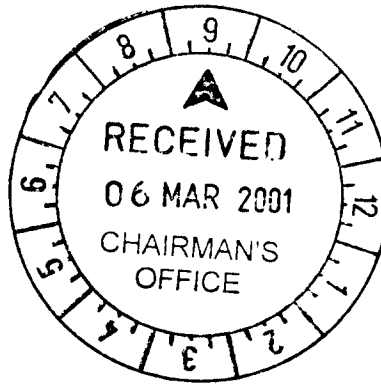




COMMONWEALTH DEPARTMENT OF
**TRANSPORT AND
REGIONAL SERVICES**



Our Reference: L2000/0068
Contact: David Crawford

Mr Gary Banks
Chairman
The National Access Regime Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Mr Banks

In light of the upcoming public hearings associated with the Commission's inquiry into the National Access Regime, I would like to formally refer to the Commission, for consideration under the inquiry, several recommendations made to the Government in reports relating to land transport. These recommendations may be raised with the Commission in the context of those hearings.

On 13 April 2000 the Government tabled in Parliament its response to 4 land transport reports. These were the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform inquiries into the Commonwealth's role in the nation's road system, *Planning Not Patching*, and rail reform, *Tracking Australia*; the Rail Projects Taskforce, a private sector investigation of Australia's rail system headed by Mr Jack Smorgon AM, called *Revitalising Rail*; and a Productivity Commission examination of rail industry performance and administration, *Progress in Rail Reform*.

The *Tracking Australia* and *Revitalising Rail* reports made recommendations relating to the National Competition Agreement and Part IIIA of the *Trade Practices Act 1974*. The Commonwealth response to the four reports stated that these recommendations would be considered as part of the Legislation Review of Part IIIA of the *Trade Practices Act 1974*. Consequently, I am referring the following three recommendations to the Commission for consideration under the National Access Regime Inquiry:

1. From the *Revitalising Rail* report:

Recommendation 26 Risk Allocation

"Investors should also be able to utilise the National Competition Agreement process to obtain binding rulings on whether a *proposed* investment when completed would constitute 'essential national infrastructure'."



Page 20 of the Commonwealth *Response* refers.

2. From the *Tracking Australia* report:

Recommendation 8

“The Commonwealth amend Part IIIA of the *Trade Practices Act 1974* to provide that, where the designated Minister does not publish a decision on a declaration recommendation referred to him or her by the National Competition Council within 60 days of receiving the recommendation:

- the designated Minister should be taken to have declared the service (rather than the deemed decision to be in the negative), and
 - the expiry date of the declaration will be that as recommended by the National Competition Council.”

3. Similarly, from the *Revitalising Rail* report:

Recommendation 22

“The Commonwealth Government amend Part IIIA of the *Trade Practices Act 1974* or take other steps to improve the mechanisms available to third parties to gain reasonable access to essential infrastructure.

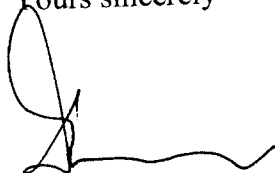
As part of its assessment, the Commonwealth should consider the merits of requiring that where the designated Minister does not publish a decision on a declaration referred by the National Competition Council (NCC) within 60 days:

- the Minister shall be taken to have declared the service (rather than the deemed decision to be in the negative)
- the expiry date of the declaration shall be as recommended by the NCC.”

Page 33 of the Commonwealth *Response* refers.

I am enclosing a copy of the Commonwealth *Response* to the four land transport reports for the Commission’s reference.

Yours sincerely



Daniel Owen
Assistant Secretary
Rail Industry

2 March 2001

RESPONSE OF THE FEDERAL GOVERNMENT TO

REPORTS OF THE HOUSE OF REPRESENTATIVES STANDING
COMMITTEE ON COMMUNICATIONS, TRANSPORT AND
MICROECONOMIC REFORM

'PLANNING NOT PATCHING' AND 'TRACKING AUSTRALIA'

REPORT OF THE RAIL PROJECTS TASKFORCE

'REVITALISING RAIL'

REPORT OF THE PRODUCTIVITY COMMISSION

'PROGRESS IN RAIL REFORM'

THE HON JOHN ANDERSON MP, DEPUTY PRIME MINISTER,
MINISTER FOR TRANSPORT AND REGIONAL SERVICES

April 2000

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The First Assistant Secretary
Land Division
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GPO Box 594
Canberra ACT 2601

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