PROGRESS IN RAIL REFORM

SUBMISSION BY THE SILVERTON TRAMWAY COMPANY LIMITED TO THE PRODUCTIVITY COMMISSION

Preliminary Information - (Summarised in attachment A)

The Silverton Tramway Company Limited (Silverton) was incorporated originally in 1886 and restructured in 1894. The company is an unlisted public company and is wholly owned by Transcorp Pty Ltd.

Silverton holds full AS 4292 Rail Safety Accreditation in New South Wales, is mutually recognised in Queensland and Victoria, and awaiting mutual recognition in South Australia and Western Australia. The company owns 16 fully operational diesel electric locomotives and is building a wagon fleet of container flats, open wagons and box cars.

Current operations comprise shunting and inter mine haulage at Broken Hill, however, with the introduction of 'open access' regimes by governments the company is seeking to widen its area of operations with a focus on other regional and terminal operations.

Previous operations included company owned and maintained locomotives, permanent way, buildings, bridges, communications systems, servicing and repair shops, goods handling facilities, administration offices and staff housing. Silverton employed up to 280 people including fitters, turners, boilermakers, electricians, carpenters, masons as well as running staff of enginemen, firemen, guards, porters, cleaners, labourers, gangers and platelayers. All of the above to support a shortline operation from Broken Hill to the South Australian Border, a distance of approx. 50 kilometres.

The above activity came to an end in 1970 with the introduction of the standard gauge line from Broken Hill to the South Australian border. The company's business was lost to Australian National who had the government imprimatur to operate interstate and deliver product far afield. The company closed its narrow gauge shortline business, donating assets to the community and returning its permanent way to the Crown. The company reinvented itself as a 'short haul' operator, utilising the standard gauge to service the mining industry in and around Broken Hill.

Throughout its history the company has hauled 90 million tonnes of freight and 2.8 million passengers over an aggregate of 19 million kilometres.

An Outline of a Short Haul Operator

The characteristics of a short haul operator indicate that they are likely to :-

- Be involved in niche markets.
- Be frugal with capital and financial resources.
- Generally utilise older equipment.
- Be a regional operator, with a span of one or two shifts each side of base.
- Seek strategic alliances to satisfy longer line haul requirements.
- Have a low administrative cost base.
- Be cost effective.
- Be able to make quick decisions.
- Opportunistic and close to customer needs

Some Legislative Challenges to be faced by Short Haul Operators (Summarised in Attachment B)

a) Cross border considerations

A short haul operator's area of operation is not necessarily constrained by state borders, as mentioned earlier, Silverton being 50 kilometres from the South Australian border.

An application for accreditation under the intergovernmental guidelines in a facilitating state, including a request for mutual recognition in other states does not result in an accreditation to operate in all the states nominated in the application, only in the state in which the application was made. A further process is required following accreditation to seek recognition in other states. Mutual recognition is not part of the granting of the original accreditation.

Rolling stock accredited in the facilitating state cannot operate in other states until the further mutual recognition process is complete, notwithstanding that the rolling stock may have been acquired from other operators with an 'all states' certification to that rolling stock.

b) Access from one Intrastate network to another Intrastate network.

The emphasis is upon Authorities such as Rail Access Corporation, Australian Rail Track Corporation etc. who manage 'essential

infrastructure'. However problems arise when an operator wishes to move between intrastate 'non essential infrastructure' systems. An example of the difficulties can be demonstrated by a potential movement within our own company.

Example – There is a rail siding located approx. 0.8 km from the western boundary of the Broken Hill marshaling yard (Kanandah Road siding). Silverton is in the offer and acceptance phase of the purchase of these sidings from Australian National, with the intention to utilise them for the storage of rolling stock. The boundary of the RAC and the ARTC jurisdiction is the western boundary of the marshaling yard and not the state border some 50 km away.

In order to access these sidings our movement would commence on non essential infrastructure, move onto essential infrastructure, across jurisdiction borders and onto a potential private siding.

The access process for a 1.5km journey comprises :-

- Siding Agreements with State Rail Authority of NSW to move from track occupied under licence.
- Access agreement with Rail Access Corporation
- Access agreement with Australian Rail Track Corporation

The Siding agreement requires public liability insurance of $10m, the draft RAC agreement nominates $200m and the ARTC agreement requires $100m. The access agreements are structured for line haul and do not make adequate provision for shunting or terminal operations.

Silverton is still trying to negotiate some sensible arrangements, currently without a positive outcome.

c) Protection of open access associated with the sale of rail businesses

Governments in examining privatisation are attempting to provide for access for other operators, however, at least in the case of South Australia, the process can be called pseudo access.

As part of the process established for the sale of Australian National operations, the South Australian government passed the Railways (Operations and Access) Act 1997. Parts 4 and 5 of the Act provides for pricing principals and negotiation of access that is to be applied by the purchaser of the AN infrastructure in making access available to other operators.

A short haul operator seeking to respond to tenders called for a transport task, either currently on rail or sought to be won from road, must first seek

information as to access and access charges from the new owner of the infrastructure, who may also be seeking to win the work. The legislation sets a process of application, objection, notification and potential arbitration that is a defacto bar to responding to tenders within commercial time spans. (it is not unusual for tenders to remain open for from three to six weeks) Some examples of a request for a price demonstrating time frames are set out in **attachment G**

d) Infrastructure Vestings in NSW

Essential facilities such as terminals, fueling facilities and strategic sidings were vested with the state operator (FreightCorp) by the NSW government, whilst espousing open access to rail for other operators. In road parlance, this is the same as saying that you can have access to the highway, but we are giving all the service stations and transport yards to another transport company for their exclusive use.

e) NSW Environmental Protection Authority (EPA) noise criteria

The EPA locomotive noise emission criteria is reproduced in **attachment C** to this submission. It can be seen that the operating noise level under all service conditions is 87 dB(A) with specific tonality requirements. This requirement is difficult to achieve in new locomotives, let alone in older locomotives in use by the short haul operators (and also the majors). An indication of the noise emissions from an older locomotive could be in the range of 92 to 95 dB(A).

A table of noise limits for trucks and buses in NSW extracted from the Heavy Vehicle Drivers Handbook is reproduced as **attachment D**. It is noted that trucks have an allowable maximum noise level ranging from 91 to 109 dB(A).

The trucks most likely to compete with rail are diesel engines (vertically exhausted) with a gross vehicle mass of more than 12 tonnes, which has a permissible noise emission level of 97 to 105 dB(A).

The lack of a level playing field between road and rail can be demonstrated in **attachment E** where one locomotive hauling 15 container flat wagons each loaded with 2 containers, replacing 30 prime movers. The total noise dose is substantially greater by road, yet the short haul locomotive is not allowed to run if it breaches the limits. Thirty noisy trucks are <u>not permitted</u> to be replaced with one locomotive of equal or less noise level.

A further difficulty for short haul operators is that their source of locomotive power is to it them from the surplus state fleets. Silverton acquired the major part of its fleet from the State Rail Authority of NSW (at auction). Identical units to those acquired by Silverton are permitted to run in the greater Sydney metropolitan area under grandfathering

arrangements, however, Silverton's identical units are not permitted to run because of change of ownership and a requirement to comply.

f) Fragmented Communication Systems

An airliner can fly around the world and manage to communicate with traffic control, however a train passing through the states of Australia is unable to communicate without multiple radio systems.

The Challenges of Maintaining 'Mothballed' Infrastructure

Rail has a poor reputation in the market place in relation to service and reliability, especially on branch lines where rationalisation has seen many lines closed or mothballed.

Short haul operators are likely to be the ones seeking to penetrate previously abandoned market areas in a hope of expanding their trading catchment area. These areas are those where there is a disenchanted customer base through abandonment. Some examples of the condition of these mothballed lines are shown on **attachment F**.

There is a large public investment in rail infrastructure that lays abandoned and in decay through marketing decisions of the day, and the current infrastructure regimes do not give much hope of seeing this public investment preserved for future opportunity.

Impacts of Competition on Open Access Implementation

It would appear that the previous state rail monopolies are yet to acknowledge that governments are developing open access regimes and that the customer base that was the domain of the previous monopolies are subject to legitimate and intended challenge in the interests of competition. Subliminal attempts (either intentional or unintentional) appear to be made to lock out internal industry competition as evidenced by :-

a) Terminals and refueling facilities in NSW have been vested in one operator (FreightCorp). FreightCorp will not allow access to their terminals nor service the refueling requirements of their competitors (National Rail excepted). This action forms a natural barrier to entry and imposes additional expense in duplicating facilities on the industry as a whole. If the original facilities were managed under open access, the industry would be more efficient through reducing unnecessary capital investment in duplication

b) Locomotives and rolling stock are specialised pieces of equipment and not readily available. Short haul operators generally utilise older equipment and are therefore heavily reliant on building their equipment base through the purchase of second hand stock from previous rail monopolies.

In the new open access environment in NSW very little equipment has come onto the market, and when it does, it is heavily stripped. There are examples of stripped locomotives being offered to Historic groups with a condition on sale that they are not to be used for commercial purposes nor onsold to commercial operators. Wagons have also been stripped of vital components of their brake gear and offered for sale conditional on their removal by road, thus ensuring that they are cut up for scrap.

c) Each access Authority has their own regime of pricing, some with published rates and others subject to negotiation between an upper and lower strata. The second method leaves the operator with a feeling of unease that he may not be obtaining comparative prices to that of a competitor, and should that competitor be a major, they may have a blanket or bundled rate, thus facilitating cross subsidisation or marginal pricing.

The Way Ahead

1. Establish a true ‘One Stop Shop’ for the purpose of Rail Safety Accreditation (both operations and rolling stock)
2. Establish a true ‘One Stop Shop’ for the purposes of negotiating access both Intrastate and Interstate and certification of rolling stock territorial suitability.
3. Management of essential Infrastructure such as major terminals and refueling facilities to be placed in the hands of the track owners and access thereto be managed or administered by the access corporations.
4. Ensure the availability of infrastructure information to operators. (eg line and grade information)
5. Infrastructure not currently utilised should be preserved as the core of new opportunities for existing operators and the genesis for new operators.
6. Establish a common train control communication specification and protocol.
7. Ensure competitive neutrality with road. (eg noise emissions)