's right, yes.

MRS OWENS: And Hamersley.

MR AUSTEN: Yes. We might form a view in the New South Wales Department of Transport on rail issues, but whether that's an appropriate view for the whole of government is a different issue.

PROF SCRAFTON: Yes. It would be a government line - - -

MR AUSTEN: A government sort of thing.

PROF SCRAFTON: Sure, I understand that. Thanks for that. It was simply that it fell out of your comments there, and we'd just be interested in seeing where that falls. One of the things you pointed out earlier is that in New South Wales you do have a regulator in IPART, and some other states are beginning to establish them, as they need to do, and set up their access regimes. But IPART is now a well-recognised and good example of what a state can do, and as you mentioned, some matters are referred to them, I think, under the legislation and the premier refers other matters as he deems appropriate. I think that's the way it's done.

Just before we get away though from the role of DOT, when we were talking yesterday to Freight Rail, they pointed out that they have shareholder ministers, as well as certain responsibilities to your minister. How exactly does that work?

MR AUSTEN: The three New South Wales rail corporations, the New South Wales government-owned rail corporations, come under the State Owned Corporations Act. The State Owned Corporations Act sets up two shareholding ministers and a portfolio minister. The shareholding ministers are responsible for the shareholding, financial performance of the organisation. The portfolio minister is responsible for the portfolio-type issues - transport issues. In FreightCorp the shareholding ministers are the treasurer and the minister for sport and recreation.

MRS OWENS: Why the latter?

MR AUSTEN: There's no particular reason, as I understand it. There's just the treasurer plus one minister. That's what is in the legislation. In the case of Rail Access Corporation and Rail Services Australia the shareholders are the treasurer and the premier, and only the State Rail Authority is not a state-owned corporation.

PROF SCRAFTON: Right.

MR AUSTEN: The State Owned Corporations Act has specific reporting requirements, requirement for an independent board, corporate governance procedures, and it provides for a power of direction by the portfolio minister, with the approval of the treasurer, only in three groups of circumstances. One is what they call exceptional circumstances, the second one is public policy direction, and the third one is a public interest direction. I'm not exactly sure which one is the exception, but under two of those there's a requirement to compensate the corporation for a direction which the board doesn't consider to be in its interests. So there's a formal process. The direction is laid in the parliament, it also has to be, in the public interest direction, gazetted. The amount of compensation has to be identified. So it's a corporate type of structure.

MRS OWENS: Has that power of direction been used?

MR AUSTEN: In the case of Rail Access Corporation it was used for the suspension of the contestability program.

MRS OWENS: What was the suspension of the contestability program?

MR AUSTEN: That was the track maintenance program.

MRS OWENS: That you talked about before?

MR AUSTEN: Yes.

PROF SCRAFTON: Together with the appropriate compensation.

MR AUSTEN: In that case compensation wasn't paid. I think it was adjudged that - the direction was that they would negotiate with Rail Services Australia on the benchmarking process, so that they would be at least as well off.

PROF SCRAFTON: Thanks.

MRS OWENS: IPART was going to be held responsible for benchmarking.

MR AUSTEN: Yes. I can get you a copy of the direction.

MRS OWENS: I think we're both a bit puzzled as to why all of that happened and why there was a move away from contestability at the time. Are you able to fill us in on that?

MR AUSTEN: Not really, except that Rail Services was being corporatised.

PROF SCRAFTON: Right.

MRS OWENS: But what it's doing is basically giving them, in the short term at least, a monopoly position. Isn't that right?

MR AUSTEN: It's extending that period of their monopoly position.

MRS OWENS: But they initially lost that monopoly position for a short period, and there were other - - -

MR AUSTEN: On a couple of bits of - - -

PROF SCRAFTON: And also those contracts still stand.

MR AUSTEN: Those contracts stand.

MRS OWENS: Yes, but others couldn't come and contest maintenance contracts until - what is it - July next year?

MR AUSTEN: July, yes.

MRS OWENS: I can't understand why they went backwards on that.

MR AUSTEN: I don't think they went backwards. They thought it was necessary to corporatise Rail Services.

PROF SCRAFTON: To provide a breathing space within which RSA could get its act together and compete more effectively.

MR AUSTEN: Yes.

MRS OWENS: So that's the objective.

MR AUSTEN: Yes.

MRS OWENS: Just to give RSA a bit of time.

MR AUSTEN: Yes.

PROF SCRAFTON: Given that the range of things you've raised with us, John - a superb list - and we only have an hour and a half; I apologise in advance if we seem to hop about a bit, but when you say things it reminds us of issues that are important to us. I wonder if I could ask you about CSOs. You mentioned that there are separate CSOs to State Rail, Freight Rail and RAC. Are they administered by your department?

MR AUSTEN: Yes.

PROF SCRAFTON: Could you just tell us a little about them? Freight Rail told us yesterday that they have CSOs for country freight lines, is that right, or country lines in general?

MR AUSTEN: Country freight services.

PROF SCRAFTON: Country freight services, right.

MRS OWENS: I think they were talking about branch lines, particularly for grain carriage.

PROF SCRAFTON: Is that right? We just want to clarify it.

MR AUSTEN: I'll have to look into that more carefully, because I don't have the numbers off the top of my head. But there's conceptually four types of these CSOs. There's one for country freight services, one for country passenger services, there's one which is meant to provide for the maintenance of the track so that an operator can come along and get to use the track without having - - -

PROF SCRAFTON: Is that the one that goes to RAC?

MR AUSTEN: That's the one that goes to RAC. Then there's the CityRail CSO. The CityRail CSO includes what CityRail requires to pay RAC for track maintenance.

PROF SCRAFTON: Could I just think aloud a little on that. Is the idea with the RAC ones that it will help keep the access rate down to a reasonable level that will ensure the viability of the above-track operator?

MR AUSTEN: Yes. The way that came about is that railways have a high fixed cost, and there's a difficulty in attracting, or in getting the first train onto a piece of track if they're going to be paying what's an avoidable or marginal cost because they're basically picking up all of that fixed cost for the first train. The second train that comes along faces a much lower marginal cost, a marginal cost pricing.

PROF SCRAFTON: If that's (indistinct)

MR AUSTEN: That can create instability among the trains as the people on the first train all move to the second train where they get a cheaper price. So the purpose of the CSO is to ensure that the tracks are maintained and that those prices can roughly relate to market levels, as distinct from having a very large price for the first train and a very small price for the second.

MRS OWENS: Would there come a point, as new entrants came into a line, where you would conceivably reduce the CSO?

MR AUSTEN: Yes.

MRS OWENS: Is that part of the policy direction?

MR AUSTEN: Yes.

MRS OWENS: Those CSOs will be reduced, as in the UK?

MR AUSTEN: Yes. They're reduced over time. But that will be a process of getting people onto the track, because railways require a fairly high establishment cost, or significant railways have a high establishment cost. One of the criticisms of reforms in Australia - and I think also when they first happened in the United States and in the UK - was that it took a while for new operators and new operations to emerge, and that seems to relate to the high start-up costs.

PROF SCRAFTON: The freight rail line which is given for services, are they granted by service? That is, the total amount paid to the company is broken down; that you yourselves as the provider or the - - -

MR AUSTEN: I'll have to check that. I presume it is, but there are several ways of breaking it down. You can break it down by train or by product, or by service, which is sort of a train product, but I'll check that.

PROF SCRAFTON: Thanks for that. Just take that on notice. In that case, would those subsidies - I shouldn't use that word - CSOs now or in the future be contestable, do you think? They seem to me to be eligible to be contestable.

MR AUSTEN: The government's current policy is not to be contestable.

PROF SCRAFTON: Right. I wasn't necessarily trying to pin you down on that. It's just that some CSOs that are given will be capable of being contestable, but others - such as the one if you have a monopoly track provider and you have a policy of providing subsidies in that direction - well, then the contestability appears through the contracting, the thing you were talking about earlier.

MR AUSTEN: Yes.

PROF SCRAFTON: I think that's one reason why the policy - and that's why, in talking to you in New South Wales, because you've done all these things it's sort of pushing the envelope forward a bit all the time, so I hope you won't mind us doing that. It's just that you've got experience now of these arrangements. They're evolving, transitional arrangements as you pointed out, but at least it is an area in which it is a government - stated within which one can explore some of these options. So that was the reason I asked the question.

MR AUSTEN: Yes. The effect of giving line CSOs is to make at least some of that - like the above rail thing is contestable because all operators can take advantage of it.

PROF SCRAFTON: And obviously there are considerations of regional development that enter into it.

MR AUSTEN: Yes.

PROF SCRAFTON: And regional impact and so on. Those are part of our terms of reference, too, so it's an important example.

MR AUSTEN: Yes. The government's specific policy objective with relation to that is to keep the existing lines open, and it's also instituting a program through which it's exploring whether some of the closed lines or disused lines can be reopened.

PROF SCRAFTON: We heard yesterday, just as an aside, from a financier that is involved with assisting some of the smaller companies and so on, so I'm sure that in broad terms he and his clients would be encouraged by that; just the feeling that, whereas 5 or 10 years ago one might have given these lines away as a dead loss, there are opportunities there, and presumably these CSOs will help hold the line for a while to see whether or not that scenario can eventuate. Thanks for that.

Is the same principle also true for country passenger trains? Is that the underlying principle there of subsidising them, because my understanding is that they are very heavily subsidised. The CSOs are a very high proportion of the operator's revenue. Let me put it like that.

MR AUSTEN: Yes. I'm not clear on the nomenclature, but there's a pricing and a service component of that CSO, and as I understand it's a significant amount that relates to pricing, which is fares, but I can find out for you - - -

PROF SCRAFTON: Thanks for that. If you would just take those on notice, they're some of the things that we would be interested in. Just one last question on CSOs relates to the urban railway. Is that also by service, or is that just network-wide?

MR AUSTEN: I'll have to check that.

PROF SCRAFTON: Thanks for that. I realise it's a rather different ball game, as you said earlier, it's massive - thanks for that.

MR AUSTEN: One of the things with the urban railway though was that the track costs are now transparent through Rail Access, so the level of transparency to government has improved considerably through creating the Rail Access Corporation, including the urban system.

PROF SCRAFTON: Yes. I think in some informal discussions that we'd had with various organisations before starting the formal hearings, the possibility was put forward that one could look forward to the day when all above-track operations were viable, if one takes into account CSOs which are delivered and paid for by the home government, and that the long-term issue relates to the viability of track. Do you think that's right? Do you see that?

MR AUSTEN: I haven't thought about that one terribly carefully yet. The general direction or the general strategic policies are to keep open the network, but to try and improve the core bits of the network - that is these two intergovernmental agreements - because in New South Wales the core bits of the network are used by the regional traffic. So if we can improve that and improve access into Sydney, which is the origin and destination of most of their stuff, then that's going to be helpful to the regions as well.

PROF SCRAFTON: Again, I apologise if some of these questions are fairly specific, but because you raised the issues it raises interesting questions for us. One is that we've heard from a lot of people who have appeared before us, and in their submissions, and those who have not yet appeared , this talk about the $3 billion that is required to get the nation's network up to pitch and so on, but the first $250,000,000 offered by the federal government is a pittance and so on. But in New South Wales would a lot of the priority, if a third party was to come in and provide some of that capital infusion in the form of grants or whatever, be in resolving this Sydney problem?

MR AUSTEN: Sydney problem, yes.

PROF SCRAFTON: Would that reflect in your first submission which I guess people are evaluating now?

MR AUSTEN: Yes.

PROF SCRAFTON: Would it? Yes.

MR AUSTEN: The Sydney problem, as we see it, is basically a hole in the national network. As the Sydney area expands and as urban traffic grows - and we're getting reasonable growth in urban passenger traffic and we expect to get stronger growth - the availability of the constrained infrastructure is going to get less and less.

PROF SCRAFTON: Yes. So that despite the fact that one might look to the costs of providing an exclusive freight track parallel to the line from Strathfield to Hornsby or something, one might look at that and think that it's an expensive and difficult proposition. In the longer term, if there is a future for rail in the long-distance business, then these projects obviously have got a very (indistinct)

MR AUSTEN: That's why we've put these in the strategic - they're not transitional issues that are natural - working its way up.

PROF SCRAFTON: That's right. Yes.

MR AUSTEN: But the issue with the interstate freight is that the benefits, or the environmental and social benefits of rail, we'd expect them to largely occur within the urban areas because of population and the ability for them to replace a limited range of trucks. Access into Sydney rather than construction of terminals at the outskirts of Sydney or interchanges from rail onto road at the outskirts of Sydney would appear to be a strategic issue for us.

PROF SCRAFTON: Yes.

MRS OWENS: You mentioned that there was some agreement at the summit, some sort of plan, in your opening comments.

MR AUSTEN: Yes.

MRS OWENS: So there is something that's available that is going to go to ATC.

MR AUSTEN: Yes, there is. That's already been to ATC.

MRS OWENS: It's been to ATC.

MR AUSTEN: Yes.

MRS OWENS: So there is something there. Has it been costed?

MR AUSTEN: Yes.

MRS OWENS: So it's really just a matter of who - - -

MR AUSTEN: It has been sort of broadly costed, not costed in great detail.

MRS OWENS: But the question is whether it's going to be funded either with 250 - I don't have any feel for what the overall cost would be. I suppose it's which direction, whether you do have these interchanges on the outskirts or whether you try to do something through Sydney, but what happens now? What's the next stage on that?

MR AUSTEN: The next stage is that the New South Wales government will be talking to the Commonwealth about it, and raising it at ATC.

PROF SCRAFTON: Access to the port, of course, is another issue - - -

MR AUSTEN: Yes, access to the port.

MRS OWENS: That 250 could be spent many many times over.

MR AUSTEN: Many many ways.

MRS OWENS: We've also heard from others that the priority should be the track from Melbourne to the South Australian border, and there are other priorities - Albury Park - there are a whole lot of other ideas floating out there. I'm not quite sure where this one sits in the overall pecking order. Have you got any - - -

MR AUSTEN: No, I haven't.

PROF SCRAFTON: To say nothing of what I might call the "big projects". You know, the big spending sort of Alice Springs-Darwin high-speed train projects and all this sort of stuff.

MR AUSTEN: Yes.

PROF SCRAFTON: Which we should mention, John, are not directly part of our terms of reference because there is this expert group looking at those major projects.

MR AUSTEN: Yes.

PROF SCRAFTON: Nevertheless, of course, the availability of capital to sustain all this work is an important consideration given the sort of priorities that you have identified. I appreciate getting that on the record because to many people living in the rest of Australia just sort of pouring more money into Sydney doesn't look all that great, but your point is well taken; that it is the focus of the network and if you do want to have - it's no good just talking about having a national network unless you're prepared to face up to and resolve the business of access to, through or bypassing Sydney - whatever it takes. Yes, thanks for that.

Could I just look at another issue in relation to this relationship between sort of national and regional use, as well as the competitive neutrality. What is the New South Wales government's position - or maybe it hasn't been developed yet - or your department's view about this talk about a National Transport Commission?

MR AUSTEN: We're still developing it. I think we're favourably disposed towards it, towards a Land Transport Commission. I think it will be discussed at the forthcoming ATC.

PROF SCRAFTON: At the next ATC, yes. So by the time our inquiry is finished there should be a clearer picture about that.

MR AUSTEN: Yes.

PROF SCRAFTON: But would that involve having some responsibility in some way for looking at investment for transport more generally in Australia? Often they talk about using the NRTC, but the NRTC has no investment - - -

MR AUSTEN: I wouldn't know, but I know that there is a fair bit of talk about harmonisation and uniformity at a conceptual level. I'm on the ATC's group of rail officials, called the rail group, which is looking at some of these things. Uniformity and harmonisation, if they're going to be achieved, will come at a cost. Uniform regulations, if they are to work, are going to come at a cost. To some extent it might be more true in rail than it is in road that the regulatory - uniform regulation is going to have investment implications.

PROF SCRAFTON: So whether or not a proposed National Transport Commission was to get involved in broader issues of investment, that at least there's a useful role in this area which is parallel to the NRTC's role on road.

MR AUSTEN: When people talk about uniformity it depends precisely what they're talking about. If they're talking about cab design then that may be relatively easy. If they're talking about uniform signalling systems or uniform over-railroad structures, that's probably going to be very expensive. For example, in the Sydney area you wouldn't have electric wiring; that type of thing is really not on.

PROF SCRAFTON: That's right, so if one is talking about a double stacking, it's one thing about applying that in rural railways, but it's another thing in the Sydney metropolitan area.

MR AUSTEN: Yes. When people say there's a uniformity agenda, and harmonisation and all that type of thing, you need to understand pretty carefully what exactly we're making uniform and what we're harmonising.

PROF SCRAFTON: Yes.

MRS OWENS: Has that been defined in these processes? Is somebody thinking about that?

MR AUSTEN: They're looking at operating protocols and safety-type, safe working operating protocol issues. The exploration of how far they get into track and infrastructure conditions - I don't know whether that's been fully explored yet.

MRS OWENS: This commission could look at those sort of issues - I'm just trying to establish what that commission could do; what its role would be. Part of its role could be looking at these issues of uniformity, harmonisation, safe working, signalling, etcetera. Part of the role could be to look at the relative investment - the proposals, road versus rail - and try to get an integrated land transport system that makes sense across the country.

MR AUSTEN: Yes, there are a number of proposals around for what a Transport Commission could do. I don't subscribe to any of the particular models, but there's - - -

MRS OWENS: Tell us what you subscribe to.

MR AUSTEN: I won't speculate on it, but there's a regulatory-type thing saying what we need to do is have uniform regulations; another has it that we need to equalise, or make equitable playing fields; another one that says we need to have a national transport plan which the commission would implement; another says the commission should develop a national transport plan. So there is a whole range of different ideas floating around.

MRS OWENS: It could do all of them.

PROF SCRAFTON: It might. I guess the problem arises when we hear people talk about the Commonwealth government giving leadership and so on, and an organisation like this creating a plan and so on, but it's not quite as easy as it sounds, is it? I think even one of the groups that your department was involved with in the rail group - that is to develop a rail model - it sounds easy but - - -

MR AUSTEN: It's not easy.

PROF SCRAFTON: No. So we would just - - -

MR AUSTEN: We're probably more aware of that in New South Wales than in some of the other jurisdictions because one of the key reasons the rail model is difficult to develop is because it's a network, a national network. In New South Wales, because it's all standard gauge track, we've got this network problem facing us right now. People are now, as they're exploring a national network, saying, "There's a network issue."

PROF SCRAFTON: You understand that because it's an issue which you have regionally already.

MR AUSTEN: Yes.

PROF SCRAFTON: I think that's true. Victoria and South Australia and Western Australia have gone quite a long way towards separating out the standard gauge tracks, simply by the way in which they required gauge change in order to bring the standard gauge in, in the first place. Queensland, of course, is not an issue in that case. Yes, good. Could I ask you about privatisation; whether you feel that the privatisation which is occurring - you mentioned NRC and there is the sale of Westrail and B-line Freight and we've already got smaller railways in South Australia and Tasmania - do you think that's going to make a difference to the strategy that will face rail in the fairly near future?

MR AUSTEN: I think it brings probably into sharper focus some of the competitive neutrality issues that rail people say they face, but that's probably the most obvious thing that has come out from the privatisations of AN and the proposed B-line and Westrail. The price depends on what's being offered and what are the operating additions, and what's the likely competition, and what's the government's sort of policy for competition and for other modes? That's about all I can say on that, I think.

MRS OWENS: Does it bring it into sharper focus here in New South Wales, as it has in WA? In Western Australia they looked around, saw what was going on around Australia and said, "Well, it's going to make it very difficult for our freight business - Westrail freight business - to survive or compete in this new environment, and so we're going to privatise it." That thought process hasn't taken place here?

MR AUSTEN: Not really, no. The privatisation issue in New South Wales has really been about National Rail. What are the conditions needed to successfully privatise National Rail? Out of that has come fairly centrally this competitive neutrality argument, but that's more of a strategic argument, and the primary problem has been their obligations under the national rail agreement; you know, with governments meeting those, stocking National Rail with the assets that it's supposed to have, and fulfilling its agreement.

PROF SCRAFTON: I think the pressure for privatisation in any case of what are currently government-owned activities will be somewhat bottom-up, rather than - in some cases they may be ideologically driven from the top, as they were in South Australia, for example, where the federal government made a policy decision that that was what it was going to do. But in Western Australia I have a strong impression that the privatisation decision, if it comes to that, is actually driven more by the corporatised, or in that case, commercialised organisation feeling that if it wishes to compete more effectively interstate, that privatisation is the way to go.

That seems to be the recommendation that they have come to and, I guess, that in New South Wales, if that was to occur - it is a little way down the track, but you already have your government organisation like Freight Rail - looking around at FreightCorp, sorry - looking around at opportunities interstate and in the same way as these other railways are looking at opportunities to come into New South Wales.

MR AUSTEN: That was an important part of the reforms which I have overlooked again this morning - that the restriction on operating interstate was moved from FreightCorp and also from Rail Services. Rail Services has won some contracts to do some signalling work for the ARTC.

PROF SCRAFTON: Yes. When one puts all of these reforms together we can see the picture change fairly quickly.

MR AUSTEN: Yes.

PROF SCRAFTON: Thanks for that. It raises another issue, specific to New South Wales, that in some of the submissions we have received - and certainly the black coal submission received and, I think, probably the House of Reps, too - the point is often made that it is more difficult to get into New South Wales to obtain access in New South Wales than in other states - - -

MR AUSTEN: Yes.

PROF SCRAFTON: - - - and yet the regime is in place to allow that access to occur. Do you have any reaction as to why that is? I mean, we will hear undoubtedly from people why they think it is, but I wonder - - -

MR AUSTEN: I don't know. I haven't thought about it all that much - in terms of why it is more difficult. We have tried to reduce barriers to entering New South Wales as much as possible through being the first jurisdiction to have rail safety separated out through vertical separation and corporatisation of rail access and transparent accounts are a reliance these days. It may be that the expectations of access into New South Wales are higher because we have got standard gauge track and there is more standard gauge rolling stock around or because we have got a bigger system or because we have got more people in New South Wales. I mean, I really don't know.

PROF SCRAFTON: Or maybe because a lot of the business is actually contractually tied up, too.

MR AUSTEN: Yes.

PROF SCRAFTON: It may not be the regime, as such, but the fact that the regime does create a flexibility but once you have that flexibility you will get more direct contractual relationships.

MR AUSTEN: Yes.

PROF SCRAFTON: You mentioned that the safety regime was, I think, the first one to be established. Again, we seem to hear that it is also the one that causes people a lot of trouble and you mentioned that other states had set up their regimes basically using the New South Wales regime as a model but it is a perception from some of the submissions that we have received that also New South Wales is the toughest. Do you think that that is - - -

MR AUSTEN: I am not a safety expert so I couldn't really - - -

PROF SCRAFTON: Neither am I.

MR AUSTEN: - - - comment on that. I imagine that the New South Wales safety people would have a particular view on that, and other people would.

PROF SCRAFTON: Yes. You might just take that on notice for us and see - - -

MR AUSTEN: An important piece of context in that is that an accreditation on standard gauge - if there is a generic standard gauge accreditation it applies throughout all of New South Wales and if there is an accreditation to operate in Sydney it operates in one of the most dense traffic railways in the world, so the operating conditions may be - - -

PROF SCRAFTON: Tougher.

MR AUSTEN: - - - tougher, but there may be a very good reason for that.

PROF SCRAFTON: Sure.

MR AUSTEN: Similarly, the type of infrastructure we have got in New South Wales was built at the standard gauge and it may be older so the alignments may be older; the bridges may be older and we may not have - presumably when they have done the gauge standardisation they have done it on more modern principles than when the New South Wales track was built and so people might be thinking, "Well, how come it is - you know, the New South Wales stuff is really old?" The answer is, because it hasn't been standardised as recently as some of the standard gauge in other states; similarly, the signalling systems and things - so there may be historical factors behind this - - -

PROF SCRAFTON: So that mutual recognition may in fact not be quite so easy to implement as the policy would have.

MR AUSTEN: Again, I think the key question is going to be exactly what has been recognised. It is like the harmonisation thing; it is very good to say that we are going to have a uniform network but all the uniform network has electrical wiring over the top of it.

PROF SCRAFTON: Right.

MRS OWENS: Probably not. Is that going to be economically viable?

MR AUSTEN: But then if you are not going to have electrical wiring over the uniform network the question is: how do you get into Sydney from Broadmeadow, which is 180 kilometres north?

PROF SCRAFTON: Right.

MR AUSTEN: They are pretty substantial issues which are coming up and people say, "Well, uniformity, harmonisation - done", and I think there is - - -

MRS OWENS: It is not as important.

MR AUSTEN: I think there is a fair bit of detail in all this stuff and I wouldn't be surprised if that was the case with mutual recognition and safety.

PROF SCRAFTON: Right, and maybe with access regimes, too.

MR AUSTEN: Maybe that, too.

PROF SCRAFTON: I mentioned earlier that one of our terms of reference relates to the regional and workforce aspects of railway reform: the workplace impacts are fairly well documented but if you have any experience of the impact on regional New South Wales of the reforms that have taken place we would certainly be interested in hearing of those. You have mentioned some already; you know, the CSOs that are in place and so on.

MR AUSTEN: Yes.

PROF SCRAFTON: But one that comes to mind is the way in which you have manufacturing, railway manufacturing, installations in country towns, some of which, I guess, have been reduced but new ones have sprung up elsewhere.

MR AUSTEN: Yes.

PROF SCRAFTON: In reporting back to us if you could just give us a feel for the sort of incentives that might have to be put in place to allow that to happen. The Department of Regional Development - or whatever it might be called - might play a role there, or even local councils in giving rate rebates or - - -

MR AUSTEN: Yes. One of the more interesting things happening with the regions is growth in terminals around country New South Wales, and it is not just FreightCorp who are building terminals, although FreightCorp has a specific plan to build terminals around regional New South Wales. There are a number of people building rail terminals, which I think is a reasonably good sign for the rail industry and also for those regions.

PROF SCRAFTON: So where are they?

MR AUSTEN: There is Bathurst, Blayney - I think there is Junee, I think there is one at Wagga. A lot of them are springing up; they are not particularly large by, say, Sydney standards, but they weren't there before.

PROF SCRAFTON: And it may be important to the local community.

MR AUSTEN: Yes. I will check some of the regional - - -

PROF SCRAFTON: Thanks for that. I think we heard in discussions with one of the freight forwarders in Melbourne that it had established one in Parkes - was it Parkes? Yes, that's right, and perhaps even more significantly, may well have some influence in determining the level of rail freight activity that continues in that regional area.

MR AUSTEN: Yes.

PROF SCRAFTON: I just have one other question and it goes back to something we talked about earlier on access. Maybe it is premature to ask this question but, given that we have different access regimes and given that there is the potential for mutual recognition, do you think there is a need for a rail regulator in Australia rather in the way that the British have that - whatever it is called. I think it is called "the rail regulator" or something - - -

MR AUSTEN: I will have to take that one on notice. I know that the competition principles basically envisaged no industry-specific regulators, but an economy-wide regulator.

PROF SCRAFTON: Yes.

MR AUSTEN: In the UK, as I understand it, the initial reason for having a regulator was to provide a determinate price for the franchises which were being sold and, to get a determinate price, you need an access price.

PROF SCRAFTON: Yes.

MR AUSTEN: In New South Wales the access price - negotiate and arbitrate - until negotiate and arbitrate comes through, the price is not determinate.

PROF SCRAFTON: Right, so if the negotiate and arbitrate process tends to dominate, you probably never would require - given that you have the state regulators, the independent state regulators, to handle that arbitration process.

MR AUSTEN: Yes.

PROF SCRAFTON: I ask the question specifically because in some submissions people do make that recommendation. One of the problems - - -

MR AUSTEN: If I can just interrupt there?

PROF SCRAFTON: Yes, go ahead.

MR AUSTEN: One of the things in the competition principles agreement which I didn't mention was that government business enterprise are now subject to all of the business laws, such as the Trade Practices Act, and in New South Wales the Fair Trading Act, as well, so if there is a view that there is monopoly abuse or abuse of market which infringes the Trade Practices Act, the VACCC is the relevant place, quite apart from what acts under the New South Wales access regime and I don't know whether that is the case in the UK.

PROF SCRAFTON: No, I don't either but, I mean, they have some role but you are quite right, it may not be that clear. The comment I was going to make is that some of these problems arise because whereas in most of the other infrastructure areas like power and roads and so on, there is a formal intergovernmental agreement that governs them but there is no real equivalent to that in rail.

MR AUSTEN: No.

PROF SCRAFTON: The sort of agreements that were made in ATC and so on are interministerial, intergovernmental, through the ministers, but these are COAG formal agreements, aren't they, and they do tend to spell out more clearly the responsibilities of the agencies but, in real, that seems to be emerging the way that you have described.

MR AUSTEN: Yes. I might say that rail is probably a little bit more of a difficult industry than some of the others and New South Wales probably shows that clearest in that there is a multiplicity of outputs from the same infrastructure; the same infrastructure serves quite different transport markets and not only in the sense of different locations of end-customers, like electricity has different - but also completely different markets like urban transit and containerised trade, and so the question of putting over an all-knowing regulatory intergovernmental agreement is probably a bit more difficult in rail than in some of these other industries.

PROF SCRAFTON: Which is probably why they didn't do it.

MR AUSTEN: Yes. I understand it has been pretty difficult in some of the other industries, as well, but for rail it is just - there are so many different types of outputs, as well, as this origin and destination stuff that the other infrastructure industries have.

PROF SCRAFTON: Which in turn reflects in the fact that you have to have separate pricing regimes in effect for each of those different traffics - - -

MR AUSTEN: Yes.

PROF SCRAFTON: - - - and then when you add to that social and environmental aspects which government then has to take on board - - -

MR AUSTEN: Yes.

PROF SCRAFTON: Again some of these thoughts cause me to move in different directions, but one is - I remember from the urban transport inquiry of the then Industry Commission, how cheap it was for pensioners and seniors to move about in New South Wales. Is that still true?

MR AUSTEN: Yes.

PROF SCRAFTON: And that is government policy and it is picked up in these CSOs that you describe.

MR AUSTEN: That is all the same - I think that that is part of the pricing CSO.

PROF SCRAFTON: Right, so the situation is still the same: you can come from Katoomba for a dollar or something?

MR AUSTEN: It wouldn't be that, I don't think.

MRS OWENS: I'm going to retire to New South Wales actually.

MR AUSTEN: Pardon?

MRS OWENS: I'm going to retire to New South Wales.

MR AUSTEN: You are welcome to. It's certainly within what we call the inner metropolitan area, yes.

PROF SCRAFTON: So that it's still in place. Helen, I think that's all that I've got on my - - -

MRS OWENS: Thanks, Derek. I was just going to return to the issue just very very briefly of competitive neutrality, and from where you sit what do you think the key competitive neutrality issue is vis-a-vis roads? Is it the fact that the government is reducing the diesel fuel excise? Is it the different access arrangements? Is it the different regulatory arrangements for drivers? What is it that you think is the key issue?

MR AUSTEN: If I can preface it. The key issue - it may be the key cause of it - you may not be able to address the cause, but I think that the root causes are the different cost recovery pricing arrangements for the infrastructures. It might be appropriate that they do have different pricing and cost recovery arrangements but out of that the question is, in aggregate terms, is one advantaged against the other because they have different pricing arrangements?

MRS OWENS: Have you done work on that issue in New South Wales?

MR AUSTEN: Not extensively, no. The key area in which that will show itself is in - rather than looking at a specific mode it's probably better to look at a transport market because - and particularly one of the things that's coming out of the corporatisation and privatisation of rail is the participation in the rail industry of truck operators and rail people looking at trucking activities, which is starting to blur this boundary between road and rail. That's why I think there's this emerging debate about competitive neutrality, about where that blurred line should be.

So the view of the rail industry is that the charges within roads are structured to advantage the heaviest and longest distance trucks, which is the most exposed market sector of rail. So rail basically has a reasonably well captive urban transit market, a reasonably captive bulk commodity in the short to medium haul market but a wholly exposed intermodal sector which is containerised freight, and the rail industry says it's the trucks which compete against them in that highly exposed sector which are the ones which are most advantaged. I don't know whether that's right or not, but that's the argument.

PROF SCRAFTON: I think the NRTC would acknowledge that it is and that they're doing their level best to try to change the situation, but it is a very slow process and that's probably, from our point of view, the most dangerous aspect of it. If the competitiveness is so intense now, can we wait 10 years before we have mass distance charges imposed on it to at least try to restore some of the bonds? But I think that's a good response, that the access price is all important.

MR AUSTEN: But that's becoming more visible as people in the trucking industry are saying, "Well, now I can run on the tracks."

PROF SCRAFTON: That's right.

MR AUSTEN: Like SCT and TNT did for a while on tolls, whereas now some of the freight operators are obviously looking at some limited trucking activities.

PROF SCRAFTON: They also say, John, that they could run on the tracks a lot better if there was no access price, you see.

MR AUSTEN: Yes.

PROF SCRAFTON: If the access price is zero.

MR AUSTEN: Yes, I hear that one quite a bit.

PROF SCRAFTON: But it is a good illustration of your point and I guess it is encouraging to see that competition developing above rail, but your point is well taken that it won't take these commercial operators long to revert to over the road if it's in their competitive interest to do so, if the price is - - -

MR AUSTEN: You could probably even narrow it down to a more narrow market segment of what they call the road-railer vehicles.

PROF SCRAFTON: Yes.

MR AUSTEN: Which is basically a truck body going onto the back of a train, but unfortunately in Australia the infrastructure loading gauge limits those type of operations and that's one of the things I think the Commonwealth is looking at - extend the road-railer clearances.

PROF SCRAFTON: Particularly in the east where that competitive market is most intent, the Sydney to Adelaide.

MR AUSTEN: Yes, I also understand that's a large issue between Melbourne and Adelaide.

PROF SCRAFTON: Yes, Melbourne and Adelaide too, that's right. Everywhere east of Parkes and east of Adelaide I guess, and perhaps that does help, if there is a role for the federal government in all this - and we didn't ask you that; whether you think there is - but if there is maybe that's the sort of thing they should be looking at.

MR AUSTEN: Yes.

MRS OWENS: Just on something totally different, urban transport. Does your department specify goals for the urban transport system in terms of what you expect the SRA to be able to achieve out of the system and in terms of greenhouse gas emissions and so on?

MR AUSTEN: I think there's a transport plan being developed but on top of this there's this CSO contract perennially. I don't know whether the CSO contract - and I doubt whether it gets into greenhouse emission-type of things, but I'm pretty sure it would be dealing with numbers of people, times of services, on-time running. I will check that up.

PROF SCRAFTON: We've got Dick Day coming in next. He probably knows.

MRS OWENS: No, but I was wondering whether the department rather than the SRA is doing it and having a look at how all these different parts of the system are all working.

MR AUSTEN: The department is contracting people to do that, yes, but that again is a learning process.

MRS OWENS: One of the things we discussed yesterday is the difficulty of doing this sort of planning when there's inadequate data, whether that's been a problem.

MR AUSTEN: Yes, that's a problem. We've identified that problem and we are going to seek to resolve that problem.

PROF SCRAFTON: You have a set-up in your department, this transport data centre now, don't you?

MR AUSTEN: Yes.

PROF SCRAFTON: That was a couple of years ago or something you set that up. I think that's a pretty important function, particularly if you do have extensive privatisation or even commercial confidentiality within government-owned instrumentalities; it makes life quite difficult to get the right sort of data and information for strategic oversight..

MRS OWENS: There was just one other issue. I think there's been a lot of reporting of late from conferences, such as the one that's on here in Sydney this week and other places, that people that are working in this industry are saying that what we'll end up with in the future is possibly just two major operators and there will be a number of regional operators as well, and I suppose there's a question of - this is in terms of freight, where FreightCorp ends up in all of that - the extent to which you need structural separation when you shake out to two operators. Have you got any views on that?

MR AUSTEN: I haven't thought greatly about that but the argument goes along the lines that the United States freight railroads have merged in the last few years and they are much much larger than any of the systems in Australia. All of the systems combined wouldn't be a class 1 in the United States, and the class 1s have been merging in the recent years and that's said because there are economies of scale and scope, but at the other end of the US spectrum they've got what they call short-line operators who have emerged, from unexpected quarters in some cases, and who have gone overseas and exported their ideas, to countries like New Zealand and now into South Australia.

What the number of operators is, I think it's one that's going to work its way through. I don't think there's terribly much governments can do about that or structure arrangements for it, but if that raises a question of vertical integration in New South Wales at least we've still got multiple users of the system. If, for example, one office is a national long-distance hauler and there's a big bulk or a coal haul on the east coast at least in the Hunter Valley tracks and up the north coast of New South Wales, there's going to be two big freight haulers and a passenger hauler on the same track. So the question then is who is the predominant user and we're back where we started from; similarly in Sydney, unless and until there's an entirely separated freight track.

MRS OWENS: Thank you for that. I think that gives us a good insight into that. I think it was an interesting question but I think your answer is a particularly good one. I was wondering, John - I think we might break in a minute to have some morning tea - if you had any concluding comments you would like to make?

MR AUSTEN: No, not really. Thanks though.

MRS OWENS: I would like to thank you for that and I'm sure Derek would agree. I thought that was particularly stimulating and an interesting hour and a half and I'm sorry to hold on to you here so long because I know you're not 100 per cent, but I think at this stage we might break and have some morning tea and I think we both need it.

MR AUSTEN: Thanks for that.

MRS OWENS: We'll now resume the hearings. Our next participant this morning is the State Rail Authority of New South Wales. Would you like to both introduce yourselves and your affiliation, your role within the organisation for the purposes of the transcript.

DR DAY: I'm Dick Day and my title is General Manager of Rail Development in the State Rail Authority.

MR SETKIEWICZ: My name is Wal Setkiewicz and I'm the Senior Economist in that organisation.

MRS OWENS: Thank you, and thank you both very much for coming and for the submission, which we have both read so we don't need to go through it all word for word, but if you'd like to make some introductory comments on the submission or anything else you'd like to say, you can do so now and then we'll ask you some questions.

DR DAY: Thank you very much. I will only just briefly highlight what I think are the main messages that we were interested in raising with you. Basically there were three areas: the issues of access for long-distance passenger train services; the operation of CityRail which, to the State Rail Authority as an operating company of course is a very major concern; and then the reform processes that are occurring in the business.

With Countrylink - as we have pointed out in our submission, essentially we regard Countrylink as a marginal operator in terms of its ability to pay for access and it's seeking - and in fact the current regime accepts that Countrylink pays a relatively small access charge and exists and runs over tracks which are essentially there for other purposes or funded directly by a government agency. We believe that's the sensible approach to the existence of a long-distance passenger service of that type.

If I can just move very quickly into CityRail, which as an operating company now is vastly and predominantly the main concern of State Rail. The critical point - and I believe that was put forward in the Department of Transport's submission - is that of course Sydney is the only place in Australia where the standard gauge network comes together to carry both long-distance freight operations and a very very dense urban passenger railway, and while looking at a map of course you see Sydney as a very small dot, in terms of the importance of the railway to Sydney it's not an exaggeration to say that Sydney requires, to survive in its current form, a major suburban railway. Roughly speaking 50 per cent of the Sydney workforce each day arrive by rail and so, unlike Melbourne which is a relatively big operation, Sydney essentially or central Sydney in the way it's structured revolves around that urban rail network. It's very important. We gave you some facts and figures about that issue.

In terms of managing that, we believe that there's a need for a very strong working relationship between the train operating company, which also owns the rolling stock and has the business requirements of responding to different passenger demands, which can be quite volatile in Sydney because of the Olympics, Easter exhibitions staged in Australia and so forth - it's a volatile and very important business requirement on a passenger fleet owner, that needs to work very very closely with the Track Access Authority to develop complicated, extremely complicated, timetables at short notice.

We believe that the current arrangement, which actually has both the operating company and the, if you like, franchised network controller, which is State Rail's network control division working on behalf of the RAC - having those two in the same organisation and very close we believe is probably the only, at the present time, effective means of managing the passenger railway within Sydney. I can certainly talk about that at length if required. Having said that, of course, the task is to also ensure that the other very legitimate operators passing through Sydney have their business interests guaranteed. That's an essential challenge of bringing those two things together in the metropolitan area.

Currently I believe the working arrangements we've got function well, but it means that the Rail Access Corporation has to issue very tight and contractually binding specifications, largely on the UK Rail Track model of requirements of other train operators. In the internal development of State Rail's passenger operations these outside requirements have to be met, and that concept of a master specification and flexing, the UK approach, I think is very important to our mutual needs.

A major issue that we will face in Sydney is growth, both growth of the long-distance freight industry and growth of the passenger industry. I would point out that the existing track reservations - not the existing tracks but the places in Sydney where there's room for additional trackage; that's particularly the East Hills line from Turrella up to Glenfield and the important corridor from Sefton to Macarthur which is shared by major freight trains from Melbourne - these reservations are in themselves very very important national assets and the way that extra trackage is put into those reservations really has to cater for the future needs of all operators. We can't go into a fragmented approach in all places and put separate tracks for separate operators. It's theoretically desirable in practical terms of cost and land availability. I don't think it would always be the solution in Sydney.

In terms of developing a new passenger infrastructure in Sydney, State Rail is of the view that that has to be led by the passenger operator because essentially that's the business directive that should be underpinning the requirement for passenger system growth. As a business, what we are seeking to do with passenger railway growth at all times of course is to use the existing assets to the maximum and then find the most efficient way of amplifying those assets, because that's really the only sensible way to proceed for the business.

In passing, I'd like to draw your attention to two issues which I think may be of interest. One is the issue of how to cope with the operation of small trains. By that I mean two-car diesel multiple units, small freight trains and so forth. I would suggest that in the UK, because of the approach to pricing of spare paths, which tends to be what the market will bear in the marginal pricing model - Britain now seems to be getting a plethora of relatively small trains filling up very valuable paths, and I've got thoughts on that but I believe that may become an issue, and certainly in Sydney during peak periods, paths are an extremely precious commodity for whoever has them.

I think the issue of how do you ensure that the path is filled by a unit which maximises the value of that path is quite an important issue and it's something I'd like to raise with you and, associated with that, the issue that where any operator has in some shape or form effectively paid for the cost of maintaining a network either in terms of enhancement or maintenance - the issue of to what extent does that operator have a first right over marginal paths that are not currently needed but may be needed later on. I don't want to try to answer those issues, but I think they're very important ones that you may wish to consider.

Moving on very quickly to reform - because I think I'm taking up more time than I initially thought - in terms of reform I would stress that CityRail - in fact State Rail - has got a major reform process going on at the present time which I think it's fair to say that we regard as extremely important and are trying to progress on all fronts. It involves the tightening up of our maintenance practices on rolling stock. As I mentioned in the submission, with our new train order we have for the first time outsourced the ongoing maintenance of rolling stock, partly to benchmark and to create competitive pressure in that area. We are still very carefully looking at the merits of cleaning trains both internally and externally. Currently it's largely done internally but that's certainly under the microscope in terms of efficiency.

Currently, you may be aware from the press, we are looking extensively at station staffing regimes, the underlying principle there being to make sure that the staff that we have on stations are multiskilled and essentially about customer service rather than behind the scenes and in management. We are looking at crewing productivity. We're looking at that in the short term by changes in award conditions, largely to move us in line with what's essentially happened in the other mainland states. In the longer term of course the issue of driver-only operation is something that we are aware of and, of course, well aware of what's happening on the other systems, so there are initiatives ahead there.

There's been a very major examination of our head office functions because clearly as a state rail authority and a vertically integrated railway we had a very large corporate head office. As a passenger operating company there's room for considerable efficiencies there. I can report that certainly the number of staff employed by State Rail, which at the beginning of this year was approximately 9000, is in fact decreasing quite rapidly. We could well see as many as 400 less people in the workforce at the end of this year, so there are some major reforms going on there. I think that would be a useful place to stop but perhaps have the opportunity to just summarise conclusions at the end of the session. Thank you.

MRS OWENS: Thank you, Dick, and thank you for those initial comments. We had an interesting discussion before morning tea with John Austen from the Department of Transport, who talked about a whole range of broader transitional issues, and one of the issues he raised was the issue of the relationship between the different parts of the system, establishing relationships between the various vertically separated organisations. Is that something else that is uppermost in your mind at the moment, for example your relationship with the RAC? Is that causing problems? Were there teething problems? Have you sorted them out?

DR DAY: There are certainly teething problems. Breaking down an essentially bureaucratic and fundamentally non-commercial organisation into separate parts that then have to work together did cause difficulty, and the very disastrous timetable we introduced in November 1996, which didn't work, in part - and I would stress "in part" - had its origins in that separation essentially because of the point I raised about the need for the controllers of the network - not so much the infrastructure owners but the controllers of the network - to work very very closely with the operators of the network and, of course, owners of infrastructure and stations.

I can go into that more, but our current belief in State Rail is that that nexus has to be extremely tight, and the way it's now being undertaken is that both the controllers and the operators are within State Rail, so I'd stress the metropolitan train operations are formed by State Rail on behalf of the RAC, and I believe at present that that is in fact the only approach that would guarantee that this particular metropolitan network would function successfully.

PROF SCRAFTON: Could I just ask you, is that only for the metropolitan operations or is that statewide?

DR DAY: No, for the metropolitan network. In terms of how it's controlled - you'd probably be aware - the metropolitan control more or less runs out to Newcastle. It's certainly not the Hunter Valley network, which we're not talking about. It runs to Lithgow and the rest of that coalfield for convenience, and it extends essentially out to Goulburn on the southern approaches and includes Wollongong. In terms of network integrity, we have had discussions with RAC about that. I believe that that area is best seen as a whole. It includes all our intercity trains and, more importantly with long-distance freight operation, you can see it coming towards the Met. You've got train control taking over a long-distance freight train at Goulburn and of course you're aware, 2 hours or so before it hits Macarthur, where it is and how to blend it in. So I think in pragmatic terms that's a useful device. Beyond that, where the regime is extremely different - I mean, I'm sure you know exactly what I mean. It's just a different world.

PROF SCRAFTON: They run that themselves?

DR DAY: No, sorry. I apologise. We run it at present, but our view is that it's not essential that we run it. In fact we believe that the long-term challenge is to make country network control and network control in other states essentially part of the same control of long-distance operations. We see that as a detached problem. We're certainly running it at present. Our view in the city area is that we need to actually run it and that in doing that we would effectively, as we do now, run the freight trains on a tightly defined contractual basis within that network. I think essentially that's the only way I believe you can get good operations.

Obviously that's different from the UK model, but what I would contend there is that even in the complicated parts of the UK system, because originally the railways concerned were separate entities, the amount of overlap between operators is still relatively minimal. The problem we have in running our suburban network in Sydney - it's not a thing we are proud of; it's just an accident of the way we have to run our trains in meeting our customer needs - is that the working timetable for the Sydney metropolitan area is very complex. It involves a lot of trains weaving onto different routes, such that not controlling very tightly how that system operates and being able to adapt it by very much hands-on liaison at short notice, particularly in contingencies, between operators, train crews, trains and stations. Without the very close day-to-day involvement between all those groups you just cannot run an effective metropolitan railway.

MRS OWENS: You had a revised timetable, you mentioned, and that didn't work. Where was the control function lying at that time? Was it with you or was it with the RAC? Where was it?

DR DAY: Well, the work on the timetable was actually completed before the break-up of the entities, but because we were aiming for the break-up of the entities what was happening was that the operating company of State Rail at that time - CityRail they call it, which at the time was designed to exist as an entity which had a small operations liaison division within itself - it was basically being structured like a United Kingdom train operating company. And having put forward a specification we were essentially passing that to what would become the RAC and asking the network control division to prepare the actual timetable, and then operate it. So it was essentially a pulling apart of those that had a business specification and those that had the responsibility of writing it up and operating it.

Theoretically that could work. I am not denying that. But the problem was that it was a very difficult time, in retrospect, to have put in a major timetable because management attention was diverted to the restructuring of the industry, so when we actually created a timetable it hadn't been as carefully worked through between the operating side of the railway and the control side, and I think we have learnt an awful lot from that lesson. I stress that.

But then, secondly, once the problem became manifest, which was just after the new entities had formed, there was the issue then of how do you rectify it when you've got a control group separate from an operating group, and there was considerable tension about who was responsible and how did you do it which, as you may recall, in fact led to the removal of our current chief executive in State Rail, and recombining the number of functions, effectively to pull together the functions I've just described. So it led to some very drastic problems in those early days.

MRS OWENS: Did you totally revert back to the old timetable?

DR DAY: Yes, an amazing thing in a way: we actually reverted back to the old timetable, and then subsequently tuned it a little bit to bring back some but not all of the enhancements that were in the revised timetable. Ahead of us in the next 2 years we have the bringing on of the new southern railway, the airport line, which, while at a superficial level sounds very simple - you can't possibly go wrong with an extra 11 kilometres of double-track railway - but to do that would be to change timings and there are extra trains required and would in fact involve another very major recast of most of the metropolitan railway.

Then of course we have the issue of the new Olympic Park facilities which not only involves the Olympics itself, which causes a fundamental challenge for Sydney, but also involves the requirement, often at short notice, to run a very large number of special trains at potentially difficult times. Certainly as we mature the operating patterns for that Olympic Park operation will become more or less set; we will have different options for most operating scenarios - not all, but most - but the ability to respond quickly and the ability to modify those operations when various amounts of the track are out of use at weekends because of track work, and getting the best mix of passenger service, train patterns and operations, is a complicated task that really does involve that very tight nexus, and that's what we're driving at.

My belief is that that can be managed, but it's best managed by the ability of the operating company and the controller to be working informally, essentially, and very very closely together in terms of getting the output.

MRS OWENS: There are a number of other relationships that you would need to develop. One is the servicing organisation.

DR DAY: Yes, it's partly Rail Services Australia.

MRS OWENS: Yes, Rail Services Australia, and with the Access Corporation. Are those relationships - - -

DR DAY: With RSA, CityRail and State Rail as an operator only directly works with RSA in terms of things such as station maintenance and some project management of fleet matters, so it's not a strong, direct relationship with us as an operating company. Our fundamental relationship with the infrastructure owner and owner of the paths, owner of access RAC, is twofold: our basic timetable is essentially the purpose of a very very large number of paths from RAC. As I would stress, the metropolitan area is 2300 or so train trips a day, compared with only about a hundred for everybody else; it's an absolutely dominant purchase of complicated paths. But certainly that has to be worked with that framework, and is.

Our second requirement, apart from paying for the infrastructure, is to negotiate and purchase track requirements for growth. That's another major issue where

I contended in my overview that the operator is best placed to know what they need to grow their railway, particularly if the operator works very closely with the network control people. Because in choosing what we invest in, we have a choice between buying more trains, changing our operating patterns, buying more infrastructure, and so forth, so you need to work very closely together to look at all the options and develop the best answer.

Certainly we purchase additional infrastructure through RAC and then the RAC outsourcing of infrastructure provision to its infrastructure maintainers, and that system works, I believe, very well. But in terms of developing the detail for any particular enhancement, through the RAC project managers, we do need to talk to the actual constructors of the infrastructure because of this trade-off. We can say we think we want a particular facility, but once you look at what the costs and the implications of that facility are you can work together and make a final call as to the best arrangement. So there is a strong nexus between operations and infrastructure. I believe all that can be worked through quite effectively.

MRS OWENS: You mentioned in your opening comments about this issue of how do you cope with the small trains, and you talked about the UK. Is that something that needs to be worked out with the RAC? Is that trade-off something that they determine, or is it something that you determine?

DR DAY: No, it would essentially be determined by the RAC. The reason I raise this is because I think it may become an issue for the industry to consider nationally. Within Sydney CityRail operations most of our trains are fairly big. I mean, in a peak period we wouldn't run anything smaller than a six-car 700 or so seater train, so it's not - - -

MRS OWENS: And you're not getting other competitors coming onto those lines.

DR DAY: Well, our perhaps naive belief is that no competitor in the peak period would, at this stage, come in.

MRS OWENS: Yes.

DR DAY: But, sorry, having gone through that, should they do so, from a governmental and resource point of view to have a two-car train occupying a track where an eight-car train could be, in passenger terms - or alternatively a 200 tonne freight train being where a 1500-tonne freight train could be, if you like - is certainly a major resource issue. Now, it could be picked up in terms of access charge, but to the extent - and that's why I raised this issue of marginal pricing - an additional user may not be paying a share of your reallocated fixed cost - I think you follow me, and you can see the bones of the argument - you have a problem that you may finish up with small operators absorbing an increasing amount of capacity without perhaps paying for the fixed cost of what's already there but, probably more importantly, giving the industry an inefficient resource outcome.

That is my main concern, and in Britain they're having major discussions, for instance, on the east coast main line where there is a particular pressure point at Welwyn where it's full of trains, but a lot of the trains are only three cars long.

MR SETKIEWICZ: And they stop, is another problem.

DR DAY: Yes. So I mean that's the sort of issue I'm raising because I think it may occur in Australia, and it's something I don't have a complete answer for, but I think it's something that needs to be considered.

MRS OWENS: Yes. Well, as you said, it potentially could be more of an interstate or a national issue, and if that's the case there are two parts to the dilemma: one is whether the smaller operators or smaller trains get access to paths and tracks, but then there is also the issue of access to times.

DR DAY: Very much so.

MRS OWENS: So the two things come together.

DR DAY: Yes.

MRS OWENS: And you might have a regime under which you have an access charge to get access to the track, but then you may have a system whereby there's an auctioning system for particular time paths on that track, like you potentially could do for aircraft.

DR DAY: I believe so, like for aircraft. I'm well aware of how fraught that process can be, but I think at least in the rail industry we may - we may, and I say that very circumspectly - we may have an opportunity to develop those rules early as the issue develops. But clearly a path at a time of day when the path isn't wanted by any other user is effectively a marginal cost path, and I'm extremely happy with that concept. My concern is the allocation rules at a time when paths are extremely valuable.

MRS OWENS: Yes.

PROF SCRAFTON: Dick, I'd like to talk a little bit about the financial interrelationships. What proportion of CityRail's expenditure - well, I should say State Rail's expenditures, go to the RAC?

DR DAY: Effectively, to give you an order of magnitude, about a third.

PROF SCRAFTON: And what is the cost recovery? This time maybe we could just restrict it to CityRail? What is the cost recovery on your CityRail services?

DR DAY: Well - the reason I hesitate is it's variable, because of the fact we have a metropolitan system which is highly used basically in the Sydney basin.

PROF SCRAFTON: Yes, just limit it to that. That would be fine.

DR DAY: In there - and by the way, I'm quite happy to provide a supplementary answer to you on this, because I'm happy to assist you; it's just that it's not an easy question to answer.

PROF SCRAFTON: No. That would be fine. Sorry.

DR DAY: Within there, you then have to consider how you attribute the CSO payment to State Rail.

PROF SCRAFTON: That is what I was really trying to get to. Maybe you would just like to take the whole thing together.

DR DAY: If we take cash box - because these figures are actually available to you in an annual report - and just explaining what they mean, very loosely - and I'm generalising, I'm not taking particular - the cash box at present, the fare box, is worth about 380,000,000 to us, and with other additional revenue from advertising and so forth, you could loosely say that our revenue base is approaching 400,000,000 a year for CityRail. I'll keep Countrylink out of this.

PROF SCRAFTON: Thanks. That's fine.

DR DAY: Effectively it probably costs about a billion dollars a year to run CityRail, and that's not to expand it; that's basically steady continuation of the existing railway. Sorry, I'm talking about the whole railway now. I haven't yet tried to bring the met out from the outer met because it's - - -

PROF SCRAFTON: I don't mind at all, it's the principle I want to get at.

DR DAY: Yes. So in principle we would on that level roughly be getting on average a 40 per cent actual cash return on our operations, and if you take the Sydney met area on its own - and you may want to step in there, Wal - I think it's over 50 per cent. It could be rather higher than that.

MR SETKIEWICZ: From our last signed CSO contract with the Department of Transport the cost recovery in the city/met area was of the order of about 55 per cent.

PROF SCRAFTON: That's pretty good.

MR SETKIEWICZ: That's on a cash basis.

PROF SCRAFTON: Yes. What I was trying to get at is, that cash box revenue, the fare box revenue, virtually goes in paying your access price to the RAC. Is that a fair transfer?

DR DAY: Actually revenue is higher, but I would like to suggest that's not the best way of looking at it, if I may. One other thing I wanted to add about revenue, though - because I'm passionate about this - is that within the CSO contract there are two or three elements. Well, there are three elements, essentially. One of them is the concession payment we get for carrying schoolchildren and pensioners and so forth.

PROF SCRAFTON: So that's included in the CSO?

DR DAY: Yes.

PROF SCRAFTON: And does that all come from DOT?

DR DAY: It all comes via DOT, from DOT.

PROF SCRAFTON: Yes.

DR DAY: Crudely speaking that's about 125,000,000 a year, and to the extent the private buses and commercial operators and all those other people are commercial, I would certainly regard that as a revenue source to us.

PROF SCRAFTON: Revenue. Right.

DR DAY: A small amount relates to the Independent Pricing and Regulatory Tribunal hearing our CityRail fares which indicated that our fares were - 15 per cent, I believe, Wal?

MR SETKIEWICZ: 15 per cent.

DR DAY: Are below what they should be, and that involves about another 40,000,000.

PROF SCRAFTON: Great. That's great.

DR DAY: Having knocked those things off, you then get a balance which is really, if you like, what I'd regard as the non-commercial makeup. But the more important point I would stress very strongly is that we, like any railway probably, have done our work on the externality value of CityRail, which essentially what IPART and government accept is the reason for the low fares policy.

PROF SCRAFTON: Yes.

DR DAY: Now, various estimates - and I would accept they're very hard to measure - would suggest that something like $400,000,000 a year would be a reasonable payment to CityRail for congestion relief of the arterial road system, and I believe that it's better to look at it that way around; that the access payment is basically our load, and it's roughly - in fact it's a bit less than the cost of buying that load from the Rail

Access Corporation. I much prefer that model.

PROF SCRAFTON: No, I appreciate that. I just wanted to understand the financial interplay, and how you describe it, and you do describe it in words in the submission but I just wanted to get a bit of an understanding of the numbers. Just a point on that cost recovery figure of 40 per cent in general and 55 per cent in the inner city: does that include interest and depreciation?

DR DAY: Yes. My estimate of a billion dollars - it could be 1.1 - I know I'm sounding not flippant but these numbers relate to assumptions - is a complete cost of operating a steady State/CityRail, including replacement of infrastructure indefinitely and replacement of rolling stock and so forth.

PROF SCRAFTON: I don't know whether it was in the submission, but you spoke earlier about 50 per cent of the Sydney workforce; is that CBD workforce, the city of Sydney workforce?

DR DAY: Yes.

PROF SCRAFTON: And what proportion of journey to work over the whole of the metropolitan area does the - again, you can restrict it to any - - -

DR DAY: I believe it's 12 per cent of all. I'll take that on advice. I believe it is. I can double-check. The figures are certainly available. Clearly it varies markedly from a low-density area to a district centre to the CBD, but not surprisingly the whole rationale of our railway is the CBD and major centres.

PROF SCRAFTON: Yes.

DR DAY: In the last census period, 91-96, we basically held our market share in all the district centres, but not surprisingly lost overall market share in Sydney while the business as a whole was growing, if you can follow the logic of that?

PROF SCRAFTON: Right. Sure.

DR DAY: And that's what we are stressing; that our role is to support a strongly consolidated city structure. I do find a very useful analogy, which I'd like to share with you, is that if we didn't have our trains running into the city every 3-hour peak period in Sydney you would require 2700 buses extra to enter the CBD to manage our current task. I know that wouldn't be what would happen but I think it gives you an understanding that the current city structure is virtually supported by State Rail.

Another fundamental issue which may give you a slightly different light on the cost recovery debate on the freight rail system is that the cost of registering 2700 buses to go up George Street - and I'll take correction on this, but from memory if you register them as buses it would only be about $5,000,000 a year. If I register them as very heavy semitrailers it would be about $17,000,000 a year. Now, I think that indicates what we mean by saying that road pricing doesn't reflect usage. I'm not saying that all road usage doesn't pay for itself, I'm saying that to actually run the city structure that we've got road licensing fees would allow me to run it virtually with no access payment, but in reality I have an access payment that is about 300,000,000 a year if I take out things like electricity and traffic control.

PROF SCRAFTON: I think that's a very useful piece of information for us, because when we are talking generally with railways about the competitive neutrality problem we tend to think in terms of the over-the-road long-distance freight and so on, and so it is useful to see that the same problem manifests itself very much in urban transport. I guess the significance of that 50 per cent figure of the CBD, sort of North Sydney workforce, adds to the comment that you made earlier about the value of the train paths, that in the peak - let's say 3 hours in the morning and in the afternoon - the value of those paths is very, very high in terms of its utilisation, picking up your comment earlier, and it suggests that not far into the distant future some form of regime, some very clear and very tight access regime, will have to be instituted in Sydney, if it isn't there now, but with prices attached to those paths, the differential prices attached to those paths.

Is that how it works now? I mean, am I actually just describing what happens now, or is the pricing not that sophisticated? How does it work?

DR DAY: It's essentially a place that we've been spending a couple of years seeking to strike an in globo understanding of the network cost to CityRail, which is essentially the cost of maintaining the whole metropolitan network. Our view, I believe - you'd have to check with the RAC, I think they would essentially concede - is that CityRail pays for the entire metropolitan track network that's within the city, apart from the freight-only bits of it, and also makes a very, very substantial contribution - in other words, almost all - to the electrified lines outside the city area, and we've been concentrating a lot on that payment.

Now, in terms of encouraging growth in the off-peak - I'm moving a little bit away from the core problem, which I'll come back to - our view is that it is better to follow general economic principle and put down a substantial lump sum, as our usage networking charge if you like, and then actually charge train operations at the marginal rate, essentially to encourage us to run marginal trains - if there's a show on, the Easter show, an opportunity at weekends to run trains basically at marginal cost on a network that's already there, and to share the same view with any other operator.

Moving to the issue then of the peak, what I think the critical issue is - and I just reiterate for a second - that where an operator has effectively paid the formal cost of the maintenance of that part of the network for a period when they may at a future stage require to run an extra train on it, I think there is a strong case that they should have that ability to run that extra train, or that the alternative operator that wishes to be there at that period of time when capacity will become limited pays a reasonable share of the fixed cost of the network; difficult ground, but the principle is that those that really need to be there at a busy time have to show that they've got the ante to be there, not muscle in on a wing and prayer.

When it comes to growth, my belief - and in general most of the metropolitan system is at capacity at present, which is why there is the issue of freight access, but also just as much the issue of future passenger growth. They are the two critical issues, plus of course any other operator - a potential very fast train for instance would have enormous implications for the purchase of additional space, and by "space" I mean paths on existing trains, but also, as I've said, taking up reservation, which is very valuable for future track.

The way I believe personally it should be handled is that negotiation through RAC would essentially buy future paths in exchange for quantum of investment, so if the problem is for instance requirement for two extra freight train paths during peak hours from Melbourne, then the nature of the negotiation should be to provide enough infrastructure to guarantee two extra peak paths. But within a context that in the future there could be other users wanting peak paths as well, the share - I know these concepts are theoretical in a sense but they can be I think pragmatic - of total amplification expenditure that would for all time guarantee that particular source of revenue that they have bought additional freight paths needs to be identified and attributed to the sponsor of those paths.

That sponsor could be a national government, it could be a state government, it could be an operator, but I think the principle - and it's a very important one and that's why I've tried to emphasise that finding our way through this is going to be critical - is that you've got to have a situation where a user with a legitimate requirement for peak hour capacity - by definition, therefore, some wherewithal to pay for it - has to purchase for a long period of time an access, a guaranteed access, to that increased capacity.

Now, the reason I've put a few caveats on that is I think - not trying to speak for our freight colleagues - there's this fundamental issue of how do we fund the long-distance national freight railway with this issue of potential cost and recovery on roads, and while I have opinions- as I'm sure you're aware - I think that's an issue for freight operators and very much for yourselves. But however that's determined, for freight to survive in this country clearly it will need, in my opinion, guaranteed effective access through the metropolitan area at busy times. I've got no problem with that and I think that's got to be purchased by some body and the purchase contract should make it absolutely clear that these rights have now been purchased and are essentially unalienable.

PROF SCRAFTON: I think that's very interesting and I thank you for that. But how do you reconcile that with the current situation where your organisation has a sort of grandfather right over the existing paths? How do you value that? It's not meant to be a trick question in any way. I just want you to - - -

DR DAY: These are very important issues. What I would say - first of all, I think we have to look at, though I'm talking generally just to raise issues, whether paths are in fact what you'd normally term "mandatory" or "permissive". Now, the reason I raise that - I mean, take the coal industry on the Blue Mountains as an example. In general way back in the history of the integrated railway those paths were always built around the prime passenger paths. It wasn't quantified as to why, but essentially it was passengers are more perishable, if you like, than coal, but the network was essentially increasing their passenger network and the coal trains were scheduled to work around that.

I would again point out that where the sunk cost of providing a network is tied up with a particular operator, then that operator has got the core paths required. If it so happens at the beginning of the period - and very much the case in the UK - that a freight operator, for good or bad, was already there in a core path capacity, I believe they stay there in the core path capacity. For coal, that wasn't the case. Looking at long-distance freight, while there was considerable discussion about the nature of curfew it is correct that some freight trains, but actually a very small number, were in fact running through the peak. There is in fact a Melbourne super-freighter running through the peak into Sydney, and needs to; there's no issue. So I regard that as essentially a mandatory path that was there in the grandfather right.

You see where I'm going? Where that capacity needs to expand, which again I agree is quite legitimate, but expanding into a place where there aren't paths or, alternatively, expanding into a place where there are paths but they will be needed by the person paying the full fixed cost, there's got to be an accommodation of somebody meeting the establishment costs of that path. I believe that model will work, because what I'm saying - in areas where there is a shortage of land and a requirement for everybody to grow we need, I think, to find a protocol for sharing what is actually a very scarce resource.

If possible you could seek to build an independent freight track and in parts of Sydney this will be done because it's possible and it's a good solution. But clearly where CityRail has a capacity problem emerging - like between Campbelltown and Glenfield - freight have a major path or a major route which they require to develop and you have the real possibility of other operators wishing to enter, you've got a very scarce commodity in terms of land and trackage and I think we need a mechanism whereby people can incrementally purchase, but with a fixed cost component, additional capacity, and that's really what I'm saying. It's how to create that model so that everybody gets what they need within the discipline of the fact that these things have a real and sometimes substantial cost.

PROF SCRAFTON: Correct me if I'm wrong, but by the time you reach that position virtually every path has a price.

DR DAY: Well, it could indeed, but essentially in the current timetables coming out of Campbelltown in the morning peak right now there are - I'm just going through my sums - I believe there are 10 passenger trains at present plus one freight. Well, it's actually 11 and there is a freight path in there, plus in fact a reserve freight path. So on a double-track line of that signalling capacity, that line is in fact now full. There is the view of the evil plot that the passenger operator has a monopoly and doesn't want a freight operator in. You know, there's an element, if you like, of "No, one doesn't."

What we're saying is that this network is very heavily used by the passenger operator at the present time and the government is recognising that by paying via the passenger operator the full allocated costs - with a slight disagreement with the RAC of what they might be - of that network.

PROF SCRAFTON: But in principle.

DR DAY: Yes, because it's the lifeblood of the city. Now, that's not to deny that more access is needed because of growth; in fact, I'm very passionate that we've got to grow the freight industry, I believe, and grow it through Sydney. But to grow it through Sydney can't, in my opinion, be at the destruction of the current passenger business, so to provide reliable - and "reliable" of course is incredibly important, to us particularly because of our time-sensitive system - access for large, because they should be large to be efficient, trains - additional trains - through the heart of a very busy time is going to require capital investment.

Now, my belief is that capital investment has to have a totally tight and contractual nexus with extra paths. So effectively you put in your 50,000,000 or 100,000,000 and you buy two or four extra paths in the peak and, similarly, rights in the off-peak. But I think that's the only way we can discipline what might we need as CityRail in the future, what might the fast train operation need, which could happen, and what will freight need.

MRS OWENS: So those extra paths would be bought say by the freight operator.

DR DAY: Or government sponsoring them. I think there are real issues of how do you fund that investment.

MRS OWENS: Or government sponsor, or whatever, and then those are grandfathered so they have an ongoing right to those extra paths.

DR DAY: Yes, I believe so. The Virgin Rail, West Coast Main Line discussion in the UK, which I'm sure Derek and perhaps yourself have had a look at, I think that's very much in practice what I'm talking about, that you are looking at an enormously expensive enhancement - in this sense, largely of signalling capacity - by a fairly rapacious operator with some huge commercial targets to meet that effectively was saying, "If I'm going to pay all this additional access I must have bought - - -"

PROF SCRAFTON: It's money.

DR DAY: Yes, and in actual fact in that case, as I think I've raised, North-West Trains, which is a small operator doing a very nice job at sneaking onto the main line and making an odd buck, has effectively been told that they've only got that franchise in marginal time, 3 or 4 years, and for good measure Virgin West Coast has also put a few trains across to Edinburgh to attack the east coast market, but that was the price that commercial - we're dealing with two private sector companies here. It was what they had to do to give themselves the purchased access to afford that investment, so I think they're very - you know, you can see in the UK I think practical applications of what I'm talking about.

PROF SCRAFTON: Without detracting too much from the Sydney scene, the other thing that's interesting of course is that if they see that investment in the UK system where the franchises have limitations, they're often tied to requiring an extension of the franchise simply because the investor can see no way of getting a return within the present time, and that tends to then support your concept that if a national freight operator, let's say, was to buy those paths that they're there as long as that operator chooses to use them. You could put all sorts of conditions, but I think that is a very simple one, that as long as you use it it's yours.

DR DAY: It's basically a capital asset, isn't it? Through spending capital or an income stream to buy it that way you've essentially purchased something which presumably you can then sell on.

PROF SCRAFTON: That was really going to be my next question. That's right, the real or the residual issue is if you don't use it can you sell it, or will there will be some reversion to the track owner? And that would be in the initial contractual relationship anyway. You wouldn't invest until you'd sorted that out.

MRS OWENS: You'd have some sort of "use it or lose it" clause, wouldn't you?

PROF SCRAFTON: Well - - -

DR DAY: Yes.

PROF SCRAFTON: Sorry, yes, I shouldn't answer that, Helen. But not necessarily, that was the point. That was my initial reaction, but then Dick was the one who said, "Maybe they have the right to sell it, not you, not the track owner." That's something you would have to sort out at the beginning.

MRS OWENS: I have some problems with this idea because there is a - people usually make investment decisions and they write it off over a certain amount of time, but what you're saying is in this case they would have access to those paths in perpetuity. What happens if another freight operator came along and could actually run a much more efficient business along those lines in terms of the overall benefit to the economy? It may be a much more efficient business. Now, the other ones locking up those lines, they've paid for them but they're locking them up, and so what might be the optimal now may not be the optimal in 10 years' time, or they may just only semi-use those lines. They might say, "Well, instead of running five services a week on that infrastructure we're going to cut it back to two but meanwhile we've locked out any competitors." I do have a concern.

DR DAY: I think we're all trying to say the same thing, believe it or not, but essentially if you have bought something, then in the commercial contract to buy it - you may have gone to a bank and loaned 30,000,000 or 10,000,000 - depends how big you are - to buy it, you've obviously got this problem that you've now got a liability which in time you've got to effectively pay off and amortise. That's what I think you're saying. That's really what Virgin Rail are doing. They're saying, "Look, give us 15 years because we need 15 years to pay it off." Beyond that period of time then I think you're - I mean, when I say "grandfather-wise", I don't mean for all time. I mean you've got to effectively give guarantees to your bankers and your shareholders that what you've bought and the money you've actually expended will in fact buy you what you needed.

Now, should, in that time, you're not able to use it - and again depending on who's buying and how commercial everybody is - you could argue that there would be a monopoly power in stopping others from using it. There would also be considerable value in selling that facility and getting the money. I think - and that's what Derek pointed out - you'd have to work through all of this in advance. My guess would be that you have to use it or lose it but using it could involve downselling it at established prices. So we're meeting your very real safeguards but at the same time meeting the private investor safeguards; that you can't put up that sort of money and not have some guarantee that you're going to get your return under normal commercial rules.

MRS OWENS: Yes, you've got to balance the interests on both sides.

DR DAY: That's really what I'm seeking to say. I think it's confused by the fact that in Sydney CityRail will always be backed by the government for additional paths because, as I hope I've totally convinced everybody, the externality value of running CityRail and the complete and utter inability of road pricing to reflect congestion costs in the city means that it's a plausible solution for Sydney to invest in more heavy rail. So in that sense it will be the government that will purchase additional track for its operator.

I'm not suggesting the operator will always be CityRail, there's an ability to commercialise who operates the system, but I believe that that operator would never be able to afford in its own right to purchase additional trackage, and indeed it would be perverse to do so because our fares would then be so high that we'll be totally - well, it would be suboptimal for the society as a whole; you would just be pricing rail, as in the UK, out of reach. So I think the model of the government buying urban infrastructure will always work. You can certainly then privatise and gain the advantages of competition for operations.

I only want to stress that given that dilemma I believe - and I'm sure some of the freight operators will be raising the same dilemma maybe in the national issue; that I'm not confident that national rail operators can afford to buy the sort of enhancements they need to provide good access in the urban area. I think - and I'm not as definitive on another person's problem - that that relates to the issues of road and rail pricing nationally. So I could conceive of a situation where some of those enhancements could be purchased for economic appraisal by a federal - potentially federal - or state government as enhancements purchased on behalf of freight rail.

The original One Nation program was the purchase of additional infrastructure for freight by a national government. I think in retrospect the weakness was they didn't specify what they purchased. But I think the concept could well be that that freight infrastructure is purchased by government and that in a sense would make it easier to meet Helen's answer that if it was, the path would be sold under some marginal pricing mechanism to the person most able to use them.

MR SETKIEWICZ: If the original enhancements were justifying an economic investment appraisal basis you would have no problems in on-selling those particular paths later on. Of course it goes back to the fact that the timing of investment - when you do it, how you do it, how long it takes - becomes a very critical point. Just the other issue relating back to the access paths: I've noticed that if the Australian Track Authority people buy paths, they buy it over a specified period of time, like say a Monday afternoon in Adelaide, and for all Mondays and during the week they - so in effect it works for and against them, but they have to put up the money in order to secure a path. I think they have got to be justified that they've got the business to do that in order to buy a path. So it works back the other way as well from a commercial discipline.

PROF SCRAFTON: That's right. The commercial discipline exerts the input. I'm very conscious, Dick, that we promised to let you get out of here but could I just ask you about this externality payment. The concept is obviously a solid one. I don't think people would dispute that. But are there any numbers to support the conceptual approach or is it just the fact that the conceptual spread of itself allows us to progress sort of interorganisational pricing regimes within Sydney or is the 400,000,000 for example - the figure that you nominated - a sort of real number?

DR DAY: Let me say a real enough number. The reason I say that is that it's notoriously difficult and I think - - -

PROF SCRAFTON: I appreciate that.

DR DAY: But we're quite open about the fact; we're not saying this is an easy thing to do but we're prepared to do it - in fact we encourage doing this quite openly in this city, saying, "This is what we are doing." In particular I would stress it's not an aggregate congestion figure, it's the effect on the critical corridors and the critical centres which are served by rail, and the issue for government of what would happen if we couldn't provide that service, which obviously has enormous implications for infrastructure. So clearly it's very difficult to measure. The way it was measured is that a study some years ago was done by contractors - in fact there have been a couple of studies done - that do measure assumption on assumption on assumption quite openly. Some of the work has in fact been done or tied to what the Roads and Traffic Authority are doing here. So my answer is, it is real. Quantifying it is clearly difficult but because it is so fundamental to our whole view of what we are trying to do with urban rail, I believe it is a debate that needs to be clearly had, fought over and established.

It does, in our opinion - and it's not luck, it happens to fall in that type of range. It does, I think, then raise an issue which certainly the New South Wales Treasury canvasses on occasion, which I'm fairly sympathetic with, which is that a good commercial model for a rail suburban operator could well be that the track infrastructure for the operator is paid for by government to the extent that through economic analysis you can justify having that urban rail infrastructure - so in other words they do pay for the infrastructure - but on top of that infrastructure the commercialised operator has to make a buck. So we buy our trains, we run our trains. We are totally commercial but our infrastructure is - just like road infrastructure - essentially justified upon economic appraisal grounds. I think that model is actually quite an attractive one to give us the right price signals.

It would mean - you may be aware, I think, in Adelaide at present the issue is when you franchise out passenger transport operations - I think it is Adelaide, I defer to you though, Derek - the issue of how do you encourage that operator to chase growth, particularly if the growth can cost you money. I believe in the model that I'm talking about, if we take out the access charge, and even then - in terms of any remaining CSO - if we strike a view of what is a passenger worth to us, then you can begin to strike a performance agreement that gives you efficiency at the time but also acknowledges an incentive to chase patronage. I think that's terribly important. At present we don't logically have that.

PROF SCRAFTON: Yes, and the way you describe it, at this stage you don't necessarily need it because you see that growth anyway.

DR DAY: Yes, but a commercial business, as you can understand, depending on how the contract was structured with us, we could make more money by trying less hard to carry passengers for this - - -

PROF SCRAFTON: You're quite right, because the model had problems initially with bus contracting.

DR DAY: Yes.

PROF SCRAFTON: Exactly the same problem - that there was no incentive to increase. Just one thought, just going back to this business of the paths and pricing the paths and people investing in paths. How do you handle that when you make one of these adjustments to your timetable? You were talking earlier about the big change, the one that didn't quite work but then you described how, you know, you made refinements. How would you handle that? Your flexibility would be eliminated a bit, wouldn't it, because some paths would have been tied up by other operators?

DR DAY: Well, presently in the peak periods very few, literally a very small handful of paths are actually tied up by another operator in our peak. I think it may be one train in the morning peak and two or three in the afternoon peak.

PROF SCRAFTON: Right.

DR DAY: This is in a sense the issue. While I'm not an expert on the amount of freight operation that may occur in the future, the number of 1500-metre trains that want to come to Sydney is not very many, and hence their problem, I would guess, is how to justify the investment to run that many trains; which is why I believe that sharing of infrastructure with people putting in a proportion of the cost is a more efficient way of getting through. But you are right: when we try to add more trains at present, we are consuming anything that's left in the system. In general there is very little extra fat in the system now and you partly pay that price through the likelihood of increased unreliability.

PROF SCRAFTON: It occurs to me that you could also leave the contractual arrangement at least open-ended enough to allow negotiations to take place so that rigidity was not in the system. Let's say that you wanted to shift 1 or 2 minutes, that might not be critical to those freight operators. He's invested in sort of a - you know, he wants the certainty of the path and a minute here and there doesn't make a lot of difference to him but it might to you as the metropolitan operator.

DR DAY: If I can come back in there - certainly if you're happy, I'm happy to continue the discussion because the other meeting is well taken care of. My chief executive is actually at the other meeting and I'm quite confident will handle it. But coming back, I think there are some very important things in it, and that is what I was driving at; that I think the way forward for the smaller operator and the freight operator is the English concept of flexing. I mean we can't flex, and I know it's easy to say I'm being difficult, but I mean flexing 2300 trains that are interlocked is harder than flexing three or four trains that have just come from Melbourne.

PROF SCRAFTON: Yes.

DR DAY: So my belief is that we do look at a flexing protocol. It might be 10 minutes, it might be quarter of an hour, it would be no more. It might be less.

PROF SCRAFTON: Right.

DR DAY: But effectively the contractual guarantee would be that you would purchase two paths at 8 o'clock or 8.30 which must be operated within 5 minutes either way of that time forever at this speed, at this tonnage, etcetera. I believe that that framework for the remaining operators would be very effective in giving them effectively certainty, and I think it allows, as we've said, through negotiation outside of State Rail for others to purchase additional paths of that type which then also, through the same rules, become mandatory upon State Rail. But I would stress that the ones that have got an element of fixed cost in them are the ones that I regard as mandatory. The ones that are saying, "I can run because no-one else needs it" which is very attractive for many spot private operators - I've got no problem with that; they obviously haven't bought continuity; they are basically buying surplus capacity.

MRS OWENS: I don't want to hold you up any longer but I might just refer you, Dick, to the participation we're having in this inquiry from the bike people; we've had the Bicycle Federation write a submission and in each state we're going to we're getting participants coming and talking about a range of issues, but in particular the issue of access for bicyclists to facilities on trains and stations and development of bike paths along lines and so on. I don't know whether this is an issue that has been brought to your attention in your role but I might just put you on notice to perhaps have a look at that, and if you've got any views we - - -

DR DAY: Somewhat surprisingly I am able to give you a quick view.

MRS OWENS: Okay, thank you. Just a quick one because I don't want to hold you up.

DR DAY: As I said, I'll get there late. The meeting is covered. I was saying that, other things being equal, it will be worthwhile. Can I stress that the issues of bicycles, of course, exists all around the world, it's not just here. In the really big bicycle operating countries like the Netherlands and Denmark, in general bicycles aren't allowed on trains, for the simple reason that 200 bicyclists descending on an S-bound train in Copenhagen - I have been there - just wouldn't work. Of course they do have very big bicycle facilities at stations - you know, for storing them.

It's an issue that no railway I don't think has adequately solved. Taken to its peak-hour extreme - which is not Sydney - when a bicycle boards a train through our train stations and gets on to a very crowded train it consumes a lot of space and it also quite genuinely causes concern and difficulty for numbers of other passengers, many of whom are dressed in city clothes and clopping around in high heels - not really well suited to be in close contact with a greasy large bicycle. So there are real issues for all sorts of users. At the same time - I mean quite clearly bicycles are part of the transport task but no vehicle - and a bicycle is a small vehicle - readily fits into a crowded suburban train.

What I'm suggesting is there is no obvious answer to those dilemmas but what we're seeking to do is certainly bicycle storage at stations, and in fact encouraging this; the problem in Sydney is getting enough critical bicycle mass to really get that going. In terms of the difficult problem of a person that wants to use a bicycle at both ends of their trip or their destination - in other words, they need to take that bike on a train - what we've tried to do over the years is manage it by allowing a bicycle on a train at a half-fare during peak hours. The reason for that - although it's sometimes disputed - is we're saying that bicycle is occupying passenger space at a time of congestion - it's the same principle as we've been discussing for the last hour - and therefore an equitable compromise is if you pay a cost for your bicycle at that stage, currently we will allow you to put the bicycle on the train.

If too many did that you could actually reach a situation where it would be lowering the overall effectiveness of the system for other users. During the off-peak when in general we don't have a problem with capacity bicycles are allowed on trains.

MRS OWENS: For free.

DR DAY: For free. In the metropolitan area with the big suburban trains that's easy. When you get out into the country with the intercity trains with narrow doors and particularly RDs and multiple units, which are only two carriages with very small doors, you've then got the issue of how many bicycles you can store, which is why there have been decisions about whether you can only take two or three bicycles on a train. The problem is if we create more space off peak times on those trains, we do it by taking out seats which are needed during the peak, so it's just to give you a flavour. It's an ongoing issue around the world that is a problem that requires trading off.

MRS OWENS: Or else major expenditure on special bike carriages and so on.

DR DAY: Yes, but very expensive, and in the Met contexts I can give you - Derek will fill you in afterwards - 101 reasons why that would not work and they're real reasons. That's why I would refer you, as I said, to the Netherlands particularly and Denmark, if you ever want to see an example of how does a city that really embraces bicycles comprehensively - how do they reconcile bicycles with trains; and the answer is you don't put them on the trains.

MRS OWENS: I think at that point we might leave it. I thought it was just worth talking to you about that issue. It's a live issue for our inquiry. We didn't predict it was going to be a big issue but it has become a bigger issue than we thought. Thank you very much for coming and thank you for the discussion. I think we both agree it has been a very good discussion. We will now break for lunch and we will resume at 1.45 pm.

(Luncheon adjournment)

MRS OWENS: We are now resuming the Sydney hearings and our next participant this afternoon is Capricorn Capital Ltd. Would you like to give your names and your affiliation and in what capacity you're here today for the purposes of the transcript?

MR BUCKLAND: My name is Andrew Buckland. I am an executive director of Capricorn Capital, which is a funder and adviser of high-growth companies. Capricorn has become aware of the rail industry reform issue through involvement with a client, the Austrac group. We've provided this private rail company with early stage funding of about $3,000,000 and substantial advisory assistance, including strategic planning, equity raising and micro-economic modelling.

MR VIDLER: My name is Sacha Vidler. I am a senior associate with Capricorn Capital.

MRS OWENS: Thank you both for coming and thank you very much for the submission which we've both read, and we would like to welcome you to these hearings. One of the important issues for us is this issue of availability of capital and how new businesses are getting started in this current regime that we now have in place across the country, and we have spoken to other participants yesterday about these issues but we look forward to discussing them with you in a minute. Have you in the meantime any opening remarks you would like to make?

MR BUCKLAND: Yes, Helen. We would like to just paraphrase our written submission and perhaps refresh a few of its major points, beginning from, I suppose, a little background in a contextual sense of Austrac. Austrac has operated in locomotive maintenance since 1995 and as a rail freight provider in New South Wales since October 1996. It's based in Junee in southern New South Wales, primarily focused on agricultural freight from the surrounding Riverina region and prospectively other equivalent New South Wales agricultural regions.

Austrac's present operations encompass trains between Melbourne and Sydney in partnership with V/Line which link with the Riverina branch line service and a metropolitan shuttle train in Sydney linking terminals and ports. The shuttle train is particularly interesting in that it runs from Port Botany to White Bay and Cooks River, picking up and depositing containers at various terminals along the way, and provides a more cost-effective method of delivering containers in relatively small volume inside the city than, for the sake of the argument, does a truck carrying out the same task, because of the congestion issues associated with trucking inside the city. Subsequent operations will probably reach other ports and, for the sake of the argument, Port Kembla and Newcastle in the near term.

The nature of the regional agricultural freight is typically (a) destined for export and, (b) sourced from a reasonably spread out region in the Riverina. It's individually of low to moderate volume - no customer consigns thousands of containers a week - and it's medium to high density. Density is typically up near the 20 tons per TEU equivalent. Cargoes include wine, stockfeed, frozen meat, magnesite - that's a mining extract - grain and timber. Historically the Riverina area was virtually abandoned by the incumbent intrastate rail service provider and accordingly Austrac's developing business has been won almost exclusively from road transport. Service frequency, reliability and flexibility are important to these sorts of customers.

Just going forward, looking at the scope of our subject matter today: in our written submission we talked about concerns related to infrastructure and reform but we notice substantial contribution from other respondents to the commission's inquiry in regard to those issues, so we don't propose to dwell on them too long today.

MRS OWENS: You would have other perspectives on the same issues.

MR BUCKLAND: Yes, where that exists, Helen, we will provide it.

MRS OWENS: Good.

MR BUCKLAND: We also notice a substantial body of submissions in relation to the issue of road and rail infrastructure, maintenance cost recovery, and again it's just worth restating that allocative efficiency would require parity of that to going forward. In this presentation we are seeking to convey five main things and these are, first, that the market structures, practices and regulations from suppliers of all kinds to the industry, including, for example, the Department of Transport, the communications providers, rolling-stock providers and labour, have evolved under an environment of monopoly rent distribution. It will take a long time to fix the culture of the industry coming from that background.

The second point is that on a significant proportion of freight tasks in the Australian economy rail has a lower economic cost than road, and I suppose that makes the point that the historical monopoly rent-seekers have obscured that very point. The third point is that degradation and under-utilisation of infrastructure, also engendered by monopoly conditions, must be reversed. The fourth point is that the greatest threat to the development of efficient new players, such as Austrac, is non-commercial anti-competitive behaviour from the market incumbents, as the single greatest threat, because if capital providers perceive that there is no constraint on other players in the marketplace they will not provide their capital to compete in that kind of environment, and the second great threat is that the access regime or elements of it, ie, between access and safety, is undermined.

The fifth point is that it would be Austrac's view that the New South Wales main line and the national main-line track access regime has been highly successful. Alternative models of deregulation based on infrastructure monopoly, such as suggested by Queensland Rail, should be avoided. I guess we would like to present something which wasn't in our submission which is a very brief case study of some business recently won by Austrac basically in competition with road and about a service access along which the existing railway line has in fact been closed, and we're referring to timber from the Tumut region in southern New South Wales where there is a line which runs from Tumut to Cootamundra and joining the mainline to Sydney or Melbourne, as the case may be.

Austrac has bid for and won a contract to haul timber from Tumut to Port Kembla which, first of all, has to be hauled by road from Tumut to Junee, which is a distance of about 120 kilometres by road, absolutely perpendicular to the port - I'm sorry, the port of Port Kembla. We would table a map which shows this. Junee is approximately 90 kilometres directly north-west of Tumut. The road route zigs and zags between Tumut and Junee but there is no doubt that there's 120 miles of extra road transport before we've got to the railway line, and then of course the cost of transhipping from the road freight to the railway line.

The road quote for the shipment of these logs from Tumut to Port Kembla was about $36 a ton. Austrac will receive $17 a ton for its portion of the shipment from Junee to Port Kembla which is, broadly speaking, the same distance as Tumut to Port Kembla. So that gives you a very good idea of the relative efficiency of road and rail on that kind of task, where the road is a bit windy. Probably the railway is quite straight, but the density of the cargo is quite high, about 50 tons per freight car, and if we were to draw that argument to a conclusion we would say that the rail component, if the line existed to Tumut, would probably be of about $20 per ton; ie, $16 per ton, nearly 40 per cent lower, than the road cost.

To go to the next step, to enable rail to carry that cargo from Tumut would require the reopening of the Tumut-Cootamundra line, and the reason for it originally being allowed to fall into disrepair when there has always been, and it appears to us there always will be about half a million tons of product generated at the end of it every year, is something that we can only wonder about as we sit here today. The fact of the matter is that to do that would require, by an estimate we've prepared in concert with Austrac and some of their customers, an investment of about $60,000,000. It is almost viable for us to undertake that project without any government subsidy.

By contrast the south-east road strategy has planned expenditure of $60,000,000 of federal government funding which is, as we can see, an explicit subsidy to the road operators on that leg. We would have to privately spend $60,000,000 refurbishing the railway line as the situation presently stands. If we move on just to review other aspects, and in particular the administrative service structures which afflict operators like Austrac, we would say that the current track access regime in New South Wales and on the national main-line network has been well designed and been implemented very effectively. Also required, a rationalisation of the systems, procedures and regulation by which the providers interact with the regulating agencies, particularly with the Department of Transport.

Other examples where improvements would significantly improve efficiency include insurance, communications, as I said, safety-related issues, and to some extent scheduling. It may be necessary in this regard to create a body, preferably national, independent of the Department of Transport responsible for the safety regulation and accreditation for the rail industry in the same manner that the New South Wales Road

Transport Authority operates in relation to road transport; likewise there's a similar authority which operates in relation to air safety.

So to summarise this brief summary, the key point we would like to convey is that rail is not a crippled industry. From our experience few or no selective subsidies can be justified. The absence of requirement for commercial returns on the existing government providers impedes the development of providers such as Austrac, and in this context we would note that the published deficiency figures for major providers do not include commercially acceptable return on assets or return on investment. This would increase the quoted net cents per ton kilometre cost figures for prominent providers by about 25 per cent, and we see, for the sake of the argument, National Rail with negative return on assets with assets of $600,000,000.

We would therefore hope to see the implementation of mechanisms to ensure commercial returns by the major government freight provider shareholders. These could include, as an interim measure, conversion of government equity and privatisation of the debt. We suggest the extension of the New South Wales and national model of track access. A separate safety authority would appear also to be warranted. That is the end of our summary. Thank you.

MRS OWENS: Thank you very much and, as I said before, thank you for the submission. I think the case study is a particularly interesting case study. Can I just clarify one thing you said. When you were talking about the road quote of $36 per ton, was that from Tumut to Junee or was that from - - -

MR BUCKLAND: Sorry, Tumut to Port Kembla. It's for the entire distance.

MRS OWENS: It was the whole distance, yes. That was what I had written and I just thought I had better just clarify that in case there is some doubt later when we go away. Can I go back one step to your own organisation, Capricorn Capital, and just ask you how you got into the rail business and whether you have expertise within Capricorn? Rail is something a bit different from other industries.

MR BUCKLAND: Yes, we first met Austrac, I suppose, a year ago. We knew a little bit about transport and a little bit about rail, and I guess came to the view there probably were going to be some attractive opportunities in this sector. We also came to the view that after a bit of research there wasn't much public information about what was real in the rail industry and, to the extent that Austrac brings that expertise, we basically coupled together what was on public record and privately generated figures from Austrac, and I guess it's fair to say that Tim Elderton, the sort of engineering director if you like of Austrac, is certainly highly competent and knew enough about the broad operating parameters that we're able to do things like build pretty good economic models of railway business. That didn't take all that long. It took a lot of effort but we achieved that before we made any investment.

MRS OWENS: In doing those models you have got to make certain assumptions about the environment in which that business is to be conducted and it has been, I would argue, a bit of a moving feast. Things have been changing and there's ongoing privatisation of the larger businesses such as Westrail - it may not directly affect you but it is about to be privatised - V/Line Freight and National Rail Corporation. I don't know whether any of those bodies would have any direct impact on Austrac, but it is changing.

MR BUCKLAND: We did try to anticipate the final form of the industry before we made an investment as well, so we went to that depth of investigating the structure of the industry and the likely strategies of the key players. It's evolving, not perfectly, but roughly along the lines that we thought. We haven't been unpleasantly surprised but there's still a long way to go yet.

MRS OWENS: The expectations in terms of rates of return in this industry, are they relatively modest or healthy?

MR BUCKLAND: No, it's okay. It's a structurally attractive industry.

PROF SCRAFTON: You have experience with both the New South Wales access regime and the federal one because you operate to Melbourne. Do you have a preference for one or the other, or do you notice much difference between them?

MR BUCKLAND: I'm afraid I'm not qualified to comment in relation to that. What in effect has happened is the train to Melbourne - V/Line runs - basically it's effectively a joint venture.

PROF SCRAFTON: Okay.

MR BUCKLAND: Austrac, whilst licensed to run to Melbourne, hasn't yet done so, but the differences are fairly marginal, as I understand it - - -

PROF SCRAFTON: Thanks for that.

MR BUCKLAND: - - - in terms of the main line.

PROF SCRAFTON: That's right. You did mention that point; that the operation within Victoria is actually with V/Line Freight, yes. So thanks for that. Is it true that Austrac was the first and is still the only new private operator within New South Wales that is actually fully accredited?

MR BUCKLAND: Yes, that's our continuing belief.

PROF SCRAFTON: I guess this is a question that is probably not one that you can answer either, but why has Austrac succeeded where others seek in fear to tread?

MR BUCKLAND: The barriers to entry are not insignificant. I've got an information memorandum document that we are using for equity-raising purposes at the moment and if I can just refer to it. They are about capital intensity, for one thing;

the regulatory environment - gaining accreditation is a long and complex, or appears to be a long and complex process; you've got to have support services on the railway lines somewhere; you've got to be able to get your locomotive serviced - that's not necessarily that easy to do; the distribution capability of sidings and container handling at each end, they're not just falling off the trees for you. Austrac, an early player in the business of buying second-hand locomotives - well, that market has pretty much dried up now. Minimum economic scale is quite large.

You know, our estimates suggested that you needed a minimum turnover of about $20,000,000 to sustain a viable business that could deliver boxes to the ports. It's different if you just were a branch line but, in the case of the competitive environment that Austrac found, they couldn't achieve competitive pricing just by hauling freight cars to the main line and so had to do the whole lot themselves. Cumulatively, quite a significant set of difficulties to overcome.

PROF SCRAFTON: Sure. Thanks for that. That's super. I'm interested to hear that because you can imagine we do get a number of participants coming before us who claim that these handicaps are too great but obviously here's an example of a company that has at least overcome them to its own satisfaction.

MR BUCKLAND: Again, because the industry hasn't existed in this country, if you talk to the equity providers, you've got to educate them from zero. It's easier to actually get a trade equity investor than - or it appears to be easier to get a trade buyer effectively than the development capital sector, which you've got to educate from zero, and the industry hasn't existed in the eyes of any commercial capital provider.

PROF SCRAFTON: Yes, thanks for that. Obviously from the things you've said and the written submission, you and your client and other potential clients would obviously be happier the sooner the privatisation process took place in Australia. The way you describe it, you would like to get rid of these subsidised competitors and their impact on the market?

MR BUCKLAND: It's going to be a bit of a two-edged sword. We're happy to a certain extent in that they're perhaps not as competitive in terms of servicing the customer and that leaves the customers free, perhaps, to be acquired, but certainly we would like to see some commercial discipline imposed on what they do in the marketplace. The mechanism of privatisation is pretty important. For the sake of the argument, National Rail has, by all accounts, probably 40 per cent more assets of various kinds than it needs and, if it's privatised with those assets intact, the effect won't be particularly good for the development of the rail sector in general.

PROF SCRAFTON: Yes, good point - that you could be confronting a rather different set of problems.

MRS OWENS: Was that, what others have called, the hoarding of assets - and a problem for you? You said that you got into the market early and were able to get locos, so it wasn't so much of a problem as it might be now.

MR VIDLER: No, it will continue to be a problem to reach critical mass in terms of locomotive and rolling stock availability.

MRS OWENS: So what are you suggesting that NRC should do? Is it to sell them off or to hand them over?

MR BUCKLAND: You know that the government is in a vexed condition here, but it would seem to us to make sense that perhaps NRC does have some degree of viable business. How much it is viable is difficult to understand when you look at the paucity of information that they publicly announce. Anecdotally at least you could make a viable business out of NRC. It would only use a little over half the assets by the estimates that we have seen. To maximise the number of participants, if the rolling stock assets were perhaps divided into sensible blocks and tendered at auction and if, to the extent it's possible and sensible, the excess capacity in terminals and so on and fixed on-ground assets were made into common user terminals, there's evidence that works pretty well.

MRS OWENS: For Austrac getting access to terminals now, does Austrac have to negotiate access?

MR BUCKLAND: There has been a bit of arm wrestling going on, yes. They have made private sector commercial arrangements. It continues to be a difficult thing, and in the circumstances, say in the ports where there are other monopolies, ie in stevedoring, it gets pretty difficult and that's the whole nature of the game. We are trying to squeeze boxes out of the port and when the ports themselves are duopolistic at best mostly, it's not necessarily that easy either.

MRS OWENS: You said in your submission and you also said in your opening remarks that the government doesn't need to provide any direct subsidies to support rail freight service providers, but you've also made some comments about the level playing field between road and rail and arguing that basically there isn't competitive neutrality at the moment. You say in the submission full recovery of maintenance costs would require an estimated fivefold increase in charges - that is to the road freight users. The other issue, which has been raised by a number of people, is the issue of fuel excise and the fact that the government has announced it's going to be reduced. Have you views on that particular issue?

MR BUCKLAND: That will have a fairly marginal effect. I assume that whilst the fuel tax was originally hypothecated, I understand that's no longer the case. But that should be clarified, one would think; that indeed the component of the excise of fuel doesn't go in fact to fund roads. It goes into consolidated revenue. Let's get realistic. On the other side of the coin, I think you've seen plenty of evidence about the under-recovery of road damage from particularly heavy vehicles, and the figures that we quote are from Australia's leading road damage firm and, if you look across the Tasman and see what exists in New Zealand, and I'm sure you have seen that evidence, that's all we are talking about.

MRS OWENS: I think people are saying that all these issues all add up to a significant issue that the under-recovery, the fuel tax, the different driver registration regulations - - -

MR BUCKLAND: All those things, yes.

MRS OWENS: It all adds up to a picture - - -

MR BUCKLAND: To give you an idea, the insurance component of operating Austrac is the sixth largest operating cost. It's around the 7 to 8 per cent and it's a very significant amount of money. That's because the rail system privatises fully the accident cost whereas the road system to a degree externalises them as well.

MRS OWENS: Presumably any government competitors - those costs would be internalised too?

MR BUCKLAND: Yes.

MRS OWENS: So if you are talking about competitive neutrality, it's not just between you and road, it's been you and government providers?

MR BUCKLAND: That is correct, yes.

MRS OWENS: Coming back to the fuel tax, there is the argument that the reduction in the fuel tax back to 18¢ is a larger reduction in absolute terms for road because if the fuel tax there is higher, the excise is higher, and in relative terms it has a greater impact on road because they use more diesel. The trucks use more diesel. So it can have an effect both ways.

MR BUCKLAND: It will have a marginal effect. The road damage effect is far more substantial in aggregate terms.

MRS OWENS: It's useful to get that perspective because I think we will be talking to the National Rail Corporation later and they will probably raise the fuel tax issue as being a significant issue and it's just nice to get the balance.

MR BUCKLAND: Yes, I'd like to see their insurance bills.

MRS OWENS: We could ask them of course.

PROF SCRAFTON: Yes, I just have one specific question. On page 4 of the written submission you talk about train path scheduling being haphazard, especially in the metropolitan areas. We've been talking this morning with the State Rail people who do the train pathing and their view is that there's very little flexibility in it at all. I don't quite understand what was meant there by haphazard.

MR VIDLER: It's from Austrac's operations manager who provided that advice and it's particularly with regard to incidences where there's a small deviation from schedules, say beyond the 5-minute window and delays of up to 4 hours can occur as a result of integration with passenger services and other services which you would expect in the city, but it was his opinion - and he has worked for State Rail and also for National Rail - that if the system was better organised those delays could be made much less.

MR BUCKLAND: Seeing this is probably not written as well as it should be, but when everything goes to schedule - - -

PROF SCRAFTON: It's okay, right.

MR BUCKLAND: But if it gets slightly out of it - yes.

PROF SCRAFTON: Right, but if you miss, if you like, the scheduled window by a few minutes, then the - - -

MR BUCKLAND: There's no flexibility.

PROF SCRAFTON: The metropolitan priorities - - -

MR VIDLER: The schedule does not recover from a slight distortion. That's right.

PROF SCRAFTON: Another point that you made there that I thought was quite interesting was, one way to try to get better competitive neutrality with existing government operators is to convert the government equity to debt. It's a fairly big job. I think even finding out what equity is for some of them would be a task, but nevertheless there's no doubt that you could at least get hold of recent investments, couldn't you?

MR BUCKLAND: I think it's very clear in the case of National Rail, and certainly being a fairly recently created body, and FreightCorp has got a set of accounts, as it must have, which has got an equity line in the balance sheet there. I don't think it would be a big problem at all. If you'd like us to do, we'll do it.

PROF SCRAFTON: I was thinking more there about the equity in the track and that which would in turn influence the charge, or ought to influence the charge - - -

MR BUCKLAND: Okay, we're really talking there about - - -

PROF SCRAFTON: Above-rail assets.

MR BUCKLAND: Above rail, yes.

PROF SCRAFTON: Yes, thanks for that. That's very helpful.

MRS OWENS: Have you got to the point yet in terms of your dealings with the RAC in New South Wales where you may at some stage require maintenance on the track? I don't know whether you have up till now, it's only early days - whether you expect there to be the responsiveness that you need? What I am getting at is if Austrac was a vertically integrated entity, if there were needed, much needed maintenance, then it is just part of the operations and it would be factored in. In this case it is not; it is more indirect, and I am just wondering about the responsiveness of going to a separate organisation to get the maintenance done.

MR BUCKLAND: They have had no instances to date that I am aware of but they have found that from Rail Access they have had nothing but the service that they would come to expect. It is fair to say that on the train paths which they're using at the present time they're also paths frequented by National Rail and FreightCorp and V/Line to some extent, so I haven't struck any serious maintenance issue to date, but I suppose that we trust that Rail Access Corp has got the wherewithal necessary to keep the system in the order that everybody expects.

MRS OWENS: Of course you don't want to pay for the access to a line which is over-maintained - if there is such a - well, it is possible. I mean, FreightCorp might want to keep a line at a higher standard than you might need or Austrac might need and, in your access charge, you don't want to necessarily be charged for standards that you don't necessarily want to maintain.

MR BUCKLAND: I think that if you got all of the operators in one room they would have a remarkable consensus about what they really wanted in a railway line.

MRS OWENS: Yes.

MR BUCKLAND: I think you would find that they would all say that they wanted, on the standard gauge network between the major capitals and elsewhere to the extent it was possible, hundred-ton uniform loading - sorry, 25-ton axle loading, yes, as the first thing of right; maximum ruling gradient perhaps 1 in 60 or 1 in 66, as a second thing and, as a third thing, perhaps double-stacking of containers.

MRS OWENS: Yes.

MR BUCKLAND: But I suspect there wouldn't be too much divergence - but you could ask them the question, I suppose.

PROF SCRAFTON: That is interesting. It is interesting hearing these views coming from a small operator, a new operator in the field, and even identifying, as you do - I think it is page 4 - some of the weaknesses in the existing network, and I guess it is useful for us to know that already the small players are influencing or at least having their views set out on what sort of priorities are required for investment or policy or whatever it might be in a particular state. Also we hear comments from customers, or potential customers, about what might be, but here is a case where somebody is actually doing it and it's operated actually on the line haul bit for a year now and brings its experience to the table, so we appreciate that and I think it is good that you would do that for us.

The other thing that is very interesting in your paper is that you make a comment at the very bottom of page 5 about what you see as the likely form of the marketplace with a very small number of big players - two, three; I think you said two in yours - plus operators in niche markets and quite a lot of participants have expressed views similar to that. How long do you think it will take to get there?

MR BUCKLAND: The crystal ball.

PROF SCRAFTON: Is that a real long-term future or is it something we should be - - -

MR BUCKLAND: I think it will evolve relatively quickly in terms of our lifetime - a few years rather than a decade. I think you are already seeing that prospectively Austrac will work with V/Line; they will both with ASR in South Australia. Queensland is a slightly different country, but will do something up there.

PROF SCRAFTON: Yes.

MR BUCKLAND: You know, if cents were cents FreightCorp and Westrail would merge and you would have an entity that went east-west and National Rail would compete with them, or the assets of National Rail would compete with them in whatever form they get sold in. It is hard to make big out of small and small out of big, you know.

PROF SCRAFTON: Yes, and I think your comments and timing are interesting, too, because you are quite right. I mean, if you get that Westrail sale and you get the V/Line Freight sale and NR sale, you have got the framework out there for the sort of scenario you have described to evolve reasonably quickly.

MR BUCKLAND: Yes.

MRS OWENS: It could evolve as a series of alliances initially.

MR BUCKLAND: I mean, that's what Austrac has done with V/Line, sort of.

PROF SCRAFTON: That's what it is now.

MRS OWENS: Yes, so you have got alliances but then, ultimately, you could end up with takeovers, couldn't you?

MR BUCKLAND: You might see the regional players under common ownership but you would certainly have reasonable commercial rationale for continuing with separate business operations because they have got some different - you know, V/Line comes with a track and that would dispose you to do some things which you wouldn't do in New South Wales - - -

MRS OWENS: Yes.

MR BUCKLAND: You are probably quite right; the common ownership could be a feature.

PROF SCRAFTON: That is all I have got, thanks.

MRS OWENS: This is coming back to when you were initially making the decision about Austrac and whether there was an expectation at the time about what sort of market share you would be able to extract from road and whether that market share has been reached as of yet. I presume when you were doing your modelling you would say, "Okay, this is the sort of business we think we can do. This is the amount of business we think we can compete away from road. This is the market share we would expect in 12 months, 2 years," whatever. Did that thought process go on and have those expectations been met?

MR BUCKLAND: We didn't actually - and this might be a surprise to you - make any numeric targets about market share. We, broadly speaking, established that in the Riverina there was enough freight that would make a rail operation economic if we could achieve roughly a one-third share of the freight - we thought was attractive. The other enabling parts of economic scale and economic operation have arrived, I suppose, but we're always aware that, run efficiently, the cost of hauling almost anything over a distance of more than about 500 kilometres is better by rail than by road, and of even reasonable density that benefit existed. If the goods originated at the railhead and terminated at the port, then that benefit existed whatever the density virtually, and was spectacular when you got up towards the 20 tons per TEU, so we were never particularly concerned about that. It was more about the final form of the marketplace; how to develop a defendable strategy in the agricultural regions. It is fair to say that Austrac is certainly competing with other rail operators Sydney to Melbourne, but that is not the core of the operation. It is merely an enabling delivery system and it has got no aspirations towards great volumes between Sydney and Melbourne.

PROF SCRAFTON: That is more complementary to the core business. Thanks for that.

MRS OWENS: What about Capricorn Capital in terms of possibly funding another operator that comes along? Do you expect to grow this business?

MR BUCKLAND: There's a finite number of opportunities and our funding capability is not huge. It is probably limited to about that sort of $3,000,000 figures that we have provided to Austrac. We would certainly contemplate it but it is probably unlikely that there will be another opportunity which can fit within our constraints and appears to us to be viable.

MRS OWENS: So you have just found this window of opportunity and hopped in there - the timing was right?

MR BUCKLAND: Yes, I suppose. It's a once-in-a-lifetime thing.

MRS OWENS: In terms of actually raising the $3,000,000, was that - - -

MR BUCKLAND: That's our own money.

MRS OWENS: That's your own money?

MR BUCKLAND: Yes. We are in the process today of raising equity, which to maximise the opportunity it appears to have, it needs about another $15,000,000 over the next 15 months roughly and we are in the process of raising that now.

MRS OWENS: Is that proving difficult? Do you go offshore or can you raise it all locally?

MR BUCKLAND: It is complex. I don't know - degree of difficulty is a difficult thing to measure, difficult because the local institutions don't know anything about the industry and difficult because they're all very suspicious of, shall we say, the uncommerciality of the government operators. They are the two biggest problems.

PROF SCRAFTON: It is a big uncertainty, isn't it, the influence of a government operator?

MRS OWENS: So it could be easier in the future once they are privatised but, on the other hand, that might be too late; you're doing the equity raising now.

MR BUCKLAND: Yes. I mean, Austrac now are fairly enabled to get to minimum economic scale - a $20,000,000 turnover with the assets that they have obtained control over today, but to grow to be a real - a real - business they would be at least twice as big as that and need some more equity, and the extent to which the capital providers are deterred today - it is very difficult to maintain the business stationary at the size that it will be next year at some stage. It will probably either be - if we can't achieve a local equity-raising the business will probably be acquired by persons from across the water.

MRS OWENS: Yes, okay. Would you, Andrew or Sacha, like to make any other comments before we close this - - -

MR VIDLER: No, we have covered it all.

MR BUCKLAND: I guess the only other thing we could offer to you - if it was of interest - was access, reasonable access, and I would have to figure out exactly the basis, but we do have some pretty good econometric modelling of rail versus road costs, if that was of interest to you.

MRS OWENS: I think it certainly would be. We have got Dr Salerian, who is one of our economic modellers of the commission and who is currently running as the director on this inquiry, but I think that would be of great interest to us, so maybe we could talk to you about that after we finish.

MR BUCKLAND: Yes, okay. We are happy to do that.

MRS OWENS: That would be really helpful.

PROF SCRAFTON: That's great.

MRS OWENS: Thank you very much.

MR BUCKLAND: Thank you.

MRS OWENS: We will break for just 5 minutes.

MRS OWENS: Our next participant this afternoon is the National Rail Corporation. Would you both mind giving your name and affiliation for the purposes of the transcript?

DR AFFLECK: Fred Norman Affleck. I'm general manager, corporate affairs, for the National Railway Corporation.

MR EDWARDS: David Stanley Edwards. I'm national manager for rail safety for the National Rail Corporation.

MRS OWENS: Good, thank you both very much for coming this afternoon, and thank you for the submission. Derek and I both read the submission. I know we both found it really a very useful and full submission, so thank you very much. I understand, Dr Affleck, that you would prefer to go straight into answering questions and you don't have any opening comments.

DR AFFLECK: That's correct, chairman. I'd also just like to mention that in rereading my own submission I have discovered a number of typographical errors which I will correct and then send you a new, clean copy of it. But at this stage, no, I think the submission speaks for itself and we'd like to give the time over to questions from yourself, if that's appropriate.

MRS OWENS: Thank you very much. I think that one of the issues that has been exercising our mind - and I think exercising your mind over the last day if reading the Financial Review is a reliable source of information - is the issue of competitive neutrality, and it might be a good place to start. I was reading in this morning's Financial Review some of your remarks, I think at a conference that's being held in Sydney this week, about fuel excise. I was wondering if you would like to comment on that particular issue in more detail at these hearings. You did make some comments about the reduction in fuel excise to 18¢ a litre, and the relatively greater impact that has on road transport - on trucks vis-a-vis rail. Would you care to comment on that issue?

DR AFFLECK: Yes, thank you. I think the report in the Financial Review was accurate as far as it went, but of course, as usually happens it was one small aspect of a talk that I gave on a much wider subject that was highlighted in that article. In relation to the fuel excise, it has long been the view of the rail industry that the fuel excise is an inappropriate charge for the rail industry, and indeed the 1991 report of the Industry Commission said as much itself; that it should be exempted for the rail industry, as it is largely - or was then largely considered a road user charge.

The argument, I think at this point in time, revolves around the proposal by the federal government made before the election to reduce the present levels of fuel excise for both road and rail to 18¢ whilst at the same time exempting all off-road users, other than the rail industry, which in the first place seemed to us a little anomalous, but that was the proposal. We have looked quite carefully, as a company, at the likely impact of a change of that kind and the fact is that because the fuel consumption rates by road transport for an equivalent freight task are slightly in excess of double that for rail, it's easy to calculate that the benefit gained by road transport from a reduction of a given amount of fuel excise will be approximately double that which goes to rail, and that's the simple arithmetic.

Therefore the effect of this in purely arithmetic terms is that whereas at the moment rail in the east coast corridor - let's say, just to take an example - has a slight price advantage because of a slight cost advantage over road transport, taking into account the extra cost for pick-up and delivery by rail, reduction of the fuel excise in both modes to only 18¢ will reverse that advantage and give something of an advantage to road transport simply by a change in the taxation system. We have put a very large amount of investment into bringing ourselves down to that level of costs on the east coast to make ourselves more competitive, and that could be wiped out completely by this change.

I think to extend that argument a little further to the logic or illogic of it, is that the 18¢ which remains has been highlighted by the National Road Transport Commission as a road use charge, and they have said that quite explicitly in their most recent draft report, and indeed in previous determinations of road use charges. In order that the road transport industry pays an adequate amount of road use charge, you need both the contribution made from the 18¢ fuel excise, and the registration fees paid by various sizes of trucks. So it's quite clear that that 18¢ is a portion at least of the road use charge. It seems to us therefore illogical that the rail system should pay that 18¢ as well, because we are already paying rail access charges that are many times larger, for use of our own infrastructure.

If, on the other hand, as is said by a number of people that the 18¢ is not a road use charge, it is simply a tax that is applied to both road and rail, one wonders then why it's not applied to other off-road users. But if it is simply a tax that means there is essentially no road use charge of any consequence in the system, in contrast to rail which has a very substantial access charge for using the railways. I think in our submission I gave an example of Sydney-Melbourne traffic showing that the road use charge and the rail use charge were way out of line with each other. I think that argues for two things: one is an exemption for rail from the remaining 18¢, recognising that it is appropriately considered a road use charge - whether it is a hypothecated account in an accounting sense I think is neither here nor there - the BTC has called it a soft hypothecation which I think is quite appropriate.

MRS OWENS: I hadn't heard that.

DR AFFLECK: The second thing it argues for, I think, is a rather more in-depth investigation of the pricing of infrastructure for land transport. Who might do that investigation of pricing for land transport infrastructure, I don't know, but one possibility is the proposed National Land Transport Commission that the Australian Transport Council might have a look at, at its next meeting in December. I think from an investigation like that one might then be led down a path which says that neither the registration fee, nor the fuel excise are a very efficient way of administering a road use charge and maybe something different is required, but that's not a point that we are arguing at this point. We are simply saying that the 18¢ should be recognised as a road use charge and applied accordingly.

PROF SCRAFTON: Somewhere in your report, Fred, you talk about a lot of reviews and never reaching the barriers or something. It seems to me that that is a classic example of it. Every review since the 1991 Industry Commission report and maybe before that, for all I know, commented that it was inequitous that it should remain that way, and it was supported by the NTPT, and many submissions obviously to this inquiry which is a rail inquiry are going to say the same thing, and yet nobody seems to budge.

DR AFFLECK: Interestingly, too, as has been said in our submission, there are a number of other organisations including the National Farmers Federation, the Australian Automobile Association, and at least indirectly the Road Transport Forum have also adopted the same position. It may well be, for governments, a purely fiscal revenue issue, and I think that needs to be more explicitly addressed.

PROF SCRAFTON: But the amounts are not that great, are they?

DR AFFLECK: The exemption of rail from the remaining 18¢, by our calculation, would cost in fiscal terms about $80,000,000 a year, assuming that there was no diminution of rail traffic as a result of leaving the 18¢ on. It depends on what you consider the base case to be.

PROF SCRAFTON: The extraordinary thing is that this was an opportunity for a major policy change. You could understand why governments might have been reluctant in the past 10 years to do anything about it, but really this was supposed to be about taxation reform.

DR AFFLECK: And it is odd that in the context of taxation "reform" - and I'm not diminishing the value of the reform by putting it in quotes; I'm just saying that if it was to be reform it should have addressed that issue in a real reform sense. It has been said by some people that perhaps the 18¢ puts us on a level playing field, we both pay it. But I think if you look a little deeper than that, as I've tried to do in our submission, you can very quickly see that the 18¢ applied to both is not an equitable situation at all, because there are other charges being paid which skew that quite considerably.

MRS OWENS: Does this issue, and in particular the reduction of the fuel excise and the relative impact on road and rail - you said it has an impact on your competitiveness in certain markets. It can change the balance of your competitive position. To the extent that National Rail Corporation may be privatised in the future, does it have an impact on the value of the business? Could you go that far?

DR AFFLECK: It's difficult for me to comment on that except to say that our marketing people tell me that with a price disadvantage which would come out of that sort of cost change, we would inevitably lose business and therefore we would inevitably lose contribution and profit, and I guess you would have to say that would have an impact on the value of the business.

MRS OWENS: But that's not the factor that is really driving you in this area; you've been maintaining this position a long time, haven't you?

DR AFFLECK: As a company I guess the situation is this: in terms of the principles that lie behind competitive neutrality we have had a view for a very long time that there are anomalies in the charges and taxes paid by road. Our managing director Vince Graham has frequently highlighted the fact that we do not pay sales tax, our competitors do, and we have made this statement at least as a company that we believe in the reform of tax that is one thing that would have to change. The GST will be imposed on rail as on everyone else, the sales tax exemption that we've enjoyed for many years will disappear, so that side of the equation has taken place.

First of all, we argued it from the point of view of taxation and pricing equity, if you like, for infrastructure. But having had a close look at this proposal for a reduction to 18¢ by both road and rail, it set alarm bells ringing very loudly that our specific business interest in each corridor we run in is going to be directly affected by a change like this, because it's very substantial. This is millions of dollars being saved by both road and rail, but very much more by road than by rail, and that affects us in the pocketbook immediately.

MRS OWENS: Have you done any estimates to see what the impact is going to be on different routes?

DR AFFLECK: We've done estimates of the impact on the cost structures of road and rail using conventional cost models for both of those modes, and the effects are fairly dramatic. Doing estimates of how that might affect the actual market shares is very much more difficult because of arguments about price elasticity and so on, but the fact that it is a reversal of the advantage - that we have now an advantage now and we will be put at a disadvantage; in other words, our costs will be higher than road's, whereas in fact at the moment they are lower - the market people at National Rail tell me that that will inevitably have a dramatic effect. Precisely how much effect that would be is difficult to say. But it's quite a few dollars, and I can only assume that we would lose a fair bit of traffic. It's difficult to quantify it and I'm sorry I can't do that.

MRS OWENS: It would be really useful to be able to get some sort of view of what the impact is on individual players in the system, because as Derek said, this issue has been around a long time now and obviously the issue hasn't gone away; it stays around and I think it's a matter of taking another sort of view and coming at it from another direction. I'm not sure what convinces governments to change things, but I think good solid information always helps. We could just tomorrow write a sentence, we could take it straight out of our rail report from 1991, and from our coal report and the urban transport report, and say, "This is what we think should happen."

But that may again fall on deaf ears unless we have something to substantiate that, to actually be able to say, "This is what the impact is going to be on the market." It's one thing to say, "Road versus rail" - there is this unlevel playing field - but to be able to actually pin it down and say, "Just this one change on fuel excise is going to have that impact. The impact of a remaining 18¢, which is when you add that to your other access charges and so on, means this," it would be really valuable. I don't know who can provide us with this information.

DR AFFLECK: There are two approaches to take, and perhaps before I say that there are at least three levels to this argument. One is the sheer logic of the tax versus charge argument. The second level is the change in cost levels which leads directly into a change in price levels, which must have some effect if one believes in competition being driven by prices and service quality and so on. The third level of the argument, which is, I think, the one you're searching for, is: what are the effects on the revenue of our organisation and possibly others that might flow from that? That's by far the most difficult question to answer and I think what we would have to do to do that is to disaggregate our business into its very components and look at the price elasticities of demand for each of those major components and attempt to model what the effects might be.

MRS OWENS: It could be just for a very small part of the business.

DR AFFLECK: And that's what we would have to do I think.

MRS OWENS: You say, "This is this route. This is this bit of the business."

DR AFFLECK: For business like steel, for example, merchandise or commodity traffic, I think the effect is likely to be much less because the competition between road and rail is not terribly effective. We've got most of the market now and I don't think that's likely to be affected. Our profit margins could well be affected but the competitive balance but might not be, but in intermodal business, which is more than 50 per cent of our total business, the impact is likely to be very immediate, like between one day and the next. I will take this back with me and see what we can do to answer that question a little more thoroughly.

MRS OWENS: Thank you. You can see our dilemma, can't you?

DR AFFLECK: I can indeed, yes.

MRS OWENS: I think from our point of view it is a very important issue and it's one of those issues we have been asked to address and I think we need to think very carefully about how we can address this in a new way and to provide another insight into the problem.

DR AFFLECK: Yes.

MRS OWENS: You say that there's logic, and that's fine, there is logic. I mean we've accepted that in the past, but it obviously hasn't been accepted elsewhere.

DR AFFLECK: No.

MRS OWENS: Maybe it is just a government revenue issue. $80 million doesn't seem here nor there for government. I shouldn't probably be saying that but I mean I wonder whether for the industry it's here or there either. It's not a billion dollars. But we need to be able to understand the broader ramifications. The dollar amounts are not where the game is, I would argue.

DR AFFLECK: Okay.

PROF SCRAFTON: Fred, in your submission you say that the main unfinished business relates mainly to infrastructure and yet much of the change above rail is still going on. Would you like to sort of elaborate on that statement - why you feel it?

DR AFFLECK: I guess the reason why I said that is that if you look at what's happening above rail, first of all there has been - well, I guess the first cab off the rank in reform terms was the formation of National Rail Corporation which has remained an above rail competitive operator. There are a number of other organisations which have been formed in a similar sort of way - FreightCorp is one - and there are others who are not vertically separated but nevertheless have improved their performance above rail considerably. Westrail would be an outstanding example of that, and there are others.

The productivity rates and the reliability levels that are being got above rail now are quite considerable and the asset base above rail is now by and large, with some notable exceptions, very good quality. There are new locomotive fleets, there are wagon fleets that are much more productive and newer and in better condition. The benchmarking study that we were the subject of by Ernst and Young illustrates levels of productivity which are now quite good. But if you then look at the issues that remain for which there are no obvious solutions or for which solutions are coming but still apparently a long way off they are virtually all in the area of infrastructure.

They have to do with taxes and charges for infrastructure use; they have to do with the quality of the infrastructure that's there, both in terms of its maintenance and the type of infrastructure that's in place on the track and the signalling system and communications and what not; and also the operating practices which are dictated by that infrastructure configuration. Virtually all of the issues which the industry is currently dealing with in its reform agenda that's being pursued, in part at least, by the Australian Transport Council, the ATC, they are virtually without exception infrastructure related issues when one traces them back to their origins.

I guess the point that was being made in part was this is where the focus needs to be and therefore this is where the analysis needs to be most sharply directed, and the 18¢ issue that we were talking about a moment ago is one of them. It also suggests that the institutional arrangements for infrastructure management are a very good subject for further analysis, because I don't think they are anywhere near right yet if these problems are going to be properly addressed. I don't know whether that answers your question.

PROF SCRAFTON: Yes.

DR AFFLECK: But it certainly was an attempt to give a bit of focus to the thing and direct efforts below track rather than above.

PROF SCRAFTON: We appreciate that. Could I just pick up the last point though about the institutional arrangements? National Rail has in fact to deal with almost all of these access regimes that are now in place to allow you to run over the systems and the various charging regimes to pay for that. Does the company have a preference for dealing with one particular model, like New South Wales as against the ARTC or what was Track Access, or do you just sort of take it all as it comes?

DR AFFLECK: I guess if one assumes for a moment that there are all these regimes, or there are all these sets of arrangements - because I would just parenthetically say that in South Australia and the Northern Territory there is a set of contractual arrangements between us and the ARTC and previously Track Access but there is no regime in place. It is a contract in the context of no regime. There may be a regime sometime in the near future but there isn't one at the moment. Our preference in that context has been for the style of arrangement put in place by Track Access, and now ARTC, simply because a number of its features we thought were rather more transparent and rather more simple and easy to deal with. In particular the transparency in pricing and the operating protocol of the healthy trains, unhealthy trains - if you understand what I mean by that?

PROF SCRAFTON: Yes.

DR AFFLECK: Those were two very prominent features of the Track Access set-up which we thought had great merit. There were other things in the Track Access and now ARTC context which we did not like. In some instances we think their prices are a little high and in other instances we've said that their unwillingness to commit to any kind of quality assurance is not something we can live with for very much longer. Having said that - - -

MRS OWENS: You want the commitment within the contract?

DR AFFLECK: What we would like to see is some arrangement whereby we can agree between the track access provider and the user that there are quality levels which are to be achieved by both sides and that there are penalties and rewards when those levels are either exceeded or one or other side falls short of that. We have contracts with our customers that work exactly like that and in a number of cases, with BHP, for example, there are penalties that result in real money changing hand every month.

When we have a level of lateness of deliveries we pay and there are certain things for which they pay, and it seems to us reasonable that that should apply when we are paying $100 million a year to use track, but none of the operators so far has been prepared to go down that road. There are some good reasons for that; there are some not so good reasons for that. I think our major preference at this point of time would be that there should be one access regime that we have to respond to and not half a dozen as there are at the moment.

MRS OWENS: How would you get to that point?

DR AFFLECK: That's a good question. In the Trade Practices Act there are a number of clues. There is a section, which I can't remember the particular number of, but I could get it for you, in which it expresses an expectation that first of all access regimes of access providers that are adjacent to each other should be as similar as possible, so the inconsistencies are minimal. The second thing is that any access seeker has a right to expect that they will deal with only one access provider to get from one end of their task to the other, and in relation to pipelines and electricity and so on I'm given to believe that that actually applies. In rail, on the other hand, it doesn't.

Another principle that is enshrined in the act, in Part 3A, is that if you are seeking access to a service given by infrastructure that there is, if you like, a one-to-one relationship between that service and the entity that provides that service and therefore if a service of a similar kind is supplied by half a dozen adjacent suppliers you have to make application to each of those adjacent suppliers for each of their respective services. That suggests to me that if we could obtain an access regime which applied across the whole national infrastructure, the service being the provision of rail infrastructure for interstate freight and passenger services, then I think we would all be in a better position. Achieving that single uniform access regime across all of those jurisdictions though, our view is that it could be worthwhile but it sounds risky and it is certainly complex.

The other thing that I guess has been exercising our minds is how much in the way of real benefit would flow from that since a number of the issues that we would like to pursue, like quality assurance, fit for purpose - those sorts of issues - might not actually be addressed by a single regime as such. They are more in the nature of contractual conditions rather than things that are in a regime. It's a complex issue and I don't know whether I've explained it terribly well but ideally we should have a single access regime for interstate rail. We don't at the moment. Whether it would be worthwhile pursuing it is an issue which I think we haven't quite resolved yet.

MRS OWENS: If you went for the single access regime then if you were working intrastate, within individual states, then you can conceivably be going to two access regimes for actually running on the same track, couldn't you? You could be having to go to, say, the RAC here for access on that bit of the track, or would some track be designated as sort of a national track?

DR AFFLECK: No, just take an example of running intrastate freight from Sydney to Newcastle and running interstate freight from Sydney to Brisbane. One is a subset of the other in terms of the actual track that is used but in legal terms it's the service that counts and the service in one case is the service of providing track to intrastate freight, the other is service providing to interstate freight. No, frankly, on the one hand that is a legal distinction which has to be observed because that's what the act appears to us to say; on the other hand one has to ask the question why are we talking about intrastate and interstate all the time, other than for the mere constitutional implications of it.

I think we've made the point on a number of occasions that the continual distinction that's made between inter and intrastate freight is a totally artificial distinction. It has nothing to do with the economics of it and is to a large extent getting in the way of a lot of more rational arrangements. It's obstructing our business in the sense that we are not permitted in a number of states to carry intrastate freight.

MRS OWENS: But whether we like it or not we have these states and they all have their own regimes.

DR AFFLECK: We do indeed, although it was interesting to note when we started our operations above rail in 1993 how quickly those borders utterly vanished in the face of trains with crews on them driving across them which previously were set in concrete.

PROF SCRAFTON: I think that just simply confirms your earlier comment, that in many ways they're irrelevant but they survived, and it's only when you've come along as a new operator in that case that that irrelevance manifests itself.

DR AFFLECK: And if I can just intrude there, just going back to an earlier question of yours, Dr Scrafton, about the distinction drawn in our submission between above and below rail and focusing on the below rail, the fact is that above rail - to a large extent the state boundaries have disappeared. Below rail, they are still very solidly in place.

PROF SCRAFTON: Yes, good comment. Thanks for that. Maybe we could give Dr Affleck a rest and just have a chat to David Edwards, because the very discussion we've just had on access of course also applies to the accreditation and safety regimes that exist around the country. What we've found, David, and would appreciate your comment on - we get two different responses: one group of people says to us in seeking harmonisation of safety and accreditation or whatever it might be, "Oh, just trust us. It's all going to come to pass and it will all be okay," but others tell us that very little is actually happening on the ground. I wonder if you would give us your view from NR.

MR EDWARDS: Look, certainly I could speak all day on this one topic, but let me preface my comments by saying that there has been a deal of support and commitment by the existing regulators in each state to try and make the system work, albeit the system itself is rather like a big elephant, it just trundles along very slowly. It's certainly been addressed on a state-by-state basis rather than a national basis and it's not designed to make life very easy for an operator. I agree with Dr Affleck's remarks in relation to - "We shouldn't be talking about interstate or intrastate." We're talking about - and I'm involved in several task groups with the Commonwealth government - in terms of trying to fix the Australian rail industry.

Going back some years ago it was fair to say that the main organisation that would derive direct benefit in terms of running across borders was National Rail, but that is not the case today. Very many of the other operators are all in one way, shape or another either running across a border now or considering that prospect. In relation to the rail safety regimes, in September 1993 the very first Rail Safety Act was proclaimed, and that was here in New South Wales.

From that time on we've had a gradual process of building up to the other states catching up and introducing their own legislation to a point now where we have legislation in each of the states. Queensland was the second, followed by Victoria, Tasmania, South Australia, Western Australia now, and the Northern Territory, even though the track is limited, running just into Alice Springs from the South Australian border of course, is now drafting legislation planned at this stage to be proclaimed by March of next year, so that will fulfil the total number of seven jurisdictions. But in terms of our company of course we exclude Tasmania, so I have to deal on behalf of our organisation with six organisations or departments in terms of access and compliance with rail safety requirements in each individual piece of legislation.

We've come a long way. As I said before, we worked very constructively with each of those jurisdictions, but they are bound within the confines of their own state-based legislation and therein lies the problem. I guess in terms of writing any position papers in relation to our suggestions on how we can address this and move the industry forward not just for our benefit but for the benefit of all, the first option indeed to fix it must be to repeal the state-based legislation in favour of national legislation, and overnight you would fix a lot of the administrative nightmare that we have now.

You would resolve the arguments that we currently have in terms of the variances between the state legislations as they exist; the formulas used to establish accreditation fees; the variances between reporting of incidents, the normalisation figures that are required from one jurisdiction to another do vary in some cases, not all, and the reporting requirements -whether it be a report as an incident occurs or whether it be a monthly summary sheet and who do you report it to. All these things we would be able to overnight resolve with one piece of legislation in a central body, if you like. Having said that - - -

PROF SCRAFTON: Could I just interrupt with one thing. I thought that mutual recognition was supposed to solve a lot of these sorts of problems.

MR EDWARDS: In all fairness, mutual recognition is in place and is working. We were the first organisation to be granted mutual recognition and granted accreditation in the state of Queensland based on our New South Wales accreditation, and at this particular point in time I have a submission in again to our existing accrediting bodies in New South Wales and Queensland to get mutual recognition in the states of South Australia and Western Australia.

But in terms of mutual recognition, yes, it has worked I guess. I've got to admit that because, yes, we are accredited via that process in another jurisdiction. However, it's not a simple matter of simply just asking for that in a covering letter. Substantial documentation was again required for that and substantial work in terms of lobbying and demonstrating the appropriateness of your management systems, particularly your safety management systems, and so forth. The jury is still out, I guess. I'm waiting to see what the results are with our latest applications in relation to the other states.

DR AFFLECK: If I can just interrupt there for a moment, in our submission to the Neville inquiry it was pointed out that in order to obtain accreditation by mutual recognition in Queensland we had to submit to Queensland a document of some 60 or 70 pages - 60 pages, dealing with the differences between Queensland and New South Wales as set out by Queensland that we had to address. Now, some of those were quite legitimate differences I guess, but I suppose our view would be that in essence mutual recognition of accreditation should be just that. At the moment on the other hand, the exceptions far outweigh the non-exceptions and it makes it a very cumbersome and largely - I mean, while the process works in a sense it is a pretty cumbersome process. National Rail has a big advantage over many others. We have the resources to address these issues. Some smaller operations do not have the resources, and I'll tell you, the resources required are pretty big.

PROF SCRAFTON: Sorry, David, I interrupted you in midstream there, but I appreciate those comments, because I think what you and Dr Affleck say is right, that when the concept of mutual recognition was being floated in competition policy I'm sure that the naive among us thought that that meant just that, that if you're competent to do business in one state that the others would acknowledge that and it would simply flow on, but obviously that's not the case.

MR EDWARDS: The regulators produced a document which was a guide to any applicant submitting rail safety accreditation applications and there were some attachments to that which included under the heading of each particular state additional requirements.

PROF SCRAFTON: And it was longer than the original document, you're going to tell me, are you?

MR EDWARDS: In all fairness to the regulators and the industry groups that I am working with, there were certain complaints and issues raised. The regulators en masse through their joint committee did take that back, take it on board, and they are producing a variance of that document now to cull that right down, because it was quite clear - and I take Fred's point in relation to - we have the resources limited in terms of our workload, but we have the expertise too which is also a point. We're big enough to look after ourselves in terms of having that expertise.

But the system that we are designing to improve our rail industry in our country is supposed to be robust enough that we will attract new entrants into the rail industry, and those new entrants you must believe may not have the network, if you like, of having people that have had the expertise in dealing with either coming from the regulators or from the rail industry as such to be able to make the system work. I really believe that ourselves and other large organisations lobbying and working with the regulators in the existing systems are making the system work. If a new entrant was to come into the industry- say a trucking organisation, a major freight forwarder who decided to be a new entrant into the rail industry - unless they brought in the expertise, unless they devoted specific resources to that, I would suggest it would be a very difficult task indeed.

MRS OWENS: So it's a real barrier to entry.

MR EDWARDS: And I believe there is still a barrier to entry to new entrants, and that's talking from an industry perspective. I suppose in one sense that's helping us as an organisation. We have that expertise and we're there established, but nonetheless the whole objective of this exercise was to improve our industry, because we firmly believe - and our managing director has always supported that premise - that a strong industry will mean that we have the potential then to grow. The industry will grow and we will grow with it, but at this point in time unless we can improve, standardise, harmonise our industry and grow the industry, grow the business, our success will be limited as well.

MRS OWENS: Can I just ask, while you're talking about Queensland, you said you had to submit the 70-page document. Would it have been just as easy to have actually just applied to Queensland under its own regime, under its own act, and put in a 100-page document?

MR EDWARDS: One answer, yes.

DR AFFLECK: It would have, except that I guess one has to understand as background to that what was the extent of the documentation we had to submit to New South Wales to get the accreditation there in the first place, and that was a great deal more than 70 pages.

MR EDWARDS: That's true.

MRS OWENS: So it is all relative.

MR EDWARDS: It is all relative, but I guess the mutual accreditation then in providing that additional documentation means that you're going through a third party rather than dealing direct, and that's an issue that I've taken up with the regulators, and I've got to say I support some of the work that the regulators have been doing to try and fix the industry. They have heard loud and clear industry complaining about the current situation and are trying to address those issues as we speak, and we have several task groups established: the industry reference group, looking at the standardisation and developing a national codes of practice, and of course there's the Rail Safety Committee of Australia with industry representatives and the regulators, the joint regulators. So we have a forum now to try and force this change process through to get this standardisation, but the road is long.

PROF SCRAFTON: Yes, thanks for that, David. Having been a bureaucrat all of my working life, the rise of bureaucracy scares you. You know, as fast as you eliminate one, others grow, and this seems to me to be a real growth business, these safety regimes.

MR EDWARDS: It certainly is.

PROF SCRAFTON: The fees - I understand that mutual accreditation does not in any way exempt you from fees. Is that right?

MR EDWARDS: That is correct. In relation to the mutual recognition the fees come under the heading of Other Information and Other Requirements. Several things fall outside of the umbrella of mutual recognition. One is incident reporting, the types of incidents that are reported, how they're reported, the formula used to base the calculation of your accreditation fees - we haven't even got a uniform formula across all jurisdictions - and of course the amount of fees payable. If we as a group decided to go into the road transport industry, we can go out and buy a semitrailer and get ourselves licensed as a heavy haul road driver, pay a registration fee and we're in business, and we can operate that truck across all jurisdictions to standardised signage having paid one accreditation fee, if you like, that registration fee, and we're in business.

In terms of rail, it's not as simple as that. The fees are calculated and applied differently in each state, and of course a lot of that comes to determining where your position as an organisation lies in each jurisdiction, whether you are the predominant user or whether you're number 2 or number 3 on the list, because it's based on total cost recovery of that regime, so therefore whatever their costs are they're passing on in total to the operators to repay. Now, I dare suggest that the road transport industry don't have the same requirement to user pays back to the regulators.

MRS OWENS: Can I just clarify - when you accredited in New South Wales you paid a set of fees.

MR EDWARDS: Yes.

MRS OWENS: When you went to Queensland you had to pay what you would have had to have paid to seek accreditation in Queensland under the old regime.

MR EDWARDS: As an annual fee, an annual rail safety accreditation fee, which, yes, we're required to pay in each jurisdiction we operate through.

MRS OWENS: And what about auditing? Have they got different auditing requirements in different states?

MR EDWARDS: They certainly have. The auditing requirement in terms of the safety management structure of the industry is fairly complex. We, as an organisation, are responsible for conducting our own compliance audits and I hold that responsibility for our organisation. We have many different levels of internal and external audits that we conduct, but then over the top of that, in terms of being an accredited organisation, the regulator in each state is responsible under their piece of state-based legislation to conduct annual compliance orders or compliance inspections as required, either on incidents that occur and things that are brought to their notice, or just as they see fit. At this point in time, that is a state-by-state basis, that is how it's being managed.

We've been asking for them, given that we're a national operator, to provide us with a submission each 12 months with an audit plan, if you like, which means that each of them may do an element, rather than do a complete top-down desktop audit, right starting from the board of directors through to the people on the ground and having to manage that, the same process in each jurisdiction. At this point in time, they're trying to head that way, but it hasn't eventuated. We could be audited today in Melbourne on a full annual audit of our system, right through from our safety policies and responsibilities, through our training system, through our competencies, through our operations and maintenance, through our wagons, through our driver performance on road, through our locomotives, and the following week I could be asked to submit and pull together a team to be able to then lead an audit team to answer the same questions in New South Wales.

MRS OWENS: They haven't heard of duty of care and you maintaining the safe working conditions independently? You know, there is a whole other approach to safety, not just in occupational health and safety, but I would presume in this area, where you take responsibility for your own safety.

MR EDWARDS: Yes. Well, the term "duty of care" is used extensively in the industry. We do recognise our own duty of care and, yes, we do conduct our own internal audits. We have an annual audit plan conducted by an external organisation that we engage to do so, which is managed by our corporate governance unit. I also manage an internal audit inspection regime, which is checking against those risk mitigation action plans and the risks that we've identified, that we're controlling those risks. Now, the results of those audits at those two levels are made available to the regulators. We have a key responsibility to take responsibility for that ourselves, but over the top of that, the regulators, under their legislation, also have a responsibility to conduct those audits.

And that's one of the other areas, I guess, where we have some concerns, because you're basically getting audited to death. If you then wrap up into that quality audits, which - you know, we are a quality-accredited organisation - that's a voluntary thing, but we're audited on our quality regimes, which goes through a lot of the same documentation and we can be audited also as a result of incidents that occur by Comcare, and Comcare, of course, are getting more and more involved in the rail industry and WorkCover agencies in each jurisdiction, and their investigation and audit process can be quite extensive, and that's another issue that we've raised with the regulators.

PROF SCRAFTON: I should declare a conflict of interest in that. They cut their teeth on Australian National many years ago, Comcare. I think when Dr Affleck worked there and I was on the board was the first time, I think, that Comcare really came in with teeth bared.

DR AFFLECK: It's interesting though, Dr Scrafton, that if you look back to that time, and compare what is done now by way of internal and external audit of safety systems, there is just no comparison whatsoever.

PROF SCRAFTON: Yes.

DR AFFLECK: Now it is done at many levels with a thoroughness which was unheard of in the 1980s. I don't think accident rates have changed significantly.

MRS OWENS: I was going to ask you, what's the impact?

DR AFFLECK: In fact, it is a very safe industry by and large. There are one or two fairly well-reported incidents that occur from time to time, but not many, and that is in contrast to the road transport industry, where a good deal of the internal attention to detail in safety management and risk management generally, including all of this audit stuff and the investigation that occurs after accidents and so forth, just doesn't occur. We are regulated to an extraordinary extent, especially in light of the fact that the safety record of the industry is extremely good.

PROF SCRAFTON: Helen, I think we ought to move on. There are a lot of other things in this submission, but I do appreciate that.

MRS OWENS: I was just going to say, I think that David will never be out of a job.

PROF SCRAFTON: No. That was my reaction, but I wasn't going to say.

MR EDWARDS: It is a most interesting and challenging role, I can tell you.

PROF SCRAFTON: Great.

MRS OWENS: But we may, I think, comment on this issue. You can look forward to that in the draft report.

PROF SCRAFTON: Yes. We thank you for that, because it was given that National Rail is the one organisation that has experience of operating across the company like that. We appreciate you giving a lot of time to that topic. I wonder if I could revert to this matter of infrastructure in a rather different way. In your submission, on page 12, you pick up the point that the Neville committee recommended Commonwealth government leadership, particularly in relation to investment in railways and, in our recommendation, you're quoting what the Neville commission have said, but other people have talked about the need for Commonwealth leadership in this railway business. What exactly does it mean? What are we looking for them to actually do and who would do it in the Commonwealth?

DR AFFLECK: I think you've got to look at this fairly carefully, because it is often seen as a panacea for a particular policy issue, not only in transport but elsewhere, that the Commonwealth should come in and pick up the problem and, inevitably, pick up the tab, and the Commonwealth, I think quite rightly, exercises a high degree of scepticism in relation to all of these suggestions. I think it would be wrong, for as long as we have states in this country - which is likely to be for quite some time to come - that the states are, if you like, let off the hook, because many of the problems that now exist, in the rail system particularly, are as a result of neglect of a system which the states have insisted on hanging onto. They insist on hanging onto this baby, but they refuse to feed and clothe it, so to speak.

But having said all that, there are aspects of the transport system particularly, which are a network phenomenon, and our business is certainly one of those, where it is impossible to do any rational planning if one takes it on a disaggregated state-by-state basis, because certainly the state boundaries, generally speaking, have very little to do with the economics of the situation you're dealing with. So, to address your question more directly, first of all, I think the leadership to be given by the Commonwealth is a leadership in terms of planning, network definition and, to get closer to home, identifying where money should be spent, on which infrastructure, in order to get a rational outcome in terms of return on investment, and that applies not just to the Commonwealth bringing together the whole of the rail network in order to get some rational outcomes, but I think it needs to go further than that and look at the whole of the land transport network to get some rational outcomes, because there are not only trade-offs state by state, but mode by mode.

I remember, reverting to Australian National again, one of the difficulties that was faced in those days was that because infrastructure investment was being handled piecemeal, state by state, there were quite a number of projects which crossed borders, where the benefits often occurred on one side of a border and the costs were largely on the other side of the border, the two were never brought together and therefore the projects never took place. The House of Representatives Standing Committee on Transport reported in 1988 on the national track network - I think it was called the Efficiency of Australian National's East-West Railway Services or something of the sort - and highlighted that very graphically. So planning of infrastructure investment, I think, is the first role that should be taken by the

Commonwealth.

The second role, which is almost an outgrowth of that, is the financing of implementation of that planning, and that, I think, leads to a much larger difficulty for the Commonwealth, because the amounts of money are quite large, but we've taken the view in this submission that if there was a lot more planning done at the national level, with leadership by the Commonwealth, it would be much easier for the private sector to identify where the opportunities are and therefore get involved. Now, once again, I think the private sector and its financing capabilities are thrown around as a bit of a panacea these days, which I don't think they are. Inevitably, in this sort of area of infrastructure, there is a very large role for governments, but where the network is largely servicing a national need - and in most states there is a large part of the network which is largely national in character, it does not provide a local state need - inevitably the Commonwealth needs to step in - as it has done with national highways and roads of national importance and so on, and taken the lead in providing financing as well as planning.

David mentioned a moment ago the need for the Commonwealth to take a role in the regulation of rail safety. That's, I think, another area where the Commonwealth needs to take leadership. Inevitably, at the end of the day, if we have a continental economy, the government which stands over and above that continental economy is going to have to take some leadership role. Where this planning should be done in the Commonwealth government - which is another of your questions - is, I think, a matter of taste to some extent. It has been suggested that the BTCE might take this role. More recently, I think, it's been suggested that something like a national land transport commission should take this role. My preference at the moment is for a national land transport commission to take this role, simply because I think the BTCE has become involved in a wider agenda of matters and I don't think they're equipped to do the work any more, as they might once have been. But somehow it's got to be done. Maybe it's done by an external outsourced organisation. Maybe the ARA should take a larger role in this sort of broad planning at a national level, but whatever it is, it needs to be done.

PROF SCRAFTON: Your point is well-taken, that it isn't easy to determine the suitability of an organisation. It seems to me that if one went to a national land transport commission, it would have to have a rather different outlook to anything like the National Road Transport Commission, in order to cover this matter of investment, and presumably therefore, to some extent, pricing too, because unless you charge them only with a one-off - you know, let's use the magic three billion term, which is often talked about, three billion over 10 years or whatever - 20 years, I guess, is talked about. Otherwise, you immediately fall. They immediately would have to start thinking about the issues you talked about earlier, about charging, and how long does it take? I think, in your own submission, I read somewhere that you were partly in favour of this, because there's no such thing as immediate establishment and it will take 12 months to get off the ground and so maybe we should look more broadly.

DR AFFLECK: Yes. The national land transport commission, once you have a close look at this proposition, I think, has a lot of complexity to it. In the first place, as you said, the culture or the approach or the terms of reference or however one wants to look at it, of the National Road Transport Commission would have to change considerably. But there are two levels to the problem in rail. First of all there is the problem, which was long ago solved for road, of looking at the investment and pricing issues from a national perspective rather than a state-by-state perspective. One could go a very long way down that road, simply by forming a national rail transport commission, let's say, and it would do a job which has not been done by anybody before.

Perhaps, though, the Australian Rail Track Corporation could take on a role similar to that, since it does have, by agreement between the states and the Commonwealth, a role which is national in character and for all intents and purposes covers the entire network, although its direct authority over that network is much more limited than that, but it could take a planning role and it has begun to do so. But that's only the first level of the problem. The question is being more and more asked why is it that we spend X number of dollars on road and Y number of dollars on rail? Or, in respect of any corridor, why are we spending a great deal of money on fixing up the road? Has anybody thought of fixing up the railway line, which could carry an equivalent amount of freight?

That question can only be answered by a body which covers the whole of the land transport sector and therefore it's out of the hands of the ARTC. Maybe it's in the hands of an NLTC. If you are going to extend the existing NRTC into a broader land transport role I think you've got to build on its existing expertise and therefore the area of pricing policy is probably the first one that it ought to tackle, because it has a good deal of expertise in that area. Whether it would be equipped to look at the rail problem as well as road I guess depends on the staff it has.

My contact with staff in the NRTC suggests to me that their expertise could be applied pretty well to either. When it comes to investment investigations perhaps they might need some external input from consulting organisations and so on, but it could certainly be done. One of the great difficulties with rail compared with road, and this was pointed out by the National Transport Planning Task Force, is that there is a huge drawer full of road projects always there waiting to be put onto the end of the list for evaluation. There is not a similar huge number of rail projects waiting for evaluation or waiting for project status. That role needs to be undertaken regardless of who is going to look at the big picture, and that's where the ARTC needs to come into play and do an awful lot more than it has been able to do until now.

PROF SCRAFTON: That's good. Thanks for that, Fred. That's right. You've put forward quite a range of thoughts there but certainly maybe the answer lies in some sort of combination of all that, whether it's a mix of certain staffs that are already around the place but you add to them some support from consultants or whatever. Yes, I appreciate that. I was reminded, when you were talking there, that a lot of this incentive for considered investment in road in fact goes back to the old Commonwealth Bureau of Roads which set in place a very clear investment planning regime that for better or worse governments had to follow.

They didn't necessarily have to ultimately abide by the decisions that the organisation made and in fact part of its demise was because its work was so rigorous that ultimately governments could not handle the quality output, if I could call it that. They were just too strong in their comments about uneconomic investments, but maybe that's exactly what we need in Australia at the present time in rail.

DR AFFLECK: And the NRTC is getting into slightly similar difficulties just at this very moment.

PROF SCRAFTON: Yes.

DR AFFLECK: But the difference is striking, because even in 1975 or so when the Commonwealth Bureau of Roads was in its heyday, or towards the end of its heyday I suppose, a very strong national perspective was adopted, and that's now 25 years ago. The other interesting difference between road and rail, and I think it's a very important difference which has driven the formation of bodies like Commonwealth Bureau of Roads and later the NRTC, is that in the road sector there is a pool of money and the question is not how are we going to get more, it is how are we going to spend it sensibly?

PROF SCRAFTON: Yes.

DR AFFLECK: The question in rail is how are we going to get more, and then, if we've got the luxury, how are we going to spend it sensibly? They are two quite different problems we face. We do not have the kind of pipeline into a pool of money that the road sector has always had.

MRS OWENS: How have they had this? How did this get started? Is it political or is it the visibility of national road networks or what?

DR AFFLECK: It's the visibility of roads. It's the fact that everyone uses roads. It is the fact that there has been for many years a fuel excise of some kind which provides a natural funding base. It is the political power of the road lobby, to put it in colloquial terms, which is pretty great. Contrast that with rail in which you've got public sector organisations who daren't speak up, no matter how bad the problem was.

MRS OWENS: That's changing, presumably?

DR AFFLECK: That's changing.

PROF SCRAFTON: I think that's right. I think that was a useful discussion because there are models out there. I just had one other thing. I know that during the National Transport Planning Task Force it was always intended that the BTCE, as it then was, would continue the work that it had done for NTPT and it seems to me -

not that I've been closely involved since the task force finished it work, whenever that was, 3 years ago or whatever - that unless you have some organisation that is both willing and able, willing in a sense of having to get on with the work and able in the sense of the competence to do it, and the resource has been given to the organisation, then the work will not be done and whatever of these models we adopt it has to be given strong support from government, and maybe that is one of these areas where the Commonwealth can give leadership and maybe provide some up-front resources.

DR AFFLECK: I think the trouble that the BTC has always had - and I hesitate to comment on their inner workings - but from an observer's point of view I think there have been many instances over the years where they have been hampered by being too close to government and recommendations which are seen to have the potential to make governments uncomfortable are tempered before they see the light of day, and I really think the BTC in its present structure and reporting relationships would have great difficulty doing a radical sort of reform job because they're just too close to government. The NRTC on the other hand operates to some extent at arm's length from the government, because of its commission character rather than being a branch of a department basically, and that's one of the reasons why I think the BTC has got great difficulty in taking on a role like this.

PROF SCRAFTON: Thanks for that. I appreciate all that thought. Helen, do you want to - - -

MRS OWENS: Another issue that has been raised by a number of participants is another competitive neutrality issue, if you like, but instead of between road and rail it is rail on rail competition, and the complaint goes that the government operators are at an advantage over the private sector players, and you've not doubt heard this, and the newer entrants, and you mentioned before sales tax. That issue will no doubt go at some stage, depending on what happens in the Senate, but there has been a number of complaints about this issue, and one of the concerns that has been raised has been the concern about the stockpiling of rolling stock by NRC, and we had a participant that was here just before you came who argued that you had, he estimated, about 40 per cent more assets than you needed and it was the lack of availability of this rolling stock or this stockpiling, or forwarding as some have called it, that has a negative impact elsewhere for other entrants. Would you care to comment on that, Fred?

DR AFFLECK: When the governments who ultimately became our shareholders and other governments who participated in the scheme but didn't take equity in the organisation set up National Rail back in the 1990s it was decided that a number of means would be used to provide a basis for setting up a viable company. One of those was to put equity into the company, another was to provide some financial support of an interim kind under section 54B of our shareholders agreement, which has now ended, and another was to enable the company to take over ownership or lease of assets which we nominated, and the wagons and locomotives that are being referred to by some people fall into that category.

We nominated far from the total number of wagons that were used for intrastate freight at the time but we nominated what we thought would be necessary to carry the growth that we could see happening at the time. As it happens that growth has not been as great as it might have been but we anticipate that in the future there is every possibility that it will be and therefore we don't see any reason why we should operate as a charity organisation and make rolling stock assets belonging to the company available for free to other people. We have in a number of instances agreed to hire rolling stock to other organisations, and that has occurred. I'm not aware of any instance of that which is currently going on.

MR EDWARDS: Austrac.

DR AFFLECK: Austrac was the most recent of those but in fact that ceased a couple of months ago. So we are prepared to enter into limited arrangements like that but not on a charity basis. We are a corporation which has to look after its interests and we will continue to do so. It certainly has not inhibited a number of organisations from being very strong competitors against us and we have lost an immense amount of revenue as a result of that competition and it has had a huge effect on the profit and loss of the company. It's a judgment by governments as to how they set up organisations like this but as long as they set them up as corporate bodies who have fiduciary responsibilities to their shareholders under the Corporations Law I don't think we've got an alternative but to operate in the way we have.

PROF SCRAFTON: Fred, could I just pick up that business. I've got a few minor points in the time we've got left that I would like clarification on, and this is one of them. In relation to the competitors that have moved in on NR's business you talk about, on page 10, the way in which National Rail operates scheduled services with advertised freight availability time. Then you say "non-scheduled" services can offer levels of quality, but I thought these competitors also had paths that they had to abide by. I don't understand the distinction.

DR AFFLECK: The distinction is between a path on which a train operates and the way that train is loaded and assembled in order to use that path. An organisation - well, take one of them, and I don't particularly want to pinpoint any specific one, but by and large the practice that I'm referring to, which has a perfectly good business basis behind it, is that you assemble containers in your yard and you go about filling up your train and whilst the train operates on more or less a regular schedule you do not guarantee the carriage of a given container at any given time. Whereas if we say that we have a schedule that leaves at 8 o'clock in the evening on a Friday and you book a container onto that scheduled service, and customers are able to do that through our freight web system - they can book a container onto a given service - we will carry it on that service, even if the train ends up being only half full.

PROF SCRAFTON: Right.

DR AFFLECK: We will also accept virtually any kind of unit load, top lift, bottom lift, transi-flat - you name it - including a lot of what is known in the industry as "ugly freight". In other words it's difficult to handle in terminals and it can't be double stacked and so forth. Broadly speaking these other competing organisations will not handle ugly freight and they will load only good freight that can be top-lifted and double stacked, and they will assemble that stuff and carry it on a train when it suits them to carry it.

PROF SCRAFTON: That's the scheduling that you're referring to.

DR AFFLECK: Hence they get a lot better asset utilisation rates than we do and a lot better loading than we do.

PROF SCRAFTON: Thanks for that. You mentioned somewhere to the way in which rates had been driven down as a result of this rail-rail competition. Do you think the present rates are viable?

DR AFFLECK: It's a matter of some debate. If they are viable it is just barely because even though we have, as demonstrated by that benchmarking report which we referred to in our submission, we have at or close to world's best practice productivity levels. We are still not making a profit because we also have at or greater than, if that's by definition possible, world's best practice average prices, and in intermodal freight, because these are average prices across the border in our system, are even lower than that. I think we are not far from a level where the industry is eating its own head off because the competition is resulting in a level of revenue yield which in the long run is going to be unviable. It's certainly not great enough to fund long-term infrastructure and there's no question of that.

PROF SCRAFTON: Sure. I guess that's the key, that's right.

DR AFFLECK: And that needs to be well understood. If you look at our rates compared with those in New Zealand, which is often presented as a test case of privatisation, they are something like four times higher than ours are. If we had four times higher revenue yields than we have at the moment, we would be making a level of product which would be embarrassing.

PROF SCRAFTON: I had a question in my mind, against that comment about New Zealand - and we will be going to New Zealand for a couple of days to talk informally to people there - and a lot of people do make the comparison, but do you think it's a fair comparison?

DR AFFLECK: I don't think it's fair at all, for many reasons, not just that reason. The competitive environment in New South Wales is very different. The structure of the New Zealand rail entity is quite different in terms of the market it serves and the traffic it carries. It is a vertically integrated railway. It has no rail competitors, it has very few freight-forwarding competitors, comparatively speaking. It has a ferry running between two islands, which it owns and operates and controls. So there are a lot of differences, but another difference, as I understand it, which is coming to the fore in New Zealand now, which you might have a look at when you're there, Derek, is that the levels of profit which have been earned have given rise to an expectation that there will be a substantial level of retained earnings available for investment in major capital works, which expectation has turned out perhaps to be a little exaggerated and, as I understand it - I may be wrong, but as I am understanding it, the finance marketplace is starting to have a little bit of a worry about whether or not the system is financially robust enough to meet those expectations of future investment.

PROF SCRAFTON: So going back to your earlier comment, in that sense it is a valid comparison. If it's true that their rates are four times what they are in Australia then there is some valid reason for drawing attention to the comparison, even if it may not be valid for other reasons.

DR AFFLECK: They also have a totally different system of road-user charges.

PROF SCRAFTON: Yes. And which is often the context in which it's raised.

DR AFFLECK: But that's not the only reason for it.

MRS OWENS: But I think it's a really good example of the benefits of competition here, isn't it?

DR AFFLECK: Absolutely. One of our leading competitors, SCT, was at pains last year to point out the immense benefit, running to tens of millions of dollars that Western Australia had got as a result of the competition which had pushed freights down and that was very real.

MRS OWENS: Those rates may be low and what that ultimately means in the marketplace is that there will be a shake-out at some stage.

DR AFFLECK: Absolutely. And one of the things which we have been saying, and I said it in my talk to a conference the day before yesterday, is that ultimately there will be aggregations, shake-outs, bankruptcies, takeovers, all the things that you can imagine and the result will be a structure in the Australian railway industry that has a great resemblance to the structure of the airline industry and, frankly, I think the rail industry will be a lot better off for it. But once those freight rates have reached a level that they now are, I can't see them coming back up again, and one of the reasons for the shake-out, as you've called it, will be in order to get the economies of scale that are necessary to match productivity with those low yields from freight rates. We have to be awfully smart in this country to run railways and make profits like the American do on one-twentieth of the business volume.

PROF SCRAFTON: Helen, I had a couple of minor comments. We don't want to keep Fred and David too long, but I wondered if I might raise them. One was on page 11, you talk about the level of reliability with a hook and pull contract with GSR. You don't quote any numbers there, but I wondered if you could give us some numbers just to demonstrate that, simply because long-distance passenger trains have this terrible reputation for poor reliability.

DR AFFLECK: Well, put it this way, I can give you the figures - and if you can wait a day or two, I'll send them to you, to the commission - because there's no secret in them, but I think a test of them is this, that our contract with GSR has in it penalties for non-performance in a reliability sense. It also has provisions to identify the causes of unreliability, whether they relate to infrastructure causes or GSR's own causes or are National Rail-caused incidents. So far, we have paid no penalties.

PROF SCRAFTON: Right. So if there have been delays, they have been caused by the terminal operators.

DR AFFLECK: Or their rolling stock or their loading procedures or their food being late or whatever. But our own time performance has been of a high order.

PROF SCRAFTON: We haven't talked about passenger trains much, but in our report we will have to make some reference to it and I just thought that was a useful comment. There was one other, too, that I wanted to ask. I know, on page 8, you refer to a weighbridge and one of the things that I thought was interesting about it - at the top of page 8, you talk about National Rail having installed an in-motion weighbridge on the east-west main line, for detecting defective and over-mass axles and wagons on National Rail trains. Wouldn't it be more useful if the track owner was the owner and operator of the weighbridge, so that you could determine whether you had overloading or whatever on axles and so on, across all the trains that were running on that line, and not just National Rail's.

DR AFFLECK: That's a good point. The weighbridge in question is at Mambray Creek in South Australia, incidentally, so it picks up traffic from Sydney coming across on the Broken Hill line, as well as east-west from Adelaide.

PROF SCRAFTON: It's just a comment really.

DR AFFLECK: We installed this at our own cost, when it became clear to us that the track owner there, and for that matter track owners in other places, did not wish to do this. There are obviously benefits from knowing whether there is overloading taking place by other operators as well as ourselves. I'd have to say that it is our belief that there is quite a lot of overloading going on, but every time a wagon goes over this weighbridge, which has an amazing ability to detect all kinds of things, which detects either overloading, a flat wheel, or something which suggests a fault, there is an alarm signal in our control room in Adelaide and that train is examined at the next potential point. We don't have the ability to look at other people's trains, although obviously they go across that weighbridge. To our knowledge, the track owner does have the ability to look at those other trains, but so far we've seen no outcomes from that.

PROF SCRAFTON: Thanks for that. It was just interesting. I was just impressed by the concept.

DR AFFLECK: Our view is that these weighbridges should be much more numerous and that they should be used to enforce axle-load limits.

MR EDWARDS: Could I just add an additional comment there. A track owner in New South Wales has installed a weighbridge in Morundah in the Hunter Valley area and they do check operators' trains. As well as that, there is a system of impact detectors and hot box detectors, particularly in New South Wales, managed and operated by the track owner, which from a safety perspective is very very good.

PROF SCRAFTON: And also has operational benefits and long-term benefits in terms of effective overloading on the track and so on. Thanks for that, I really appreciate that. I'm glad I raised it.

MRS OWENS: That's an interesting little question. Can I just come back to - I don't want to keep you either, but just raise up to a couple of bigger issues and one is the privatisation of National Rail and whether that is now back on track. Again, I get my information from the media, but there was a report in the Financial Review, I think it was yesterday, I think quoting you saying that the South Dynon issue had now been addressed and it was all systems go. Was that a misrepresentation or is that correct?

DR AFFLECK: I think that was an exaggeration of how far we've got. The position is this, that - as I think is well-known - the Commonwealth, back in May or June, I've forgotten exactly when it was, announced that it was going to instigate dispute resolution proceedings with Victoria to attempt to resolve this issue at Dynon, the issue being on what terms and conditions should National Rail be given access to that terminal. Subsequent to that, Victoria has negotiated with the Commonwealth and New South Wales, with ourselves participating - and I stress that's how it's happened, because we are not a shareholder and nor are we a party to our shareholders' agreement and therefore we're not in a position to actually carry any sort of dispute in that regard.

There have been a couple of rounds of negotiations between the parties and, most recently, an offer from Victoria has been put on the table which is, in broad terms, much more attractive than anything that has been on the table before, but there are elements in it which require us and the other parties to the shareholders' agreement to understand properly what Victoria intends in the way of a track access regime, which they are still developing and which has not yet seen the light of day, but presumably will soon. Once that track access regime is available, so that we can judge how we would fare in relation to some elements of this offer, then we will be able to go back to them. On the optimistic assumption that the track access regime will be more or less as one would expect it to be, I would think the basis will exist to resolve this issue.

It's not quite as simple as that, but it's close to it. Now, on that basis, it's possible - how probable, I can't judge, but it's possible that by the end of this calendar year, this matter will have been largely resolved, at which point then there will be, as I understand it, nothing standing in the way of defining the basis precisely on which privatisation would proceed and then getting on with it. Once the button is pushed, so to speak, there is approximately an 8-month process to go through, of vendor and purchaser due diligence and expressions of interests and bids and all the usual sort of stuff, to get us to a transaction. If one aggregates all those various assumptions, you come out around about this time next year with some sort of a transaction taking place. One can only hope that it will take place at least as quickly as that.

MRS OWENS: So we're talking at the end of 1999?

DR AFFLECK: Something like that.

MRS OWENS: There have been no barriers at the New South Wales end? The New South Wales government has had views on privatisation about other areas.

DR AFFLECK: That doesn't appear to be an issue. New South Wales, initially, did not indicate its sort of in-principle acceptance of privatisation, but since then they have done so, so we don't anticipate any other issue of any substance, other than the one which is on the table at the moment, standing in the way.

MRS OWENS: Good. Just one other issue - have you got time?

DR AFFLECK: Sure, yes.

MRS OWENS: You've attached a confidential report that you mentioned earlier by Ernst and Young, the benchmarking of operating costs report, and I think you mentioned in the submission itself, in the body of the submission, that there have been significant productivity gains and it's quite a favourable report. But I wonder if there is a lot more that you can still do to achieve further productivity improvements. Is this the start or is it a process that's been exhausted, or do you never exhaust those sort of processes?

DR AFFLECK: I think the most appropriate comment is that you never exhaust those sort of processes. There was, I remember, an operations manager in Australian National, who once said that we will all end up being made redundant and the railway system will be operated by one man and his dog. Now, I don't think it's going to quite get like that, but there are always more opportunities and that report that you referred to indicates a number of directions that we could follow, which is evident, and there are a number of initiatives in the organisation at the moment, for example, the extension of driver-only across most of the network, further savings in fuel consumption, further savings in fuel price, economies created by matching our train plan a little better to the demand that takes place from time to time and a variety of other things which will produce, we think, significant additional productivity gains. So we're not finished yet, by any means.

MRS OWENS: Thank you.

MR EDWARDS: Can I just add a comment there, that if we go back to the eighties, it took 12 people to work a freight service from Sydney to Melbourne, each crew consisting of three people and four crews along the way. Currently, and since the middle nineties, with our crews, we now do it with four people, two persons in a crew and one change, so four people for total. As Dr Affleck was just referring to our driver-only operation, and that's virtually at implementation stage, that may well come down initially to one person Junee-Melbourne and with Sydney-Junee on the drawing board later, so the productivity gains there, including the additional length of trains and, hopefully, with standardisation and harmonisation, if we can get the infrastructure to allow double-stacking, the gains in the productivity in the future are fairly enormous in terms of train operational aspects.

PROF SCRAFTON: Maybe giving its Commonwealth leadership, it's that sort of productivity gain that the Commonwealth should look for in its investments, the double-stacking between Melbourne and Sydney. People maybe find that difficult to contemplate at the present time, but if rail does have a future, these things have to be fixed.

MR EDWARDS: We've had a very successful arm of the business in operating road-railers from Melbourne to Perth. Now, they're trailers specially constructed, road trailers, for hauling in terms of on the rail. We're looking at introducing a service out of Sydney to Perth, but we've had to modify and construct additional trailers with a smaller gauge, simply because they won't fit the infrastructure out of Sydney. Now, that's hurting productivity and there's a big market demand for such a service.

MRS OWENS: We've actually visited Trailerail in Perth and we've spoken to them in Adelaide. Have you got any other comments you'd like to make before we finish up?

DR AFFLECK: The only comment I'd make is that in all of this rail economic stuff, at the end of the day, our very strong belief in National Rail is that it is the quality of the service that we can provide, taking all of the elements of that service together, which is going to drive our business successfully and everything we do is aimed at getting that quality of service with the commensurate degree of productivity to go with it.

PROF SCRAFTON: Thanks for your submission. Maybe together we can help to reach these walls of resistance to change that you speak of. We might even use that as a title. Thanks for that.

MRS OWENS: Thanks very much. We'll now break and resume at 20 past 4, a break of 10 minutes.

MRS OWENS: The next participant this afternoon is Patrick Stevedores. Could you please give your name and affiliation to the company for the purposes of the transcript.

MR CAMP: Gary Camp, general manager - rail, Patrick Stevedores.

MRS OWENS: Good, thank you, Gary, and thank you for coming. I know that you've probably got plenty of other things to be thinking about today so we're very grateful that you've come to talk to us. We've both read your submission and we're very pleased to have received it, and I think I can speak for my colleagues to say that they were very pleased to have an opportunity to visit Patricks I think in Melbourne. That was correct, wasn't it, Derek?

PROF SCRAFTON: Yes.

MRS OWENS: So thank you very much for that. Before we ask you any questions about this, would you be happy to make any opening comments relating to your submission, or anything else you might like to say?

MR CAMP: In general we'd like our submission to stand as it's written, but probably in background to just give you an overview of our position in the rail industry, just so you understand where we're coming from, as a private rail operator Patrick Stevedores formed a company, Patrick Rail Operations, and did that so that they could provide a service specifically to the shipping industry. The idea behind that was to value add to the stevedoring services to shipping lines and provide a land bridging service primarily initially on the Melbourne to Adelaide corridor, but also to bring together the operations that we have with on-dock rail in Melbourne and in Sydney.

So it sort of starts to develop, the stevedoring interface, with the rail operations and we see that's a benefit to our clients, which are the shipping lines, to be able to have a service that they deal through one operator and that provides the stevedoring, the rail terminal and the transport. So that's basically where we're coming from, and the reason for appearing here is just simply to respond to the issues that you've put forward in your paper in regard to productivity matters and the problems that we encountered in setting ourselves up as a rail operator and starting to operate a rail service, which we've been doing now for the last 18 months.

MRS OWENS: Thank you. I think I speak for both of us in saying that I think it's very useful that you've come because you do have a different perspective to other participants in that you have the experience with establishing a new rail service and you've got this experience with trying to deal with the problems of on-dock rail terminals. So I think the insight that you have from both of those experiences is probably quite unique.

But I'd just like some clarification as to what your competitors are doing. Are they also going down this track of setting up their own rail operations, or is it just Patrick that's taken this approach?

MR CAMP: It's just Patrick at this stage of the game. Certainly P and O Ports in Sydney, they have rail on their terminal as well, but that's the only one that they have at the present time, so we don't know what their moves are from there.

MRS OWENS: Yes. Can you give us any insight into the experiences that you have had in trying to actually get this rail service up and running and any of the difficulties that you've encountered along the way?

MR CAMP: Certainly. We probably looked at this going back 2½ years ago actually, to start looking at the possibility of rail operations primarily from the point of view that shipping lines had indicated to us that the services provided by rail for land bridging were not flexible enough for the shipping industry. As you'd be aware, ship calls to ports, although nowadays are a bit more fixed on their windows in coming to ports, in the past they would tend to fluctuate day to day, so you wouldn't have necessarily a constant stream of ships coming through and you'd have a lot of peaking and troughing in the amount of containers that had to be land bridged; in fact, it's still the case nowadays. It will never get to the point of being a nice constant, steady stream. It's always going to be up and down, and the nature of that business is that you need to be flexible to accommodate the peaks and at the same time be able to drop off your requirements during the troughs, and that can be week to week as well as season to season as time progresses.

I guess the thing that pushed us along was the fact that from the Hilmer report it opened up the ideas of competition on rail, and then the idea of the various track access authorities being put in place enabled us to start looking at train paths and seeing whether or not there would be a better way to get a train to operate between initially Melbourne and Adelaide and see what sort of business there would be with that and how could that operate, and could it operate efficiently, and what would the constraints to a private operator trying to get into a corridor that's dominated by National Rail but also at the same time had toll transport and also SCT trains operating on that corridor, plus other passenger trains and other services. Also either side of the state border you had the state railways operating as well.

So to start with it was an extremely congested corridor. There were not a great number of train paths on that corridor that would be suitable for the type of operation that we had envisaged, and primarily what we wanted to do was run a fairly short but high speed train so it could transit from Melbourne to Adelaide fairly rapidly and do a quick turnaround at each end and just shuttle to and fro virtually, so that you were constantly moving and constantly picking up and dropping off containers. The problem of course with that is that with few train paths the ones that were left were obviously not the most desirable train paths, and in fact the ones that we ended up getting were in the order of 16 to 18-hour transits, which for that corridor is probably I would think 15 to 20 per cent longer in time than we'd really want.

So to start with that imposed problems with trying to get our turnaround at each end because it reduced the time-frame that we had to actually strip the train and backload it each end, so it came down to a very tight operation. We believed we could do that within the constraints of the train paths that we'd been allocated and the costs that we'd been requested to pay for the train paths were really probably not commercially what we'd call viable I wouldn't think at that stage of the game. They seemed to be fairly expensive compared to what we could do if we say put them on road.

But even so, by negotiation on the Victorian side of the operation we were able to get a sort of start-up, a ramping-up from the - starting from a base of zero, which enabled us to commence the service. We also had to move along and get accreditation at the same time, so you had a number of balls in the air: you're looking at whether or not a train path would operate feasibly to start with as an operational issue, whether it was commercially viable, and at the same time be seeking your accreditation to become a rail operator.

That process probably took us in the order of 2 years and it's only recently that we've received letters which say that we are accredited. We've been operating under an interim accreditation for the last 18 months and we still don't have I guess an official certificate of any sort. We assume that the letter that we've got is adequate notice of the fact that we are accredited. So that was a fairly lengthy, drawn out and expensive process as far as we were concerned.

We went through it with the Department of Transport in Victoria with the expectation and the understanding that that would be recognised in South Australia as well when eventually they did get their legislation in place and that we would get recognition without having to go through the whole process again. So we're still waiting for that letter to be forthcoming, but we assume that would be honoured as we discussed.

We also then had the situation of constructing the trackwork into our dock facility. We already had broad gauge track onto the port. We needed to install standard gauge track into the port as well and that meant some difficulties at the interface between the rail sidings that we occupied and those that V/Line and National Rail occupied, so that took a fair bit of negotiation to actually go through that process and get that resolved, and actually construction was delayed a few months trying to get that put in place.

Also then there was the question of trying to get rolling stock, and that applied not so much to locomotives, because locomotives you could get a number of operators who were prepared to provide hook-and-pull services, but when it came to wagons and flexibility with wagons we found that there were not a great number of serviceable wagons that were interstate runners in the high speed category. So we had problems initially just scraping up enough wagons to commence the service. It's eased slightly now but there are still problems with acquiring rolling stock, without going out and buying new ones whilst there are already existing wagons around the countryside.

So in general those were the sort of issues that we went through in just trying to start the service, and it was probably fairly complex in dealing with a number of different agencies and government departments, interstate authorities and different standards in the two states that we were operating through. So generally it was fairly drawn out in the initial stages, but once we got close - we set a deadline to start our operation and once we approached that we just kept the pressure on everyone to come up with their agreement on their section of the work and it just came together at the end, but I can tell you in the last day or two before we started that train running it was fairly hectic trying to get approvals in place.

MRS OWENS: It's a really remarkable story and I really congratulate you on your perseverance. You mentioned just then and in your submission that it took you something like 2 years to get interim accreditation and I can't for the life of me think why anything should take 2 years. What did they actually do that took 2 years?

MR CAMP: You go through a process of demonstrating that you've got bona fides in rail operations, which we didn't have because we don't operate rail. So we had to go through a process of demonstrating that the systems that our company has in place were quality-type systems and that we have safety awareness in our company in training processes, and in operating our rail terminals, which we had in place already, we could demonstrate that we had rail knowledge and rail understanding and that the actual operation of our train service would be by utilisation of hood-and-pull service, which is using an accredited rail operator to start with.

But even so, we tried to point out that we weren't necessarily the person driving the train, but under the accreditation they required that we became the accredited operator, so we had no choice but to get accreditation. So it was then fairly lengthy, because we weren't already running trains, to prove that we were fit and suitable to run a train, so it's like to trying to catch your tail all the time.

MRS OWENS: There's really duplication, because the rail operator, whoever you're contracting to, is also going to have to go through this accreditation process.

MR CAMP: Yes.

MRS OWENS: And has probably already gone through the process.

MR CAMP: Exactly. He's already been through the process.

MRS OWENS: You're not actually running the trains, you're just there really contracting out.

MR CAMP: Yes, we run the trains but we don't actually own the driver.

MRS OWENS: Yes.

MR CAMP: We don't own the locomotive; someone else does that. We just pay them to do what we tell them to do, so we are the operator per se of the train as a unit.

MRS OWENS: Right, so in a legal sense you take responsibility.

MR CAMP: Yes.

MRS OWENS: Did Patrick at any stage feel like giving up on this effort and say, "Why don't we just go on the road?" or - - -

MR CAMP: No. No, I think once we'd committed ourselves to the operation and we went through - we framed out exactly what it was that we had to do, and understanding that we then just gradually broke down the barriers each time. As someone would say, "You can't do this," we'd just keep at it until they either gave a reason that we could then circumnavigate or break through or whatever, but in the end we just broke through all the barriers and just had to keep going till we got there.

So, no, you've got to set up that you're going to do this and that rail is a viable operation and you've got to have a bit of belief, I guess, in the fact that rail is going to get better, is going to improve, become more efficient, and therefore if you're get in now, then it can only get better.

PROF SCRAFTON: You didn't at any time feel that you would not have succeeded, I guess? I guess you must have always have had the feeling during this perseverance that you were going to overcome these hurdles; it's just the number of them and the time that they took. But one of the things that intrigues me is that you have for instance the government of South Australia which is giving these approvals to you and at the same time their an owner of a port. Did they manage to ring-fence their access regime and their accreditation organisations in such a way that you could never feel that this was going to influence their decision in any way?

MR CAMP: I think the organisations controlling accreditation and the track access were sufficiently separate from, say, the political agenda, that they were able to look at us as just someone who wanted track access. The fact that our operation may have been drawing business away from the port in Adelaide, or providing an alternative to it was not - I mean they're aware of it but certainly they weren't putting up barriers along that line, that you shouldn't be doing it.

PROF SCRAFTON: So the process might have been long but it was purely technical.

MR CAMP: Technical, yes.

PROF SCRAFTON: Thanks. Sorry, Helen.

MRS OWENS: I was just wondering, part of the problem that you've talked about here is not just the safety, getting safety accreditation, but getting access to tracks and having to deal with two different regimes, but I would think that if you were trying to do that now it may be a simpler process because you have got the Australian Rail Track Corporation as one entity in both South Australia and Victoria. I would presume that it would be simpler.

MR CAMP: If I was starting now that part of the process would be simplified. We had the problem that we would go to the Victorian operators and get that end of the path and then go see the South Australian people and find out whether or not when it got to the border they could work it through their system, and vice versa; they would have to adjust their bit, then we go back to Victoria and adjust that bit, which seemed to me fairly ludicrous. The sooner they talk to each other - we had to be going to both ends all the time to make sure that it was coming through and then ended up to be a reasonable train path, otherwise you could get to the border and you could sit there for a while whilst they did crew changes and things like that and then end up sort of getting hit by other trains on the way through as well.

PROF SCRAFTON: That's a good point. A lot of the time is taken up in a series of sequential activities than in practice. If it was a commercial negotiation that you were having, say, with a potential client, you would do it across the table. You would wonder why they couldn't bring both sides of the border, sit in one room with you, and debate it in 2 hours or 2 days, or whatever it took.

MR CAMP: Exactly, yes. You can now, but you couldn't then.

PROF SCRAFTON: Okay. Thanks for that.

MR CAMP: We now can go to the ARTC and say, "I want to adjust my path between Melbourne and Adelaide," and they will do it over the entire path, and then we just actually sit down with the one person who is doing the train path now and we can just haggle with him on both sides of the border.

PROF SCRAFTON: That's good, yes.

MR CAMP: So that part has simplified.

PROF SCRAFTON: So I guess in a way you've paid a sort of time penalty because you were a pioneer and because they hadn't got their act together.

MR CAMP: Yes, we got in too early.

MRS OWENS: I suppose if you tried to do the same from Adelaide to Sydney you might run into the same sort of problems again because you would need to deal with the ARTC and then the Railway Access Corporation here.

MR CAMP: Would do, yes, that's right.

MRS OWENS: So you would bounce right back into that dilemma.

MR CAMP: We have looked at that before and we decided to leave that corridor alone until the track access regime is worked out more satisfactorily.

MRS OWENS: So you mean that you're now holding back on doing something that may be in the interests of your company because you consider that it's just too complicated to go through this sort of - - -

MR CAMP: Not so much complicated as the differences between the two states and the fact that you've got to go through the whole process. The amount of business that we've got that would potentially move on that corridor doesn't justify the angst of trying to do it at the present time.

PROF SCRAFTON: Because that's a little bit different, isn't it?

MR CAMP: Yes.

PROF SCRAFTON: One of the problems with Adelaide was fewer calls so you were able to give a better service from Melbourne.

MR CAMP: Yes, exactly.

PROF SCRAFTON: Whereas in Sydney of course it's not quite the same. You've got a lot of calls in Sydney and a lot of calls in Melbourne.

MR CAMP: Actually all ships that call in Sydney call in Melbourne.

PROF SCRAFTON: Yes.

MR CAMP: So for us as a stevedore the amount of movement between those two cities is fairly limited.

MRS OWENS: If it's Adelaide freight you would still send it to Melbourne rather than thinking about sending it up to Sydney if there was that opportunity?

MR CAMP: Again it depends on the ship call patterns actually as to what you do. Once a container lands in any of the key ports around Australia the shipping lines tend to try to land the containers closest to the destination obviously, but there are certain reasons why they don't do that and that's just the ports of call that they have on their various routes around Australia, and when they miss a port they then have to look at land bridging by road, by rail, or even by coastal ship, and there's very few of those.

MRS OWENS: You've actually mentioned in your submission that you would like to see the ARTC cover the whole of the national network.

MR CAMP: I think looking at the problems that we had getting started off with each different state track access authority on the main line - we did have some initial negotiations in New South Wales as well as Victoria and South Australia and again it was early days, people were finding their own feet, particularly in track access regimes and how they should operate, what they should charge, what their charter was from the government, and the business that was in those areas at that point in time we believe didn't warrant progressing with them, so we stuck out of those corridors to start with and concentrated on the one that we knew could be pulled together.

MRS OWENS: But you still have this problem with having unfavourable times?

MR CAMP: Certainly.

MRS OWENS: You mentioned in the submission the possibility of having grandfather paths and auctioning of laps and desirable train paths, and you say it's still under discussion. I'm not aware that auctioning train paths is under discussion.

MR CAMP: I was told it was.

MRS OWENS: It's the first time I had actually noted that.

MR CAMP: Obviously there are already the existing players on the corridor. They had their train paths that were set up, that they probably had historically years and years and years. So to start with any new entrant has to sort of join the rear of the queue. You have to take a train path that's left and normally - because you'll find that there's a certain optimum period that all operators want to get their trains out of the capital city by dusk; night time before midnight - travel it overnight to the next city and then arrive there in the morning so you can have your containers and products ready to go and be delivered during the day.

Even on the Melbourne-Adelaide corridor this should be dead easy because of the distance, it's only 850-odd kilometres. We should be able to transit that probably in 14 hours, but currently the average speeds that we're running on that corridor are less than 50 kilometres an hour and we've got a 110-kilometre per hour train. So we're not utilising the train to its capacities or abilities, and that's partly due to track condition, partly due to the crossing loops and partly due to the train paths that historically have been there. So a combination of those factors means that where you want to run a slightly different service you're really constrained to running with the rest of the trains because that's the way they all flight through on the train paths too.

MRS OWENS: So what you're arguing is, if you're prepared to pay more to get a more suitable or favourable train path, you would be prepared to do it?

MR CAMP: We currently are paying a premium for the train path but it's not delivering, as far as we're concerned, what we're paying for. We're paying for a high-speed train path that's getting us 50 kilometres per hour.

MRS OWENS: You've got no recourse on that?

MR CAMP: No, because they're the fixed rates on the corridor. So we would certainly be saying if we can get a better train path, or we would expect that for the price we're paying to start with, we should have a better train path. It may be we go the other way and say if we're only going to get 50 K's we should be paying less for it.

PROF SCRAFTON: Gary, we were in Perth last week and in the submission at the hearing that you attended with the House of Representatives committee there was some debate about keeping access to Fremantle and at that time it was still unresolved. Has that been sorted out? Has access for standard gauge trains to the yard - is it North Fremantle or Leyton, or whatever it is - been resolved?

MR CAMP: Yes, North Quay, Fremantle. I don't think it has been fully resolved at this stage. There are still committees that are meeting over there to resolve final access into the port. The point we were trying to make was, given the renaissance of rail at this point in time, it would be ludicrous to close off an option with the rail actually into the port because of some land development that was going on that would knock out the existing rail link. So we were saying at least keep that in the planning stages in development to try to keep a rail access into that port. In fact National Rail currently run a shuttle. It has only started this year, a rail shuttle running from that port rail facility up to their main terminal, which they then put onto their train across to Adelaide and Melbourne.

PROF SCRAFTON: Yes, that's why I asked the question because it just seemed to me, reading that, that it was a very short-sighted thing to do. I guess that somebody must have had a plan that there would be no rail access and you would just ferry all of your stuff to QDL.

MR CAMP: By road,

PROF SCRAFTON: Or wherever you might have your terminal, wherever it might be.

MR CAMP: Exactly.

PROF SCRAFTON: Thanks for that. It's just a minor point but it also reminds me to mention to you that in addition to the submission, which we've got from you, we do have access to the House of Representatives stuff too.

MR CAMP: I thought you would but I just attached it just in case.

PROF SCRAFTON: No, that was super. Thanks for that. The other thing, we had just been talking to National Rail. A lot of people had raised the point that you did on page 4 about National Rail storing or keeping away from potential competitors equipment which other people could potentially use to provide a service, but their response was simply that the way that they're established does not allow them to release. Is that a good description of his reply to you?

MRS OWENS: Yes.

PROF SCRAFTON: Perhaps that just adds incentive to getting some of these railways privatised so that organisations just like yours are dealing with equals, in effect, and not with corporations. Do you feel that privatisation in general of existing government businesses would assist the development of operations such as yours?

MR CAMP: We would think that it puts all of us on a level playing field from the point of view that we're all looking at it from a commercial dollar return and I would think that a private operator would probably look at that rolling stock and decide that they should use it for something, or possibly dispose of it one way or another, but not leave it sitting there idle. It seems to me it's not the best use of resources that the railway industry has. I mean the fact is that those wagons were taken from the various states and allocated to National Rail for intentional use, I would think. The fact that they then have a surplus I would have thought the government should have said, "Well, if you're not using them give them back to the states and let them use them," because they were screaming for rolling stock.

PROF SCRAFTON: It's an interesting comment because in relation to land that's exactly what state governments do.

MR CAMP: Yes.

PROF SCRAFTON: If, for instance, a railway or a corporation of some sort operates a railway the one thing they don't get is absolute right to the land, and if the land is not used for rail purposes they are obliged to give it back to the state, and it seems curious that in founding a National Rail Corporation somebody didn't put that same qualification on the rolling stock; that, "This is ceded to you," I think. They have to nominate it, isn't it?

MR CAMP: That's right, nominated rolling stock.

PROF SCRAFTON: "This is equipment that you have nominated, but if you don't use it for rail purposes, well, then to all intents and purposes it becomes denominated; you have to return it." So it's a good point though, that it's not effective use of resources. You're quite right.

MR CAMP: No. I mean, there have certainly been times when we've had peak loadings running through and we just couldn't get wagons to run containers on, and a number of those had then to be put on road, or on alternate rail, put it that way. I still think that from the overall point of view of the rail industry that what it does, it forces you to use equipment that's probably not as efficient and effective as some of the equipment that's lying around the place, and also if you want to then upgrade, for a new operator that's in start-up mode you cannot afford to go out there and buy all state of the art equipment. You've got to start off with leased and hired gear to get yourself on your feet. Once you're progressing you can then start to look at new gear, but there's a period of time for a new operator when you've got to have reasonable access to, I guess, sort of lower priced equipment, otherwise you can't start. It's the old story: you've got to get the gear before you can actually start moving the freight.

MRS OWENS: But nevertheless Patricks did start.

MR CAMP: We started on the basis that we could identify enough rolling stock to provide us with our initial concept of our train, which was a unit train to operate between Melbourne and Adelaide, of 25 wagons and to operate at high speed. Now, all of those criteria currently can't be met, but we believe in the longer run that we'll gradually get there, and as they improve the trackwork between Melbourne and Adelaide and as they get the extra crossing routes over the next few years hopefully, even a few of them, if the track speeds can be increased and the axle loadings can be increased, the transit times can be reduced and your efficiencies start to kick in.

Now, we currently run trains up to about a kilometre long. We've got up to nearly 50 wagons on a train and you really start to get benefits when you do that, but even so, if you're running a small high-speed train and you've got the good turnaround you can still run that reasonably effectively as well. So I guess the industry needs to look at niche markets, which is what we are. We're a niche market player and we have different needs to the big ex-government operators who want to run these big, long, heavy trains. There's still a market there for the smaller, faster train as well.

The point is that we're not operating efficiently whilst we're still operating over infrastructure that has so many speed restrictions, has limitations on crossings. The train paths are not sort of negotiated - well, renegotiated on sort of reasonable time-frames to get you a better transit, and all that impacts on your costs. A longer transit of say 18 hours means I've got to have extra crew changes, more crew; you use more fuel because you're sitting around the place for hours and hours in crossing loops with the engines still idling. So it's currently not efficient but we still believe that it will get more efficient as we put more into the rail, and that's what's got to happen I think out of this productivity exercise. It's got to point up that rail is an alternate mode to road and to sea, but it needs to have that investment.

PROF SCRAFTON: The level of business that you have is higher than that 25 cars and - - -

MR CAMP: Wagons, yes. Yes, as I say, we're running more than that.

PROF SCRAFTON: I don't have anything else.

MRS OWENS: Just running on from that point about needing more investment in rail, I suppose it raises the question of whose responsibility is it to invest in rail: is it government, and if it's government should it be the Commonwealth government or the state government, or should the private sector in some way be contributing to the extent that the private sector may benefit? That's one point, and another related point is the comment you have on page 5 of your submission where you say that funding assistance for connection of standard gauge to the main line has not been forthcoming from the government, and there's an expectation I think implicit in that that somehow the government does have a responsibility to provide such assistance, and so I'd really just like to get some idea of your view on what you see the role of government being in this regard.

MR CAMP: Certainly when it comes to the terminals at each end we've built our own terminals. We've put up the money for the on-port, on-dock rail developments, but we felt that the connections into the main lines - I mean, there's already broad gauge connections there, so by putting standard gauge connections in it also opens up the opportunities for I guess other operators to use the port facility as well. We would expect that there should be probably some sort of scheme whereby you can get maybe tax benefits and assistance in that regard. We haven't really pursued that to any great degree at this stage of the game, but there were certainly negotiations and discussions when we first put the project together to look at the trackwork required to provide standard gauge from the main line back down to the wharf, and there's significant dollars involved in making that sort of exercise work.

In New South Wales up at Port Botany the connections outside of our gate are not our responsibility. They are put in there by the Rail Access Corporation or, as it used to be, the Government Railways, at the time, and people just can virtually roll up to the front gate of the Patrick rail terminal there and come in and be serviced; similarly, at East Swanson dock, if other interstate operators pull up at the door we'd be looking at whether or not there's time and operations in place to be able to handle them, but by the same token there would be access to the port.

I would think that on the actual corridor though, the point-to-point corridor, that's sort of bigger than most private rail operators would get into, unless it was a sole - almost a sole use exercise, such as you've got in the iron ore railways and places like that where you can actually justify the whole cost of the railway in the corridor for the product that you're moving. On your general purpose railways though that service interstate, intrastate freights and passengers, grains and things like that, it really comes back to it being virtually a national corridor and a national infrastructure requirement that it be there.

If you're going to have rail and make it work efficiently, then you need it to be up to a standard where you can actually get some efficient running on it, and currently we don't have that. We pay the track access fees, which we see really as being contributory towards the maintenance of those train corridors and also to bring them up to a standard for what we're paying for, and if I'm paying for a 110-kilometre path, what am I paying for? I'm not getting a 110-kilometre per hour path; it's only a 50-kilometre per hour path. So according to their scales should I be paying something down here lower?

PROF SCRAFTON: That's right, so there would be a concession for - - -

MR CAMP: Yes, I mean, I'm paying for the 110, so I'd like to see whatever I'm paying put into that trackwork to bring it up to 110. If they can't provide a 110-kilometre per hour path, then they shouldn't be - - -

MRS OWENS: Charging it.

MR CAMP: - - - selling it.

PROF SCRAFTON: The other point that you raised in your submission is the fact that the 250,000,000 that has been talked about for expenditure in rail is really just a drop in the ocean. But maybe to use it to best effect, maybe people ought to be using it in sort of one corridor or maybe just a couple of locations rather than dissipating it across a range of projects, so at least they can use the 250,000,000 to demonstrate the sort of productivity achievements that can be gained by fixing some of the problems that you mentioned in the Melbourne-Adelaide corridor.

MR CAMP: Yes, the problem there is that historically when there's been large injections of funds into railways they've been dispersed, so at the end of the day you'll see a few minor improvements around the place, but they don't give you a net improvement really on a corridor. Even the One Nation funding, it generated a lot of work on all the different track corridors, it gave us a standard gauge, which was - you could see that as being a net improvement, but again it just stopped short of developing and delivering a quality standard track around the whole national network.

There should have been a follow-up program right behind that one to kick in, and that's the condition you need with railways. You need to have virtually a rolling program so you can do it incrementally then, but if you don't and you just have sudden injections of funds, yes, you might be better off picking three or four sort of key projects and get the result with those.

PROF SCRAFTON: Thanks.

MRS OWENS: Thank you, for that. Have you got anything else that you want to ask?

PROF SCRAFTON: No, that's fine.

MRS OWENS: I'm wondering, Mr Camp, if you've got anything else you'd like to add to your submission at this stage. At this stage you can see the sorts of questions and the things we're interested in. Are there any other comments you'd like to make?

MR CAMP: The other point that we made was in relation to the diesel, fuel and diesel excise. Rail does use a lot of diesel fuel. Just on our operation alone we use probably 2 billion litres of fuel a year, and obviously you're paying in essence what we call a "road component" of that which never comes back to rail and just happens to go across to our competitors. The question of the level playing field that everyone raises all the time - every discussion about this gets the "level playing field" issue between road and rail - and certainly that's one issue that we raise there that I guess everyone else has probably raised too.

But it's certainly a significant point when you've got such a huge consumption of fuel; every cent on that cost is really - that shouldn't really be there as far as we see it. It is really just adding to the inefficiency and the higher cost of rail that shouldn't be there. It's really a very efficient mode of transport and rail should be used for the long haul between the capital cities and then let the road do what they do well, which is distribution out from freight centres and into freight centres, but get them off the long trips between capital cities and interstate. That's just a final point.

MRS OWENS: That's an interesting vision. So you'd have the rail just basically focusing on all the long trips and you'd have the road, the trucks, focusing locally.

MR CAMP: As an overall concept in general it makes sense - particularly your heavier goods, to put it on rail where it's ideally suited. Even the shipping containers that we move can be up to 30 ton for a 20-foot container and you can't put that on road. But even the lighter ones, well, if you move those - the number of trucks that you'd be taking off the road by moving some of those sort of containers and other products which could go on rail - the domestic product - it just removes so many thousands of truck trips off the road, which reduces then the number of accidents and all the concurrent fallout that goes with that of having a number of trucks on the road. You'd use less - fuel efficient. You find that certainly the number of accidents that trains are involved with compared to road trucks, there's a huge difference. So I'd certainly advocate, you know, let's get rail efficient and get the long haul stuff onto rail and then get the short haul stuff on the road.

MRS OWENS: You actually said in your submission that in excess of 2000 road truck journeys have been converted to the Patrick train, which is moving in that direction.

MR CAMP: On that corridor. Yes, on that one corridor, so that's that many few trucks that will be travelling over the Adelaide Hills and that many fewer chances of other car drivers being involved in accidents and so on, and yet they will put a hundred-odd million dollars into fixing up the roads through the Adelaide Hills to save about 10 minutes in the trip time; if you put 130,000,000 bucks into the rail there, then you'd save 3 hours.

MRS OWENS: Do you think that these benefits, these broader social benefits in terms of reduced accidents and reduced wear and tear and reduced pollution, etcetera - - -

MR CAMP: Exactly.

MRS OWENS: - - - should be built into the access charges that you paid?

MR CAMP: As you improve the quality of the track, I mean, people would be more prepared - if you can get a better transit time you might be more prepared to pay more money for it.

MRS OWENS: So the more you pay in access charges, the more money can be spent on those tracks.

MR CAMP: I see what you're getting at, yes.

MRS OWENS: Yes. No, I just wondered - - -

MR CAMP: I think there's still a role there for the government because of the national interest to fix up the corridors, to bring it up to a standard to start with. If you then want improvements beyond that level of quality, then maybe you start to pay for it.

MRS OWENS: Yes.

MR CAMP: But whilst the standard is down here, not up there where it should be, then I think the government should be bringing it up to that standard.

MRS OWENS: Thank you very much for that, Mr Camp. As I said, thank you for the submission and we enjoyed the discussion this afternoon. I think your perspective is a different one to others, so thank you very much for coming. We'll now close today's hearings and resume tomorrow morning at 9.30 am.

AT 5.16 PM THE INQUIRY WAS ADJOURNED UNTIL
THURSDAY, 29 OCTOBER 1998

INDEX