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**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**INQUIRY INTO PROGRESS IN RAIL REFORM**

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

**TRANSCRIPT OF PROCEEDINGS**

**AT MELBOURNE ON THURSDAY, 27 MAY 1999, AT 9.35 AM**

**Continued from 26/5/99**

**MRS OWENS:** Good morning, and welcome to this public hearing of the Productivity Commission's inquiry on progress in rail reform. This is the third and last day of the Melbourne hearing and we've already held hearings in Sydney, Perth and Adelaide. These hearings give people an opportunity to raise issues in relation to our draft report which was called Progress in Rail Reform which we issued at the end of March, and it gives people an opportunity to provide input into our final report which is due to be released in early August. I'll only just say this briefly, but while people who have provided information are protected in this inquiry as if they're giving evidence in a court of law, we try to make the hearings as relaxed as we possibly can but there are some formalities that we'll have to go through in a minute.

I don't think I need to introduce my colleague on my left, Prof Derek Scrafton but I usually do as a courtesy. So what we might do now is we'll get started and I'll ask you both to give your names and your positions with the Australasian Railway Association for the transcript. So if you can each give your names.

**MR KIRK:** Thanks. My name is John Kirk. I'm the executive director of the Australasian Railway Association representing the rail industry in both Australia and New Zealand.

**MR HILL:** And I'm David Hill, research officer with the Australasian Rail Association.

**MRS OWENS:** Okay, thanks, John and David for coming and thanks for the submission and all the other material - you've already given us other submissions and other material during the inquiry and you've given us a lot of help and attended workshops and so on, so I'd like to thank you for that. I was wondering, do you want to make any opening comments before we get started? I understand from what you said before that you may have a few areas of concern that you wish to raise with us.

**MR KIRK:** Yes, indeed. Our brief response - I must apologise, it was only a brief response.

**MRS OWENS:** We love brief responses.

**MR KIRK:** I notice that National Rail have given you a very detailed response and in many ways I guess we endorse some of those comments, not all of them of course, but we might like to refer to some of their more detailed comments if we need to but I might just highlight some of the key areas going through our response to the draft report. I think it's fair to say that we were quite pleased overall with the report. I mean, it has shown that the competitiveness of rail and the effectiveness of rail reforms have been undermined by the disparity of funding levels between rail and road and the difference in investment criteria and the absence of full costs recovery from heavy trucks and rail's payment of diesel fuel excise. We are very pleased that the report recommends that there should be an inquiry possibly carried out by the Productivity Commission into road pricing. We see that as a fundamental competitive neutrality issue that needs to be dealt with in order to complete I guess

the overall

reforms of transport in Australia.

I guess we're pleased that the report has found that despite the lack of competitive neutrality between road and rail, that the rail industry has significantly improved its competitiveness and productivity since the 1991 report. I guess there are a number of concerns though that we do have with aspects of the report. The first one is the comparison with the US class 1 railroads. You might recall that we did make comment about this in our earlier submission, that we thought this was an unwise move. I guess we are particularly concerned about the way this has been reported in the press and I'm sure it wasn't the commission's intention that it would be reported in this way and in fact, I guess just to look at some of the media headlines that this particular aspect has attracted has been really quite counterproductive for the rail industry and has really, I think, overlooked some of the key issues that the commission's draft report made.

I mean, headlines in the daily, Commercial Uses of Rail Still Sick Despite Reforms, quoting the PC; Rail Freight System Still on the Wrong Track, in the Australian Financial Review; Rail Reforms Must Maintain Impetus - that was okay. Rail Jobs Off the Tracks, Time to Give Rail a Boost - these kind of headlines which we thought were actually counterproductive, and more of those of course highlighted that benchmark exercise which was, we believe, misreported, but then I guess it was, I think, an element of naivety in the people who prepared the report that allowed that to happen. It could have been written in a way where those comments were put in perspective. So our main concern was about the inappropriateness of those for that benchmarking exercise and I guess coupled with that was the fact that we felt that there was more recent data that would have been available to the people doing the research that would have possibly changed those summaries anyway.

Maybe we should go into more detail now or later but I think one of the highlights in that was that investment in rail infrastructures has prevented Australian rail operators in fact from implementing many of the reforms that would significantly improve productivity and I think the comments that Fred Affleck from National Rail made in his submission clearly highlights those restrictions to do with train length and weights, inability to double stack containers and inadequate crossing loops, just to mention a few. So those were some of the issues that we had concern with. Diesel fuel excise - there has been a considerable debate recently and of course now the focus on the debate with the government's current new tax system package have focused on the issue of diesel fuel excise. I guess from our point of view we were very disappointed that the commission didn't make a more focused comment about diesel fuel excise.

We felt that the options that were put and the need to define the charge is all fair enough but we believe that there was enough evidence before the commission which could have made a very clear and unequivocal statement backing up the 1991 and 1994 reports as well as other reports about this particular excise and how it affects rail. We believe that the Smorgon committee in its yet to be made public recommendations - but we understand that there is a very clear unequivocal statement

in that, that rail should be treated as an off-road user and they have obviously come to a conclusion based on, I guess, similar evidence that the Productivity Commission had before it. We would certainly like to see a recognition that there was in fact legislation in 1991 that clearly enshrines in law the fact that part of the diesel fuel excise should be used as a road user charge and that in fact the definition of an off-road user, as it was narrowed in 1982 really is discriminatory against rail and we would like to see a very clear statement to that effect and we've suggested in our submission to you some possible wording on that.

There are other comments that we had to make as well with regard to the performance of rail. We thought there was a lot of inappropriate comparisons and we put those in our submission to you, the via rail comments in Canada. We thought that comparing them with a class 1 freight system, again that was a meaningless statement and really I think some of these things reflected badly on the people who put this together. The fact that they used South Africa's example on passenger services was again not a credible statement in that it clearly doesn't understand what's happened in South Africa and how it has suffered greatly from an unregulated and non-policed road transport sector for both passenger and freight and really you could not use that as an appropriate benchmark with anything happening in Australia - and comparisons with Hong Kong and so on. I think these things need to be qualified otherwise they quite clearly give the wrong impression and certainly have not enhanced the standing of rail in the eyes of people making decisions and having just spent some time in Canberra discussing these matters, it's quite clear there's a prevailing view that rail has still got a long way to go to get its act together.

I talk to people about this and they tell me, you know, "We've read the Productivity Commission's draft report and that's what it says," and so trying to get that message across at the moment to win concessions in the tax debate has been very difficult because this report gets thrown up to us to show us, "Why should we spend money on rail, because it's still highly inefficient and unproductive," and trying to argue the case has been very difficult. So from that point of view I think this report has been significantly misused and that concerns us greatly and I certainly don't believe it was the intention of the commission that that in fact would be the case. So I hope that - they're just some general comments and we have some more specific areas in our submission which I don't think we need to go into. Overall, we were quite pleased with the report except for those one or two things and actually our great concern has been the way it has been used subsequently.

**MRS OWENS:** Thanks, John. David, do you want to make any further comments to that.

**MR HILL:** I suppose relating to that, one other thing was that there was a reference in there I think to urban rail operators being subsidised or something like that. We just wanted to point out that urban rail transport or rail transport generally is not the only form of transport that received subsidies and that the wording should be something along the lines it receives government funding for non-commercial activities or something like that and point out also that there are other subsidies

throughout the transport sector - something along those lines to highlight that fact. In fact, maybe not even use the word "subsidies" but there is government funding for a whole range of transport services, something like that. It reflects badly, as if rail is subsidising transport.

**MR KIRK:** There's a clear perception it's the only subsidised form of transport and that's clearly not the case.

**MRS OWENS:** We don't want to leave that impression and we're not actually questioning the fact that urban transport is subsidised. I mean, I think we think that's appropriate, given the nature of that system and the benefits and the externalities of road and so on, we aren't questioning that. Coming back to some of your earlier comments - and I think the first one was about the media response to our report. I said yesterday to Fred Affleck it's very hard to actually control what the media does and all we can do is put out a press release and hopefully put the right sort of flavour on it and we had in our report an overview with a key messages box and we put a lot of very positive things. At the top of that we said that many reforms have happened, has transformed the structure and operations of Australia's railways. I mean, that's pretty positive. There's now greater competition, more private sector participation. The productivity of Australia's freight railways has increased significantly. But then we've got the "but".

So we tried really hard to put sort of the very positive message up front and I think we tried to do that in our press release as well and I think we were somewhat surprised when we did see how the media had sort of - what they do is go down to where they find the negative buried somewhere else and don't look at the qualifications and I also said to Fred yesterday we did talk about in our overview the comparison with the US and then said - we had what I thought was a clear qualification relating to the productivity differences but some of these differences are due to factors which inherently disadvantage Australia such as scale of operations and traffic density. We didn't go into all the other things so the overview we can't put a whole lot of qualifications in but we did try and qualify it. I think it worried us at the time when we were doing this in terms of putting out something that was only half done and to some extent half-baked, if I can say that about our own work, because we were only halfway through a process and it concerned me at the time that we would only be able to present data on a limited number of countries.

In terms of freight it was Canada and the United States because that was the information we had got and a lot of other information came in just as the draft report was going to the printer and some came in immediately after so now we're working with the information from Europe and from New Zealand and so on. So we will have a more balanced view hopefully presented in the final report and we're also going to look at some individual US railways. I think we've been trying to get some information on those as well. What we were trying to do, I think, is basically just provide a factual view of what the different systems looked like and what their performance is. We're not necessarily saying that just if Australia's total factor productivity is below the US that is bad. We're saying what are the reasons for this?

It's interesting to see where we stand vis-a-vis these other countries and then try and understand what's behind that. I don't think there was probably enough of that in the draft report and we will try and rectify that. Do you want to comment on that?

**PROF SCRAFTON:** And as part of that obviously we're not going to have full data sets for the length of time that we've got in the report for some of these organisations but we're hoping to be able to round it out a bit more by getting information on US class 2s and 3s and we've been assisted in that as a result of some of the responses to the submission, that whereas you don't have total data sets like you do in AAR for the class 1s. There's no sort of equivalent source but some of the Australian railways do benchmark themselves against a range of US railways and they've promised us and given us access to some of that data. Obviously we can't use that in any total quantitative sense but it will help us a lot more in trying to establish the balance that you're looking for and we hope that together with recent data the same comment applies to the age of the data. One of the criticisms that has been made is that unfortunately the way that we did this analysis, in this case of the Australian Railways, was the duration of what I might call the traditional railway set-up and that in some ways, despite all the reforms that took place in the mid-1990s, much greater reform has taken place in these last three years, in the most recent three years.

**MR KIRK:** Indeed, yes.

**PROF SCRAFTON:** Again, what we'll try to do there is - a lot of that stuff was elsewhere in the text of the report. When we looked at things like structural reform and the access regimes and so on, that's all buried in there and in some ways we tried to pull some of that together too, to try to give this a more comprehensive view of performance. To what extent that might encourage people to take that negative spin away from the media, we don't know, but at least we have learned a lot from the discussion that has taken place on the way that chapter 4 was presented. I think picking up Helen's point, perhaps the most disturbing thing is the way that we wanted to report that quantitative stuff but in retrospect, the amount of public debate that went into that chapter 4 is out of all proportion to its significance in relation to the Tolley report and so we've learned a little from that and that's the purpose of the drafts, as Helen said.

So there are two things then to add to what Helen said. One is that hopefully some better material of US class 2s and 3s, and recent data. If I could just add to that, Helen, while we're talking about it, we will pick up at the same time some of your detailed comments about our wording and things like South Africa and the via rail thing which was another example, I think. The via rail one was simply another example of just laying down the facts but the significance which people attach to it is out of all proportion to what it was that we were saying. To compare them, to use your word, is meaningless. They're two different businesses and elsewhere in the report we talk about trying to have the debate like we would like to the extent that that's possible and that's part of the reason for the typology that we set up of saying, as you had said to us before, there is no one railway.

You know, we tried to set that up but have fallen, not necessarily into a trap in some of these things, but the way in which they have been interpreted has caused us concern. In fact, that has applied to quite a lot of things and the National Rail submission is a good example of that. Some of the things that Dr Affleck sort of took offence at and mentioned to us yesterday were in fact never intended to be read in the way that they were read and we are going to have to be very careful in our wording in the final report and we take that on board.

**MR KIRK:** I think also one of the issues that has been highlighted by all of this, and I think you have alluded to it but again I think it's something that needs to be dealt with in the final report and that is the difficulty of in fact collecting data about the rail industry in Australia. It's something that we at the association are now having increasing difficulty as the privatisation process occurs when a lot more information now is very much commercially sensitive and there is no mechanism like, for example, the Americans have got for collecting information by the Federal Railroad Administration which then the AAR is able to use in a positive light to show trends in terms of tonnages carried and all those kind of things and the safety aspects of the industry. We're unable to do that at the moment because of the difficulty - David does an incredibly good job wheedling stuff out of all sorts of people but, I mean, it does highlight that fact that there is no system in Australia for collecting data and what we see now is that when the privatisation started to occur, that's when the data stream started to sort of end and therefore the comparisons are made on sort of 94/95 data rather than 97/98 or even 99.

As you said, and we would agree, that as soon as you start looking at data that's two years old in the rail industry it's hopelessly out of date and we were challenging people at a conference recently where they were doing just that. I mean, they were quoting for example information that's 10 years old to try and show how hopeless rail is. Now, that sort of stuff needs to be challenged and we need to form the mechanisms so that we've got a much better data collection and also data exchange available, and I think that's something that needs to be - I don't know how you do that without having some kind of pejorative above or some sort of highly regulated system. But I think that's certainly an area that's certainly an area that we do address. With our year books - put a plug for our year book, it does have as much data as we're able to collect and the various trends and graphs but there are still gaps.

**MRS OWENS:** Yes. Prof Laird, when we were in Sydney, raised exactly the same question and Dr Affleck yesterday also mentioned this. Prof Laird said why don't we put in a recommendation about trying to get a better data collection system going. What do you think about that as an idea, as a full recommendation?

**MR HILL:** I'd have to endorse that. I mean, fortunately in America the AAR has legislation that requires that the railways report to them and then they publish that in an aggregated form, and this is one of the issues that came up yesterday for BTCE transport colloquium where there is an increasing difficulty in getting data and, as John just said, with privatisation and commercial sensitivity coming along - I mean, National Rail's annual report this year for example was completely useless from our



point of view and I have the extract data from them in other ways. But one of the points that was made yesterday was that data that was collected at public expense should be made publicly available and I'd support that principle.

But then again if you're talking about private railways - depends who collects it and how it goes on. But I think we need to put in some mechanism that enables us to get data to produce it, to publish it and put it to meaningful use, because all these companies have got data that's hidden away there and unless we can actually - and that's what I keep telling our members, that I can't help them unless they give me the information to help them and that it's in their own interest. So I think something along those lines would be quite useful.

**MRS OWENS:** I was just going to say I think if anything the problem will get worse over time.

**MR HILL:** Absolutely.

**MRS OWENS:** As more and more private operators come in and there's privatisation.

**MR KIRK:** Indeed if you compare our statistical review and our year book you will see that in the last couple of years the gaps have increased.

**MRS OWENS:** Yes.

**MR KIRK:** As information becomes more and more difficult to get hold of.

**MR HILL:** And it's not only more difficult but it's also more sensitive. I mean, even information I can get sometimes they won't let me publish and I've got to put it in aggregated form, or if I want to put something down I've got to make it quite clear that it's an estimate or approximate or something like that, because they don't want the information public.

**PROF SCRAFTON:** Then you get this other criticism which we get of - you either get too far and then you see it's irrelevant.

**MR HILL:** Yes, exactly.

**PROF SCRAFTON:** The comment I was going to make though, David, I was interested to hear that you'd been at that BTCE thing. I don't understand how an organisation like BTCE will be able to function at all in five years' time.

**MR HILL:** Well, exactly.

**PROF SCRAFTON:** If the data falls away - their whole business is analysing good data.

**MR KIRK:** What has happened though is that they have a lot of data about roads and so that becomes the focus of their activity because they deal with what they've got, which is a lot of information about roads, and they have very little information about rail and so what happens is that the sorts of reports that come out suffer from that lack of information. Also I think with the downside, it's also a lack of expertise but that's - - -

**MR HILL:** This issue of publicly available information at cost of public expense I think arose in relation to the ABS where they have legislation that they can get information from anybody because of the legislation to back that up. But it's just tucked away. I mean, they won't even give it to me even if it's about rail because they said, "Oh, we've got it and we're bound by confidentiality. We can't release it." Now, that seems to me a misuse of public resource, that money being collected by a publicly funded organisation, and it should be made publicly available in some form that people could use.

**MRS OWENS:** Even if it was in some aggregated form. I mean, we get confidential information but if you aggregate it in the right way so that you can't actually identify - - -

**MR HILL:** That's right, exactly.

**MRS OWENS:** - - - the company or whatever, I can't see what the problem is.

**MR HILL:** Exactly, that's right.

**MR KIRK:** It also highlights the problems with having state-based regulatory regimes. In searching for a big word I confused pejorative with punitive. But the state-based regulatory regimes clearly show - there's a barrier in exchanging information because in fact I would assume, I would hope, that the state authorities actually collect this information. I would imagine some business no doubt watching - they charge us for that service. But in terms of sharing it and making it available I think on any kind of national scale, that's not happening either. So there is a definite need to either get rid of that state-based activity and have just one national regulator in order to have some sort of data-base source of information. So that's another problem in this area.

**MRS OWENS:** We'll come back to regulation in a minute, but just while we're still on data one of the I think advantages of what we've done, even though it is out of date, is it does set up a base line for future work. I mean, we can't get the most recent years but at least we can say, well, for the future, you know, researchers in the future at least will be able to say, "Well, at 97-98 or whatever year we can get up to, this is what the situation was and now we've got the data for the next three years and you can come back and see what's happened in terms of the reforms that have gone on in the most recent past." So if nothing else, we hope that it's a useful base line but it was very frustrating for us for even - a basic piece of information that we would have liked was what has been happening in terms of trends with Mobil shares, and

particularly in

recent years.

I think we were criticised by Dr Affleck and in the National Rail submission because the chart we've got in there with that information is 94-95 and the question is, do we actually say, "That is too old, that information. We won't use it at all," or do we put that in and say, "This is old and we are presuming that this is the direction things are moving in after 94-95"? I think we chose the latter route. But you see, you're damned if you do and you're damned if you don't.

**MR KIRK:** Well, that would be no different from the rail industry. We'd be damned whichever way we go. I mean, what can we do right? I mean, we've undergone a process of reform over the years. We've increased our productivity and our efficiency and we're providing better service. We mentioned international benchmarking shows that it's operated at world's best practice, yet we go to a conference and we get snide remarks that says national rail of course could do a bit better, this kind of stuff. You know, when you challenge these people they've not even bothered to use this information. So yes, it is a real problem and I guess why I go back to my earlier statement.

There is a prevailing political view that has been actively promoted that we can't support two world class transport systems in this country and therefore get rid of one and obviously the implication is: get rid of rail. So we're very concerned about anything that comes out which does not accurately reflect what's happening, and to use 94/95 data for us simply doesn't show the true story. It doesn't show what's happening right now. It doesn't show the effects of the reforms and doesn't show how - I mean, the references are certainly there that we've done under trying conditions but certainly it's a major concern for us that these things get picked up and we're damned whichever way we go.

**PROF SCRAFTON:** The other very serious aspect of that comment you've just made is that's a pretty short-term view of the country's transport. I should be very careful what I say but I mean, you know, that is really a short horizon political outlook. I mean, if you look at the submission that we had yesterday and the discussion that we had yesterday in hearings with Dr Patterson from Victoria he pointed out very clearly - and so have many others and one or two submissions to us too - that the idea that the country can survive without a railway is pretty naive.

You know, none of us sitting around here have a very clear view of exactly what the fuel base situation will be like in 25 years. We might make some judgments about 10-year horizons but evidence has been put to us - and, you know, sometimes researchers who work in these sort of futures areas are just sort of not taken very seriously. But some evidence was given to us that there's a prevailing view among these energy planners or energy economists, or whatever their profession - whatever these guys are, geologists or whatever, that there are serious problems in terms of world supply over sort of a 30-year horizon. But in an Australian situation this thing will become the - oil supply and price will become a very serious issue for the Australian economy as early as - I think one submission in Western Australia said, I

think it was about 2010 or 2012, which isn't exactly a long way off.

The idea that you can make judgments at this stage about what the major infrastructure would look like is very, very dangerous. I guess you could say that this is somewhat on the edge of the commission's inquiry in terms of reference. But one of the things that has come out of the submissions is that maybe we need to be taking a bit more of a longer-term view, maybe if it's only in our chapter 11, in our sort of looking forward chapter. But a lot of the criticism, a lot of the things even that you have said this morning and a lot of the response to the draft has been with some fairly short-term horizons in mind and I mean, it's interesting that I only responded to that when you made the comment about putting all their eggs in the one basket. I could have understood that if somebody was saying that in the late 1960s or mid-1970s.

In fact oddly enough it would have probably been responded to more vigorously then than it is now, which is really curious, because now the power supply, the fuel, the future, if everything is given to us is great, been clarified - almost by the year anyway. Each year the data is much more clear.

**MR KIRK:** And certainly it's fairly clear that we're not going to - even the road builders are suggesting that in fact we're not going to be able to afford to continue. But I guess the problem that we have is that the rhetoric doesn't match the practice, or the practice doesn't match the rhetoric, and you only have to look out the window here in Victoria to see the 1960s traffic solutions that have been built here and with the total neglect in terms of working out the infrastructure needs of a state without even bothering to re-look at the role of public transport and what impact of investments in alternative to the car might be. So it's all very well for Dr Patterson and others to say, "Look, you know, do we need to have rail?"

But we need to start seeing some action and some political action in this area and I guess that's one of our main concerns, is that a report like this should actually be a stimulus to that kind of activity because in fact it showed - I guess our hope for the final report is it will show that, you know, not only that rail has reformed but it will also clearly indicate the barriers to future productivity. I mean, this is what the Productivity Commission I think should be about. We should be clearly identifying what are the barriers to an important transport mode to becoming more productive and more efficient, and I guess those things need to be pretty much up-front so that people can see, "This is something we need to treat seriously. We need to look at investment, either public or private," and I've got no particular view either way on that. We think that governments can't walk away from infrastructure investments and the way that has happened in the past is to the detriment of the nation in its competitiveness. But certainly by some token we need to remove some of the barriers that existed to private investment which is still quite substantial.

**MRS OWENS:** Just going back to Dr Patterson's remarks yesterday, I haven't actually got a transcript yet because it's too early, but he actually did acknowledge that rail is good for some things and not good for other things, and there's areas where it overlaps and there's areas where, you know, it's a substitute and there's other areas

he said where it should be dominant and there is no peer. I presume that's in some of the high-volume lines that he was referring to. So he was acknowledging that. But what you're saying is that that sort of philosophy is not being translated into government policy.

**MR KIRK:** I'd even challenge that paradigm. I mean, I think that is a traditional paradigm that has been shown to be quite inaccurate and it's a prevailing paradigm about rail; in other words, that you cannot have an efficient rail system for haulage less than 500 kilometres is the current nonsense. You've only got to do some work and have a look at the 500 short lines that exist in America and you can laugh at them and sneer and say they're Ma and Pa railways. But the fact is they provide a livelihood to people. They keep trucks off the road and these are important railways. They actually do make a profit, even though they might only go for one or two miles. They actually provide a service for a customer and a profit to the owners.

Now, we have different volumes in Australia but we are seeing already, as a result of the Docklands dispute - we're seeing shuttle services being developed in Sydney between Port Botany and trucking terminals. We would expect that if we can have a sensible view prevail in regard to diesel fuel excise that we'll see the growth of that kind of business and we'll see more and more joint ventures between not only trucking companies and the railways but also between the port authorities, because in fact it's the port authorities in Sydney and Fremantle in particular, also Brisbane to a lesser degree. Here in Melbourne - although Melbourne I think is starting to come to the realisation that in fact we should have a better rail access to the ports here. We will see more and more of those modes working hand in hand to provide a much more efficient way of moving cargo in the urban areas and again keeping some of these big trucks off the urban roads and stopping the police and the congestion and all those problems.

But this is an area that has been forgotten. No-one has really been focusing on it and we're very concerned that some of the small private operators that have put their money into their own sort of savings in their businesses are in fact threatened by things like the fuel excise business, which doesn't give them a competitive edge. But they're also threatened by this kind of traditional paradigm which is these people can't make a buck and quite clearly, given a level playing field they can do it and do it well, and provide a significant service to the other road users by getting the big trucks off the road. So I accept that Dr Patterson is very keen to see bits of the railway line network remain, but I rather see that the rail operators can be the - that they can decide which bits remain and which bits they can actually make money on, because that has really got to be the final solution.

**PROF SCRAFTON:** I mean, this is a sort of terribly pessimistic discussion, but in fact we've had some very positive submissions put to us that, you know, are - maybe in today's terms one might think of them as a bit parochial or a bit extreme in some ways. But some of them seemed to us to be pretty encouraging evidence, that people still view the railway future solidly. One that I might mention the other day was the combination - you probably have seen this and it has been around I think for a couple

of years, but a combination of mid-west Victorian councils working with a part of Geelong and I think John Hollands to produce a plan that would finish the standardisation of the network in Western Victoria.

I mean, the councils very kindly showed us this plan and mentioned, you know, that they'd sort of hawked it around governments, so far with very little response other than a pat on the head. But it just seemed to us, looking at that - I should be very careful. It certainly seemed to me a potential project for private sector involvement, for a book-type project. Now, traditionally we think of them as, you know, the \$2.7 billion sort of major highway project or some high-speed rail in New South Wales or something. But if this package is as economically viable as it's likely to be - and the margins don't have to be that great, the point that you were just making. They have a program there that might take 10 years to do the job but it would be a systematic sort of - rather like the standard gauge standardisation that had taken 30 years or something. This was a smaller regional rail that might take 10 years and would rationalise the network in the mid-west and now with the new private operator presently they'll take it to the new operator and see what comes out of it.

But there have been other examples like that of people suggesting that some action - and in all fairness to Dr Patterson he mentioned that if some of these processes that we're talking about now had been in place 10 years ago, some of these branch lines that were closed might not have closed.

**MR KIRK:** Indeed so. Also he may want to have the powers of persuasion by - you might try to get hold of, if you haven't already, a report we believe exists that VicRoads produced, which looks at just that, the economic benefits of standardising the network as opposed to building roads. Now, we understand that report has never seen the light of day, because - - -

**PROF SCRAFTON:** You mean the one that came out before they did the standardisation that came out in the west? There was a report then.

**MR KIRK:** There was, but as a result of the success of that it was decided to do the rest of the network. That report also, we understand, came up with similar findings, but it's never seen the light of day because it was very pro-rail. What you get in the meantime is, "Can we sell off the Victorian railway to Freight Victoria?" and we then spend \$4 million on a bridge over the Nelson River to enable licensed bigger trucks to continue moving tonnes of woodchips, thousands of millions of tonnes of woodchips, from South Australia across to the port of Portland. Now, for the same amount of money you could have standardised the line and allowed the new freight operator to tap into the market. That would have been truly competitive and also do a great - I can't believe the people in the south-east and the tourism industry are allowing, what is it, a truck every 10 minutes - and they're going to be bigger and bigger - in that area, when there's a railway lying idle because of the dispute over who might pay.

Okay, the government is now saying that Freight Victoria should in fact invest



in that line if they can see a market. There's probably some validity in that, but certainly there are plenty of examples of what's in the interests of a state government to invest in an infrastructure that may be to the good of its people. I guess the fact that it goes over a border is a problem, and it gets back to our previous comments about state jurisdictions and what barriers they've created to efficient use of road - efficiency in rail development in this country. But they are the sorts of things that I think need - these are the barriers to efficiency in transport that we're concerned about.

**MRS OWENS:** I think what struck me is the degree of buck passing. It happens with a lot of areas where you've got Commonwealth and state governments involved, and in this area there is also a degree of buck passing and the states say, "The federal government should be spending more." A lot of the emphasis in the parliamentary inquiry, the Neville inquiry, is on federal funding of railways. Similarly, I think, the Smorgon report, which we haven't seen, is also emphasising that money needs to be spent, should be the Commonwealth government. But the Victorian government's submission is also saying it's the federal government should be spending money, and I suppose - I don't know; I haven't spoken to the Commonwealth department about this, but I would presume they would be saying that the state should be rectifying some of this or the private sector should - that there's a role for the private sector.

**MR KIRK:** Their aim is the private sector, yes.

**MRS OWENS:** So there is a bit of a flicking process going on. I'm not surprised because it happens and it's always happened - it happens under federal systems. You have cost shifting and so on, but it's a matter of how do you get to the bottom of this? I think the other thing that strikes me is the difference of opinion of what needs to be done. I mean, there is a school of thought that says we need a lot of new investment in new infrastructure, Alice Springs-Darwin, Melbourne-Darwin lines. There are others say, "What we really need to focus on is upgrading the existing network," and then there are differences of opinion about how much money is needed to do the upgrading, so you see very large sums of money and then you see more modest sums of money and even - I asked Dr Patterson yesterday what he thought, and I think his answer, which was a very short answer, was, "I think you could do everything you need to to upgrade this network for about half a billion dollars." I think he used that sort of figure.

So you get all these different views floating around, and I don't quite know where that leaves us. A lot of people have said to us, "You should be saying more on this issue of investment," but we're getting a lot of views put to us.

**MR KIRK:** Indeed. I think we might have been out there with a submission - I can't remember - but one of the areas we've been pushing is changing two sections of the tax law which actually make private investment very difficult where you have a mix of public and private operators on the infrastructure. While you have those kinds of sections, 51AD and 16D, still in place, you're basically forming a barrier to one of the solutions, which is private investment in rail infrastructure. So, again, these are

some of the things we'd like to see highlighted. There are very simple changes to be made. They were brought in to stop bottom of the harbour schemes, and there are other ways of dealing with that now. These things ought to be changed, and the fact that they are still there, I guess, is - it's certainly a problem for - - -

**PROF SCRAFTON:** It's like the fuel franchise. Lots of people have pointed out that it has lived it's - in those cases. We do in fact repeat it in our report. We mention the same things. But they were mentioned by EPAC and it's been pointed out to the federal government over and over again that they're no longer appropriate. But I guess, like a lot of other things, they just get all put into this big thing of, "We'll deal with that when we deal with tax reform." But again, like the diesel fuel, it's necessary to just keep carping on about it. Could I ask you a question about the government investment money, because we have not got a submission from the Department of Transport and Regional Services. That is, what is the status of the 250 million? Some of it is being spent now, isn't it, but has a decision been taken on it all or what? It seems to have been around now for certainly the duration of our inquiry.

**MR KIRK:** It was announced in the 1997 budget, it was announced again in the 1998 budget, and it was of course announced again in the 99 budget. We can expect that it will be announced in the 2000 budget, the same recycled - - -

**MRS OWENS:** Is it the same 250?

**MR KIRK:** I'm sure if the notes were numbered, we would see the same 250. But we've been trying to get to the minister to make some announcements publicly on this, because we believe there are projects that have been determined. Really it's in the bailiwick of the Australian Rail Track Corporation, who have done a lot of work on how this money should be spent, and of course it has been oversubscribed quite considerably. It simply doesn't go across all the projects that have been identified as being required. As I understand it, some of the money is being spent on a number of projects but it is bogged down, because when the 250 million was announced in the budget one of the things that weren't clearly identified was the strings attached. There were significant strings attached to that money which - I'm on difficult ground here but, as I understand it, it was dependent upon suitable reforms between the states in terms of arrangements regarding access and pricing and these kinds of things and, as I understand the situation at the moment, some of the projects have not proceeded because those negotiations are still under way. There are still negotiations between the ARTC and Victoria, New South Wales and I think Western Australia, as to how those arrangements might be sorted out.

One of the problems for the rail industry is we get heavily criticised that we haven't got our act together, we haven't got the project sorted out, "You can't spend \$250 million. It's taken you two years and you still haven't got it done." But the fact of the matter is there are strings attached to require governments to agree. What you're asking is asking the states to hand over powers to the Commonwealth - we all know how difficult that is - and so we get bogged down. This is something that doesn't happen with the per capita grants that are given out by the federal government

for road funding.

**PROF SCRAFTON:** Thanks for that. That does explain the slowness of what has happened. It just was surprising to me, given that there is the demand, how people say there is the demand, to spend so much more, and also that the Booz-Allen report on which those investments were originally - I don't know whether it's still true, but the Booz-Allen report was supposed to define the priorities on which the money should be spent from a purely technical and economic point of view, and I thought, my personal view, that that was done pretty well and demonstrated very clearly that you don't have to stop and think, that there are two distinctive areas. One was more and longer passing loops and the other was sorting out Sydney, for example. They're just two that - - -

**MR KIRK:** That report showed quite clearly that for investments of around \$10 million the benefit-cost ratios were in fact nearly 10, which was several times higher than road projects. But the projects show that there were significant bangs for the bucks being spent, but for some reason we got tied down in this bit of red tape between the states, which is again very disappointing. Again it just delays the reforms.

**MRS OWENS:** I think an interesting aspect of our discussion yesterday with Dr Affleck - I'm referring back to Fred again, but we did have a very valuable discussion - was that he suggested in his opening remarks that there were three stages in terms of productivity improvement. We were talking about this in the context of investment, but one was to deal with the issue of inefficiency and the use of resources, so deal with the issue of too many wagons and too much fuel being used, too many people or whatever. He said that that process has pretty well worked its way through in many of the railways. The second stage was to actually change the production function, which was to increase train lengths and axle loads and have double stacking and so on, and that I think is probably where you do need a government response to that to assist in getting the infrastructure right to allow that part of the process to occur.

Then the third part of the process that he suggested was that the railways be integrated within a total logistics chain, and he said that you can't actually get to that stage without going the whole way and having privatisation. So he saw that you eventually move past this phase at some stage and then you get to a privatisation phase, that you need that in order to have mergers and alliances and so on. So it's a matter of going beyond thinking about road as being the competitor to seeing railway as being part of a transport system. I think we're at the stage in doing this inquiry where a lot of people are still thinking about railways as being railways and then there's roads over there: there's all this money being spent on roads, railways missing out and isn't this unfair. But what he was suggesting, and I think what we probably need to be thinking about, is how railways in the future - this comes back to Derek's comment about the future of railways - is going to fit into the whole of the transport chain. It's probably already starting. I mean, you've already seen logistics companies there, and maybe that's why we should be starting to think more laterally about how

the future is going to look.

**MR KIRK:** You're absolutely right. The road versus rail thing is just about dead in terms of the marketplace because in fact we're seeing more and more transport companies looking at a total logistics package and I guess the success of the private operators in terms of what they've been doing, and I guess the way National Rail is now starting see its business clearly indicates that that's the move. I don't know whether you've had evidence or a submission from Toll Holdings, but very clearly you've got one of the largest trucking companies in Australia dead keen or sees the benefit of investing - not actually fully investing yet but operating a rail service. He has said publicly on a number of occasions he would like to substantially increase the amount of traffic on rail; he'd like to get a lot off trucks but simply can't because of the fact that these efficiency gains that Fred Affleck is talking about still aren't there. I mean, we haven't done the work. He talks about his "rorvils" and his "urvils". We simply haven't done that for rail.

The transport ministers at the ATC tried to set some standard but in fact they were pretty low. They were not really looking too far in the future. Really, to work out what is an efficient transport network rather than looking at a particular road versus rail, we really need to do that type of study on rail and work out at what level we should be operating to provide that efficiency, and we just haven't even begun that yet.

**PROF SCRAFTON:** The other comment that I would make about that is that one of the messages that we tried to leave in the draft and hopefully we'll be able to strengthen as a result of these discussions in the final report is that we believe that the reforms that have taken place in the 90s have at least given rail a chance to be part of that integrated logistics development. It's not the old state railways operating in their own bailiwicks to the extent that it was. The changes that I've been seeing are very positive, and the framework is being set for a future for the railways. Fred's view and many other people's view is that you will not get that without privatisation or it will not be maximised without privatisation.

Other participants have pointed out that corporatised organisations can work just as well, but the evidence is that the private organisations have the ability to enter into these ventures much more freely, much less - unconstrained, if I can put it like that - than government railways do. The little strings you talked about for \$250 million, little more than - these are just my words - sort of bureaucratic niceties almost, and yet they prove to be a major constraint.

**MR KIRK:** Indeed. One point I wanted to cover: there is also a view that these reforms happen by magic and that they've been something that somebody has done for the rail industry. The facts are we've been driving this change for 10 years. We've been driving the reforms. I mean, we've been pushing governments to change their policies, and I guess it concerns us greatly when we see press releases from a certain Canberra office which say rail has jumped on board the reform train. We've been driving the train. As I said, these things haven't happened by magic. We've

actually

been out there pushing. But I do agree, and I think it is pretty clear that privatisation does enable a number of things to occur. One of those, of course, is access to capital, which is something that really has constrained rail, and that's obviously very important.

It also brings in other players, and one interesting change that I think will occur: in the past rail has been reluctant to take on particular traffics and has walked away from things like petroleum products because of ageing tanker fleets. They are very expensive to maintain, and the money wasn't available to replace them, so you simply walk away from the business. But now, where you've got leasing companies who will come in and lease equipment, hopefully the private operators will pick up this benefit and get in there and work with these companies and provide specialist equipment to win back some of that market share which rightly should be on rail. It's safer on rail, it's better for the community if it's on rail, and we really need to win that back through innovation and new financing arrangements for this kind of rolling stock. So, you're right, these changes do make that possible.

**PROF SCRAFTON:** And there's a sort of snowball effect. We commented on the progress that had been made, for instance, in Tasmania. It might only be a small rail, but the fact is that progress had been made there. But the other thing that happens is that, because it has a relationship to an American consortium, the American leasing companies start moving around and see what opportunities there are for them. Traditionally, for instance, the locomotive construction business here was a very sort of almost comfortable arrangement between American engine suppliers, Australian assemblers and government-owned fleets that would choose one or other of the package, if I could put it like that.

That's all going to change now. People are looking around to see what opportunities there are for their products, and it's particularly so in freight equipment. That's where one begins to see it. You're quite right. I'd never thought of that, John, but that's quite right. People are not walking away from business any more; they're going out actively looking for it, reopening, getting back business that had been lost in terms of freight.

**MR KIRK:** I'm glad you raised Tasmania, but it is a very good example of what's happening, and it's not only happening because there's an American railway company down there who are very aggressively wanting to win business, but they've also got a very supportive government. The Tasmanian government is probably the only government in Australia that's actively looking at integrated transport. They're not just talking about it or putting on paper in nice glossy brochures; they're actually doing it. I mean, they're actually looking at how to integrate road and rail so both of them are efficient.

So there are some very positive things happening in Tasmania which I think provide a model for other Australian states on how to really develop properly integrated transport, and I guess the way that they're looking at forestry railways using GPS technology to provide the trucking companies with incentives to drop off

logs and so on at the railheads is all important. Again, the railways, because they've got access to capital, can invest in the rolling stock to be able to handle this business and all those kinds of things. It's all part of the total wholistic package. You can't just do bits here and bits there and expect it to work. You've got to have that overall framework of government policy as well have the private railway, and I guess, even though it's an island railway, there are certain advantages in that. Certainly, it's down to the companies and so on and the governments to work together.

**MR HILL:** Can I say something just in terms of what we're talking about, integrated transport and Fred's second point about government investment. I just wondered whether it would be useful in the final report to do something similar to what we did in our initial submission, to put in the reforms that rail had done since 91 and the reforms that governments have not done since 1991 to show where the impediments still are. I think that would be a useful comparison, and I know you've got concerns about the extent to which rail reforms have occurred since that time. But just a checklist like that, just to show the sort of areas that we've addressed - as John was saying, we've driven all that sort of stuff, achieved a lot of those things, to varying extents, but governments, if you look at their checklists, have done basically nothing, or have done the easy bits and not tackled the hard ones like excise or road use charge and those kinds of things. I think it would be useful to highlight those sorts of issues up-front, just to say, "Here are the areas the government has failed to reform itself in that time."

**PROF SCRAFTON:** We did acknowledge that in the report, is my recommendation, but we didn't use it to the extent that you're talking about. But my recommendation was we combined what you had given us with what DOT had. I just had one other comment, which is a procedural one. In the submission you have these specific comments and in some of those it's about numbers where your numbers differ from ours. There are a couple of things I'd like to ask about that. As I understand it, already the team have talked to you about some of these and I guess they would talk to David. But because we would like to at the very least acknowledge that if you count the numbers a different way we can acknowledge how we've added our numbers and how you've added yours, but for some of them we need references from you, some sort of ability - and the way it's written in your submission just now there isn't any in it, and I wonder if we could just come back to you on the detail.

**MR HILL:** Yes, that's fine.

**PROF SCRAFTON:** Because as far as possible we would like to - I mean, the one I can use as an example is we need to make it very clear - clearer than we have. We thought we'd made it as clear as possible but obviously we haven't, where the numbers refer only to the former government railways as distinct from the total package because obviously in some areas that increases the numbers by some 40 and 50 per cent.

**MR HILL:** Yes, that wasn't quite clear in the way the data was referred to. I mean, some of these charges you've got, say, 68 billion kilometres. That's - - -



**PROF SCRAFTON:** Yes, so just if we could talk to you about that when we come to put the draft together.

**MR HILL:** That's fine.

**MR KIRK:** We're very happy to do that. I mean, it's in our interest to make sure that the information is accurate and we're happy to explain to you how we've done it. I mean, David is obviously the key to this and - - -

**MRS OWENS:** We'll get one of the team to get on to you on that. We haven't actually got to the point of talking about diesel fuel excise but I think we're understanding what you've said. We actually overlooked a document that we had in our possession and it was brought to our attention yesterday that we had some information about the acts and so on. So we'll be rectifying that for the final report. But what I'd like you to do for us if I can ask you to do me a favour is have a look at the transcript when it becomes available from yesterday's discussion with the Victorian government with John Patterson, because he does look at this issue of road versus rail. He set it up in a fairly simple way as a balance sheet and he said in terms of the balance sheet, the government gets fairly significant receipts from motor vehicle operators to the tune of almost 14 billion; government outlays on roads about 6.3 billion. So there's a road surplus. You've probably seen these sort of calculations before.

**MR KIRK:** We saw them yesterday - yesterday or the day before.

**MRS OWENS:** Then he talks about the fact that with rail you're not just talking about the amount that governments spend on investment but there's also subsidies, concessions and so on, so you end up with a rail deficit at the end of the day.

**MR KIRK:** Probably about \$4 billion.

**MRS OWENS:** If you wouldn't mind - - -

**MR HILL:** With pleasure.

**MR KIRK:** We've had this debate at the conference about the fact that \$4 billion is about 10 years out of date. But then when you get into it, the way they are counting it is in fact quite different. If they only counted the roads - the road investment - in the same way, we would be particularly happy because the \$13 billion - the balance sheet changes quite dramatically if you start adding up the figures in the same way. I guess it's one of the real problems that we have. We've been pushing ad infinitum and will continue to push it, and that is the same criteria has got to be used on all investments. You can't have one treated one way and the other. On the issue of fuel excise, can I table a report that has been produced by the Allen consulting group which I think summarises fairly succinctly the diesel fuel debate and puts the case very clearly. I have a copy and I'm quite happy to table it if it's appropriate.

**MRS OWENS:** Yes, we heard about this report yesterday and we were hoping you would table it, so thank you very much.

**MR KIRK:** It's a fundamental issue and without overstating the case we will see a major modal shift occur if the current package goes through. We'll obviously be working very hard to make sure that rail gets an exemption and if there is no agreement between the governments and the Democrats over the issue and the GST falls over, we still have the issue: The issue is still there. So it's something that needs to be tackled in the current political debate or in the future as well.

**MRS OWENS:** The current political debate actually puts us in a bit of a difficult position because we're not quite sure how it's all going to end - nobody is. So we're watching it with interest.

**MR HILL:** The 18 cents is still a road user charge whether it's this part of the present excise or it goes down to this new level, it's still - I mean - - -

**MR KIRK:** There are some parts of the debate which are not political and I think they need to be highlighted. They haven't changed since 1982 nor the various commission reports subsequently. They are still the same.

**PROF SCRAFTON:** That was my comment earlier, the same with the taxation issue still for the private sector and they are just fairly straightforward. One would think that they were fairly straightforward policy issues that any responsible government could get to grips with.

**MR HILL:** I think we're trying to argue it logically, that's our problem.

**MRS OWENS:** I think our problem with the diesel fuel excise was that we were getting some responses from Canberra that it was a general taxation measure, so there is a bit of an inconsistency.

**MR HILL:** From them, absolutely.

**MR KIRK:** They were ignoring history. I mean, they were actually ignoring legislation which - I mean, we pointed it out to them and I think it needs to be pointed out again. That changes the whole rules, and if they're going to do that where is the road user charge. I can't believe that treasury, for example, is going to forgo \$3 billion. I mean, they haven't even got their hand out for road user charges worth that much.

**MRS OWENS:** I think that's about all. There's nothing else you want to say before we break for morning tea?

**MR KIRK:** I think that's it. Thank you very much - - -

**MR HILL:** Actually, sorry, just one minor thing. In terms of the qualifications, you acknowledge that you did say in the report that some of the differences are due to factors as inherently disadvantaged economies of scale and so on. Maybe that kind of stuff needs to be up-front more clearly and explicitly, because hidden away on page (xxiv) - - -

**MRS OWENS:** It's fairly close to the front of the report but, yes - - -

**MR HILL:** It's sort of at the front.

**MRS OWENS:** I think Fred wants it in the key messages.

**MR HILL:** I think so.

**MR KIRK:** We would agree.

**MRS OWENS:** Okay, thank you. We will now break for morning tea and we will resume in 10 minutes.

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**MRS OWENS:** We will now resume. The next participant this morning is Safeworking Services Pty Ltd. Would you please give your name and your position with the company for the transcript.

**MR DEVENEY:** My name is Thomas Deveney. I'm a director with Safeworking Services. Safeworking Services is a small consulting company that's springing up far and wide in the rail industry now with the downsizing of formal structures. My background is a fairly long one in the rail industry - around about 23 years I think now. I've spent most of my time in the Public Transport Corporation originally in the signalling area where I rose to become their chief approving officer for signalling designs. I went on and did some engineering management with them and I held the position of engineering manager when I went to National Rail as part of the set-up initially of National Rail, to try and reform Australia's railways.

As some other speakers have made comment about, the reform train has been on the tracks and been driven actively for a number of years, even though it might not have been recognised. Certainly at the outset of National Rail that was the case and that was the reason why I went there. I was with National Rail for five years holding the position of executive engineer, control systems development. Then I left National Rail and I've set up my own little business and I'm doing consultancy in the signalling train control railway management area. I've done a study for the Western Australian government for a new railway since I've started my own business and I've also worked on the train franchising bids in Melbourne which has just concluded.

**MRS OWENS:** Good, thank you, and thanks for that short introduction to yourself and your business. I think you've actually set up at a particularly good time, given all the changes that are taking place and privatisations and so on. I have said to others that we've spoken to about regulatory and safety issues that I find personally - and I think I speak for Derek on this matter - that the whole system is extremely complicated and each state, despite their claims of harmonisation and all of the rest of it, seems to have somewhat different approaches to things like signalling and I think there must be an enormous amount of work out there that you'll be able to do that will keep you busy until you're a very old person.

**MR DEVENEY:** I certainly hope so.

**MRS OWENS:** I was wondering if you would like to make any opening comments addressing your submission.

**MR DEVENEY:** Well, why did I put in a submission, I guess. I've spent quite a number of years, both in the PTC, in the engineering management position where we've tried to generate a new method of train safe working to simplify things, and in National Rail where we hoped that that might actually be spread Australia-wide, trying to push this rail reform agenda. I've recognised for quite some time that rail needs to actually achieve best practice, if it's to survive all the current market conditions. So the submission comes from my interest really in the rail reform issue.

The second reason, I guess, is that I think having seen some of the reports and things that have been written by others, not least of all the ones that have come out of the federal departments, I think there's somewhat of a lack of understanding at certain levels of the complexities of this issue. It is true that there's lots and lots of different train control systems in all the states and indeed throughout the world. In fact that same comment applies no matter where you go. You can go to Europe and you can hear this. I've been to all the European train control system seminars in Paris and Tokyo and so forth, and they're struggling with the same issue. Now, why is this such a difficult issue? Well, I guess the answer was contained really in the first submission which was probably highly technical and not very user-friendly and I doubt that few people would have bothered to wade through it. But just summarising it - - -

**MRS OWENS:** We do, we wade through them all.

**MR DEVENEY:** Well, you get the elephant stamp.

**MRS OWENS:** We don't necessarily understand them all but we do wade through them.

**MR DEVENEY:** Let me quickly summarise it because I think it's an important issue. If you have two aircraft moving at random in any airspace there's a very high probability that they won't collide because they move in three dimensions. If you have cars moving on a roadway where they're not constrained to one lane, there's a fairly good chance that they will be able to avoid each other. If you put two trains on a railway track and you allow them to move at random they will crash. There's no question of it, they will crash. So therefore, railways, because of the nature of the engineering, the way the trains are on single track, that you cannot see far enough to be able to stop before you hit another object - which is not the case on the road - they need a guidance system of some form.

There's all sorts of guidance systems been developed over the years and a lot of them come from the early days. I think the submission says that most of Australia's railway operating practices and means of controlling trains so they don't crash are based on the Board of Trade rule books which were written in UK about 1880 or 1890. Of course a lot of railway practice comes from that era. The Americans went a different way and they had extraordinary systems of men running around with pieces of paper and they had flares and they had all sorts of darned things to stop trains from crashing into each other - a lot of them highly inefficient - and so forth. Really, the other key issue I guess is that railways, being the most important engineering function - if you think of India today, the rail ministry is a very, very important industry, because in the technological sense it's got a very, very big input to the economy. It's a ministry of itself, the rail ministry. People in the Indian railways are very high in government.

The reason for that is it comes from the development of technology. The fact is that railways were the biggest and best technology in town, they had the biggest and

best workforces and so forth, and so they became authorities. They became law.

Railways could do anything. Quite a few years ago now, there was a dispute over the building the Met were building along the Yarra, probably about 10 or 15 years ago, I guess, when it was built. The railways built it because they said, "We don't need a planning permit. We're an authority. We don't need to worry about that." That's the attitude they have always taken. Of course when you look at rules and regulations and operating practices, they say, "We'll do it our way," and someone else comes along and says, "No, that's not a very smart way to do it." "No, no, you don't understand, we're an authority, we're doing it our way. You can go and do whatever you like in your jurisdiction."

So there's a hell of a lot of that in the rail industry, and also I believe - I'm not a constitutional person so much, but I believe that railways are something that's very much in the state court that there's no ability of the Commonwealth to really muscle in, unless someone says, "Here you are, have it." So railways have built up their own regulatory frameworks which they guard jealously. The other significant part of the whole equation is - going back to our movement control issue - the fact that railways have a fair amount of technology involved. They have a lot of signage, they have a lot of signalling apparatus, they have coloured lights. As was pointed out in the paper, the coloured light sequences are different in New South Wales than they are in Victoria. That seems to be a nonsense but of course when the world ended at Albury at the Murray River, it didn't matter. In fact the track gauge was not the same and so therefore you may as well be entering another country, it doesn't matter.

So there's a lot of infrastructure being put in place. The first paper pointed out how absurd we would see it if, for example, the road laws were different in two states. For example, if purple was go and orange was stop and red was caution in Victoria and the normal sequences applied in New South Wales, what would we do then? For the benefit of interstate truck drivers would we change all the traffic signals and spend that vast amount of money or would we come to some intermediate point where we might say, "We'll try and work out some means of harmonising all this." That's the sort of situation that the railways are in. There's been a number of reform movements to try and standardise things but at the end of the day, the fact that railways have been authorities in the past and have virtually absolute power in this area, has impeded rail reform greatly.

When I was in National Rail we tried to standardise the method of controlling the signalling of crossing loops on the interstate corridors so that we could get a simple and more standard system. We achieved it to a very, very small extent because whatever is installed has to fit in with the design standards and the operating regime of the railway. The operating rules are driven by the equipment you've got. If the sign is yellow and blue and something or other, then the operating rule says, "When you encounter a yellow and blue sign, you'll do this," and if it happens to be green and red in Victoria, the operating rule says, "When you encounter a green and red sign, you'll do this." Therefore, harmonisation of the operating rules is very difficult without some attention being given to the actual infrastructure itself.

Just continuing along that theme and picking up that analogy I gave earlier, the

majority of freight, as is probably recognised by everybody, is intrastate freight except in very, very small states - perhaps South Australia, probably not so. So therefore there's not the same financial incentive to standardise operating practices and equipment and so forth. In terms of access to rail infrastructure, provided an operator isn't going to operate in more than one jurisdiction, he knows what he has to put on. There's no question of him having to put on vast quantities of equipment. The problem is really an interstate operations problem. That constitutes a fairly small percentage of all the freight tasks throughout Australia, but nonetheless a very strategic and significant one.

One of the things that I did in my time with National Rail was to work on a radio system to try and work in with all the various systems that are provided in the states for radio communication. I think the system had to emulate 23 different modes. It's covered in a paper with National Rail and subsequently it also appeared in a report from Maunsells, when Maunsells did the same sort of study for the Commonwealth. But having done that, all that does is allow you to inter-operate but it doesn't actually solve the problem that's being discussed and that is to try and uniform the operating regime. In fact I noticed a comment from Westrail in section 8 about harmonisation. Of course, harmonisation is a great goal but you need harmonisation on two levels. If you just have a harmonised communications system where you can actually talk to someone, unless their procedures are the same you still have to train your people in multiple procedures. The harmonisation of itself won't help.

So how do we get out of all this? Well, I may have a wrong view of the attributes and the powers of the National Road Transport Commission but it appears to me that they have seen to have pushed the reform agenda in road and standardisation of truck design, driving hours and all sorts of other bits and pieces like that - hazardous goods transport - to a greater extent than has been achieved in rail. I think the reason why they've done that is because they've worked on a project-type basis, they've had the support of all the governments and they had the wherewithal to negotiate and obtain agreements and move on. One of the significant issues, the questions that were asked in section 8 of the draft report about the various models, just addressing that for a moment. Uniform regulatory body sounds good. It sounds like a good idea. But what will it do for regulating rail movements around Sydney? I suspect the answer will be nothing because there is so much infrastructure in Sydney, there's no way in the world that anybody is going to spend the sort of money necessary to change that.

So therefore, rules that are specifically written around that infrastructure will remain. There might be some changes at the margins in terms of developing rules and procedures that are more generic in terms of perhaps accident investigation and standardising that, some of the general rules that railways run by, bearing in mind that most of the government railways started off with the Board of Trade rule book at the end of the 19th century. So therefore there's a fair amount of similarity. I think that the problem we're really talking about bears on interstate operations mainly and that the jury should be still out on who should regulate and how it should regulate.





I would see that as being the work of whatever this body that was set up would be - perhaps the Land Transport Commission or something - whose specific task would be to propose the best method to regulate interstate operations. It may actually just come down to be the one stop shop for accreditation and safety management that the ARTC is endeavouring to put together. There's probably another issue that's fairly important and that is that no matter what happens if a national body is set up, it will have to seek the concurrence of the state authorities - the state rail owners or operators or whatever. The reason for that is it comes back to this question of equipment again. The cost of changing is going to be extremely high and the land transport body will not be able to make progress unless it can win hearts and minds of the state authorities. So therefore it has quite a task ahead of it. But that mechanism I believe is probably the best way to achieve it.

Just picking up another comment in the draft report, it was suggested in one spot that there might be a possibility of having - it's said there could be an issue of multiple regulations, if you like, applying over a joint use track. In terms of the way trains normally operate that would be extremely difficult to enforce or to have operate safely. So therefore I guess another key issue of this body that would be set up, would be to investigate what constitutes interstate lines and then provide the optimal solution for each jurisdiction. It won't necessarily be the same solution for all jurisdictions. I think that is a key issue. Obviously there will not be a one size fits all because of the way this has come and developed over the years. So the task will be to minimise the cost of access for interstate operations.

I don't believe you will ever get down to world's best practice unless all the railways are taken over by one body and there's an enormous amount of money spent to standardise everything. I don't believe that's desirable for the economy anyway because it doesn't yield the sort of benefit that would justify that expenditure. What benefit would accrue to the Hunter Valley coal system if, for example, all the safe working systems were standardised? None. The trains would still run tomorrow as they run today, only on a different regime. This key issue once again is the interstate operations. Also the private operators, why should they be encumbered with another system of regulation when what we're trying to do is to facilitate easier interstate operations.

So I guess the key points that I put in the submission on the national safety organisation model, are that train control and signalling systems differ widely; radio communications are not standardised, and this picks up a point about the comparison with CASA, and the airline industry having standardised radio allocations; and also operating procedures. There's mutual cooperation but no accreditation in the rail industry. Operating rules and procedures vary widely to suit local culture and infrastructure. The most efficient entry to the industry is to do more of the same in that jurisdiction. Most of the rail industry is intrastate based, and the major regulation problems facing rail are in respect of interstate traffic.

So that really covers what was in the submission. I've then just reiterated that I think something like a land transport commission is probably the way to go and to

draw together all of these things that are currently occurring, put them under one project organisation, seek the support of the Australian Transport Council, and move on from there, because otherwise we will be deluged with reports generated by different organisations with their own different set of glasses and views and what have you. At some stage it has to be drawn together. It can't keep going like this. It's been going like this for 10 years, where various governments and organisations have done their own thing and produced a report. If I go to Westrail, for example, they will tell me, "We know exactly what the train control system should be for the whole of Australia and how the rules should be standardised and this is it," bang. If I go to New South Wales they won't even open the front cover of it because they'll say it's nothing that they'll hold to there. So that's pretty well that.

If I could, I'll just pick up a couple of comments from the draft report. One of the issues was there was a statement about the Australian rail standards, about codes of practice and what have you. I in former life quite some time ago spent some initial time working on those. Probably the comment I want to make is that, for example, fire systems are standardised throughout Australia. There are various colours of pipes, there are fittings, there are design methods and what have you. A lot of these don't have the force of law but they're Australian standards. They're recommended practice. If you have a fire in your building, then it's desirable to be able to put to the court that you follow the industry practice.

In the rail industry, going back to that comment about them being authorities, they all generated their own set of standards, and of course they had to have the engineering support to maintain and develop those standards and they were in themselves an impediment to progress, because they were sort of trapped within the bubble of the engineering organisation within the railway. As railways have got smaller, that has fallen away to a certain extent. Nonetheless, the people who worked on those codes - this is picking up some of the comments on page 176 - had the perception that, whilst they were not working on something that specifically influenced interstate transportation, they could see the benefit in trying to standardise all those codes, which they individually had anyway, and the reason why they were going down that road was to allow access for people from other states to do all sorts of engineering work.

For example, if I was in Victoria I was the signalling approving officer of Victoria. We didn't do it the same way as New South Wales or Queensland or South Australia or Western Australia. Therefore, if I wanted to hire a consultant to do an approval job for me, I had to have a consultant who I knew had knowledge of the Victorian method of doing it.

**MRS OWENS:** So they're likely to be Victorians?

**MR DEVENNEY:** That's right, and therefore that impeded competition and it also mean that for a long time there's been great difficulty in outsourcing a lot of their equipment - production of equipment, production of signalling designs and what have you - because of the fact that they're all state based. Perhaps the people that worked

on this got it wrong and they didn't understand the brief correctly, but they were motivated by the wish to try and for the first time generate at least a standard code of practice, bearing in mind the codes of practice already existed in each jurisdiction anyway, which would then become Australia-wide and so therefore it would open the industry up to competition and not constrain it.

I gain the sense that some of the comments in the report seem to turn it around the other way and sort of say, "They're putting something into place which has the potential to increase costs," and that wasn't the intent. That may have missed the mark. Maybe the bullet went astray, but nonetheless that was not the intent. In fact, there's a comment in there about signalling wire colours. That's an interesting one.

In the signalling system there are a lot of physical cables used. Of those physical cables that are used in signalling, a very small percentage - 20 per cent, for example - are similar to cables used in other areas of industry. The majority are specially manufactured. But what was happening was that they were specially manufactured to a different specification in each state. Of course, when we went to do the national rail work in Melbourne here we had a hell of a fight - and that's the only way to say it, I guess - with the Victorian authorities because we took some orange construction cable and wrapped it with black PVC compound in opposition, completely against their rules and procedures, in defiance of them, actually, and used it, and it caused quite a stoush, to say the least. But, of course, for all other intents and purposes the electrical specification of that cable was identical to the signalling cable. But it was not orange.

The reason why it's not orange - and it might sound a trivial issue - is because cables run in big ductings and if signalling guys accidentally cut the wrong cable in half while they're doing repair works or construction works, they get killed, simple as that. That's the reason why they standardised on black cable for signalling and tried to use orange cable only in the same ductings which were running higher voltage power.

So when the Australian codes of practice came along, they thought it would be a jolly good idea, since this cable has to be specially manufactured anyway, to standardise the wire colours and the sheathing to make it a standard which everybody could abide by. I note the comment that there have been some rewrites subsequently, but at the time I have to say that whilst we worked away to try and get that position, at the end of the day New South Wales said, "You can do whatever you like. We'll all order our own specification." Anyway, all I want to say is that I think you need to be careful that - because railways are very, very engineering based, they have a lot of prescriptive stuff in them. It's necessary, because once again you have to have a properly designed fire system. You have to have the sorts of pipes that are used in firefighting to a certain specification, certain wall thickness and all this sort of stuff, to handle the pressure. The motivation was to standardise things to make it more open rather than less, and it might have come across the other way round.

The other significant issue, I think, is that the rail industry is full of people with all sorts of operating regimes and standards that they've picked up from other areas in

the world. For example, North America: you hear plenty of people say, "Why don't you run your trains the way they do in North America?" You hear lots of these comments. They're normally put forward by groups that don't really understand the background of how they're implemented, both the equipment background, the operating speeds, the transit times and all this sort of stuff. Therefore you get a lot of these opinions around, and you no doubt will have heard that people say that perhaps the engineers in Australia are not doing what they should do.

If we had a National Land Transport Commission and one of its briefs was specifically to identify a suitable technological path which Australia should take to standardise its technical equipment and operating procedures, this issue could be put to rest and not have all these miscellaneous opinions coming around from all around the place, which are generally not supportable. If they were supportable, then countries like North America would have a single standardised, simple system, and they don't, and Europe doesn't either. The UK does. It's not a simple system: it's a very standardised, very rigid system, but that's because the UK railways are all under one umbrella. So I think that's an important issue to take on board.

I've talked about interactability. I've just got a few notes here. There's a comment on page 182 about phasing in of equipment should a new performance based system be provided. Let me just go back a bit on that comment. In general, once the operating regime is established and an acceptable set of rules is established, all equipment should be performance based, it should not be proprietary. That's the thrust of the Europeans. The European train control system - ERTMS, it's called - is actually defining the interfaces where it matters. So, for example, there will be a definition of what signals are on the end of this microphone cable so that when you plug it into the device that you plug it into, the amplifier, it will interface correctly. The interface specification will not tell you what's in the microphone, what it looks like or anything else, and it also will not address what's in the amplifier. It will just say that the amplifier socket is suitable to this specification, and that's the thrust that the Europeans are going down and that is the thrust in which most engineering developments in the railway operating systems are going as well, and that's really the thrust down which development from here should go.

The comment on page 182 raises the question: could there be a phase-in period for equipment, let's say there is a new system. It's like the issue of which set of rules you operate in Sydney when it's joint use between Sydney trains and interstate trains. The answer is if there is a new system it will have to be the new system. It won't be half and half, therefore the issue will probably come down to the fact that you'll have to change over. To take an example, let's say that we drove on a different side of the road in Melbourne than we did in Sydney. If they suddenly decided to swap sides of the road, which they did in Norway, I think, or somewhere or other - - -

**PROF SCRAFTON:** Yes.

**MR DEVENNEY:** Yes. You have to at midnight change over to the correct side of the road, otherwise it's not going to happen. That's just that point. Let's have a look

and see if there's anything else. There's just the comment at the bottom of the page, I guess, on page 186 about perhaps a national regulator might increase costs. I think probably it's unavoidable. If you have another regulator you're going to have more costs. The hope might be that smaller states such as South Australia, for example, who might not have an interest in maintaining their own regulatory regime, might actually agree to have that taken up by this new regulator, whoever that might be, that came out of the land transport commission or whatever you like to call it.

**PROF SCRAFTON:** I think that's a very sensible comment. Unfortunately, the accreditation process didn't go that way. If I go back a little while in my career, we hoped that's what would happen. I live in South Australia, and we hoped that when accreditation came in - we thought, "Why would we care about that?" get these New South Wales people or somebody, big organisation, they can do it for us. Didn't work like that. The bureaucrats took over. Nevertheless, I think your comment is well taken. It is a useful comment. In fact, I'd like to say, Helen, if I could, I appreciate Tom's comments. You didn't put in the written submission some of these little things that you've picked up from - - -

**MR DEVENEY:** No, sorry, I've been working flat - I've had five days off since Christmas on this train franchising thing and I only just got the paper in. I'm sorry, I apologise.

**PROF SCRAFTON:** No, it's good.

**MRS OWENS:** We're getting them on the record, so that's fine.

**PROF SCRAFTON:** Yes, we're hearing them now, so that's fine. If there are any others, all you need to do is to give somebody a call. Take a card from one of the staff, and it doesn't have to be a big deal. But the sort of comments you've been making are very helpful in relation to this chapter, but it was difficult to write given that we're not engineers and, even if we were, the complexity of it, as you've pointed out, is considerable. We've been given the message very clearly that we need to clarify this chapter, so any thoughts like that that you've got are very welcome.

I don't have any specific questions, Helen, because I think a combination of what Tom has written and what we've heard now is a very clear response to our query: that you feel that what I might call a modified NRTC approach needs to be taken. Let me modify that even slightly as a result of what you've said: however it's done, it needs to be along the NRTC lines rather than any other line, if I can put it like that - rather than the CASA model or some new way of doing it. I think that's very helpful. I just appreciate the fact that you gave some thought to the issue. Obviously in the long run someone else will make these determinations, but at least we can add our thoughts to it, which will take into account comments such as yours.

**MR DEVENEY:** I think it's very important that in the model that emerges no-one is disenfranchised but, by the same token, the process can't be a prisoner of one of the straight jurisdictions. That's part of the problem with the way things have been

happening. There are various committees and things running, and I was on them, probably at quite a lower level though, but they relied on the grace and favour of the people that were on them and they were also in addition to their normal tasks and they were always coloured by their perception of the way we do it here. It would be a good move in my view to try and set up an independent organisation with these wide-ranging powers to make recommendations and go down a particular path, and in particular one of the recommendations might be to invest in infrastructure.

The point was made by John Kirk about everybody playing pass the parcel to the Commonwealth, and that's quite a good comment. But perhaps a land transport commission, or whoever they are, can hold discussions and put up proposals and win support for joint funding. The problem with the current process is you can put up a position and go off and try and negotiate it with someone, but unless you've got those resources and that standing to actually do the horse trading that's required, you're not going to reach the conclusion that you need to reach in order to push the agenda forward, and that's all that matters really. In all of these things obviously it would be beautiful to say, "We're going to achieve the best possible outcome," and so forth, and we're never going to do that. All we're going to do is make some further progress down the path, I believe that it's time for us to change the game.

We've had one game running. Now let's change the game, set up a new game, and that will give us new opportunities, because as much as anything the current game is tired. We need to change the game.

**MRS OWENS:** Thank you for that. Did you manage to get through - you had a few more little matters. Have you covered all those?

**MR DEVENEY:** No, actually, I've covered them all while I've been speaking.

**MRS OWENS:** Good. I think actually as you were speaking you clarified a lot of things that I was going to ask you about, so I don't think we need to actually go into more detail at this stage. But the staff member who's been looking after this area for us is actually sitting here in the room, and I think if she wants to follow up with you she may give you a call. But I know what you've done in putting in two submissions is beyond what you're normally trying to do, which is making a living as a consultant, so we do really appreciate it, and we appreciate the time you've taken today to come. So thank you very much.

**MR DEVENEY:** It's a pleasure, thanks.

**MRS OWENS:** We'll break for just a couple of minutes.



**MRS OWENS:** I think we'll now resume. The next participant today is BHP. I think the submission has actually been written as BHP Transport so you may wish to clarify when you introduce yourselves, as to whether this is a submission on behalf of BHP or BHP Transport. I think we're flexible either way. Could you give your names and your positions with BHP for the transcript?

**MR MITCHELL:** My name is Ross Mitchell and I appear here today with my colleague, David Goodwin. I am - the title is principal consultant, railways, with BHP Engineering. I'm also chairman of BHP's rail industry group, which is a loose grouping of key BHP people concerned with rail industry issues and meets periodically to review and discuss developments in the rail industry in areas of common interest. In my role with BHP Engineering I consult widely within the industry to non-BHP rail industry clients as well as BHP clients. I am a member of the Rail Safety Committee of Australia, the industry reference group, Standards Australia committees ME79, BD90 and CE2. I also sit on the executive committee of the Australasian Railways Association. For all but the last five years of my career I've been involved in railway operations and have worked in both the government and private sectors. My position prior to my current role was that of railroad manager on BHP's Mount Newman railroad in north West Australia. We'll be speaking today to represent the views of BHP as a total and not necessarily those of the other bodies that I've mentioned.

**MRS OWENS:** Good, thank you.

**MR GOODWIN:** And my name is David Goodwin and I'm the government affairs manager of BHP Transport. Just to clarify the question you raised about which entity who is submitting the submission, the submission is on behalf of the Broken Hill Pty Co Ltd, the BHP group, though I think it may have been forwarded to you under cover of a letter from me and I work within BHP Transport so that may explain the confusion.

**MRS OWENS:** I think we'll just clarify that in our own records because we've registered the submission as BHP Transport. Thank you very much for the submission and you've given us a number of appendices as well which I have to admit I haven't gone through word by word but I will sit down after these hearings are out of the way and try and rectify that but I have read the submission and I think Derek may have gone through all the rest word by word, so we've both read it but we would very much welcome some opening comments from you.

**MR MITCHELL:** Yes, thanks. BHP has a vital interest in rail on many levels. We are a significant national user. We are the largest customer of National Rail and of Queensland Rail. We are Australia's largest private railway owner and operator, that is, in an integrated railway sense. In stand-alone railway there are some people that would argue that, some of the new private purchasers. As a major provider of steel products also and a range of engineering and technical logistic services to infrastructure projects - so we do those three things. Annually across BHP we transport by rail - we pay for rail transport of \$750 million per year. For that we shift

something like 150 million tonnes of cargo on rail and that covers both our own railways and the rail transport services provided by others.

Our submission addresses a number of issues relating to safety regulation and operating standards. This area has been dealt with in chapters 3 and in particular chapter 8 of the commission's draft report. In our submission, we have focused on the issue of what, in our view, is the clear need for principles of best practice regulation, including the requirement for regulatory impact statements to be applied to changes to safety accreditation and mutual recognition and to develop codes of practice for the rail industry. We are very supportive of recommendations 8.2 and 8.3 of the Productivity Commission's draft report. We understand that views have been expressed to you during the course of the inquiry to the effect that regulatory impact statements should not be required. We think they should be.

In our written submission we have provided a couple of examples of situations which have arisen in our recent experience that could potentially create difficulties. We mention these not because we think these situations themselves are a grave concern, as the issues referred to are usually capable of being sorted out through discussions between stakeholders, ourselves and the government departments involved. These examples typify the situations which frequently arise when new regulations are proposed, and on occasions that are not seen by those affected until they are well on the way to completion or implementation, then some sort of effort is required to resolve the matters.

The first example we referred to was when we first became aware in 1998 of the draft practice for rolling stock. It was apparent in this that the bulk of BHP's operation would not comply. Generally we would comment that it is important for the development of codes of practice should not result in excessively prescriptive codes of practice with which existing demonstrably safe rail systems are not able to comply. It seems to us that a combination of regulation of critical areas, standards and management systems set up by operators which are accredited and audited may be a better way of achieving safe and efficient outcomes.

The second example we have referred to in our submission was by way of an exchange of correspondence between BHP and the Federal Department of Transport in Regional Development concerning comments upon a report titled Independent Investigation and Open Reporting of Rail Occurrences. This exchange highlights the way in which departmental officers can have a broad discretion to determine the extent to which industry comments on proposed initiatives sought and when they are obtained, how they are dealt with. The issue of differing legislation between the states continues to be a difficulty for the rail industry. Whilst it is seen that state-based accreditation units have moved significantly towards a standard approach to regulation, there are still differences that exist and add unnecessarily to industry's costs. For example, many incident definitions vary as does the need to report incidents and the time in which they must be reported. The powers to enter, inspect and investigate also vary as do the bases for setting fees and charges and the various sanctions for breaches of legislation. We have made a number of other comments

during the course of our brief submission and we would be happy to answer questions.

**MRS OWENS:** Good, thank you very much. As I said, I thank you for those appendices. I actually did read a little bit in relation to appendix A and some of the other material, but as I say, I didn't go through all the detail. I think, as I said before we started, it is interesting to us that you're supporting our suggestion about - our recommendations in relation to introducing principles of best practice regulation, including regulatory impact statements for safety accreditation mutual recognition processes and for developing codes of practice. There have been other participants that have not been so supportive of that idea and there was - in particular we've had two relevant submissions, one from the industry reference group and we spoke yesterday to what was the accreditation authorities, as represented by - - -

**PROF SCRAFTON:** The Queensland representative - - -

**MR MITCHELL:** Greg Ford.

**MRS OWENS:** Greg Ford, that's right. We spoke to Greg Ford and the impression I think that we were given was that, "You don't really need to go through this process. There is a process which is working reasonably well." I mean, we did acknowledge that there are processes which do involve consultation. We're not so sure whether those processes do ensure that the benefits and costs are looked at sufficiently. Would you care to comment on that?

**MR GOODWIN:** We think it is desirable and necessary to have regulatory impact statement processes. It's important that those who are pushing reforms are able to clearly say why they're necessary. Our purpose in attaching the appendices which we did was to give an example of an interchange between ourselves as an industry player being invited to comment on the proposed initiative and then our observations about the way in which matters ensued from there and if you do have a chance to review those appendices I think you'll see that firstly an organisation such as ours, having commented and raised material issues, we felt, may find itself in the position of not receiving a response to those comments until after ministers have in this case endorsed the adoption of the report. We thought that was unsatisfactory for us in the industry in this case, given the nature of the comments that we've made.

That report now has some standing as a result of having been endorsed by ministers and government officers, state and federal, will now look to implement its recommendations. So in Mr Mitchell's comments on the report that we referred to, that is, on the independent investigation and open reporting, if you look at appendix D, which is a letter back to us after the ATC decision about the report, at the comment marked 1 - these are a listing of our comments - you'll see that we raise the point that the independent investigation open reporting report did not adequately address the benefits the changes proposed would deliver to the industry and the community. The response that was received, which you will see there, recognised the validity of our comments but simply emphasised that the ministers had sought the

report, end of story.

**MRS OWENS:** Yes, I annotated on mine, "So?" You know, I didn't see that that comment in response to your concern told us anything really.

**PROF SCRAFTON:** It didn't really respond to the issue.

**MR GOODWIN:** And that's really the issue, that the process is flexible enough and perhaps undisciplined enough to allow a discretion to be exercised that, okay, a comment has been made but we choose to let it rest. Similarly, in our comment marked as 8 - our comments were made in January or February - - -

**PROF SCRAFTON:** In January.

**MR MITCHELL:** In January, and it still went for ministerial approval and only after ministerial approval did we get told the answer we got.

**PROF SCRAFTON:** It is very interesting that in the reply it doesn't date your letter. His response is dated 3 May but normally you would say, "Thank you for your letter," of whatever it was. But he does, in all fairness, apologise for - regret the delay. But it's very interesting that the date of your original query is not mentioned in the response.

**MR GOODWIN:** In our comment in the same letter which is marked in the response letter as 8, we had raised the need for a cost-benefit case to be undertaken or suggested that that was desirable and the department's response was simply that the terms of reference do not ask for a cost case. So again, the flexibility around the way in which these types of issues can be handled is considerable.

**MRS OWENS:** It's a very narrow way of interpreting their own terms of reference but I think if it didn't ask for that the terms of reference were obviously deficient.

**MR GOODWIN:** That's right. And another aspect I guess is that I think Mr Mitchell would acknowledge that the set of comments we sent off weren't perhaps the best crafted set of comments he had ever done, no doubt done in a hurry and in response to a perceived deadline but - - -

**MRS OWENS:** They were clear. I thought they were clear. I did actually read those and I thought - sometimes I would be very happy to receive submissions that were that clear, a set of bullet points that sets it out.

**MR GOODWIN:** But the response that came back did indicate that some elements of the points that had been raised were - there was a lack of clarity in what had been said. In normal circumstances I guess you might hope that in that case you might be consulted or spoken to or a meeting arranged or something to gain a higher degree of clarification and that didn't occur in this case. So we just really wanted to raise this exchange as a fairly good example of the system in operation and we probably would

say that this doesn't constitute "best practice regulation". So we were drawn to the comments you had made in the draft report.

**MRS OWENS:** Yes, thank you for that. I mean, we won't get into the ins and outs of the rights and wrongs of your e-mail of 15 January. I mean, we have commented on a couple of things and it's probably outside our terms of reference to be commenting on this correspondence but I think it is a useful indication of a process and the flaws in a process which I think, if anything, add to our arguments as to why you need an appropriate process and one of the submissions that we got said, you know, we don't need to do this because a lot of what is happening is not Commonwealth business, it's state business. We say, you know, regular impact statements or the principles of regular impact statements and best practice regulation to be applied at any level and surely that's what the notional competition policy and COAG is all about.

The other example you gave was also, I think, quite an interesting one and I was wondering - I mean, you seem to have got through that one but I wonder what would have happened if you hadn't actually been on the industry reference group. Do you think that your position on that group helped in terms of having that issue addressed?

**MR MITCHELL:** Certainly it made a major impact and that's why - I mean, I'm hired by BHP railways to represent them in those roles. They pay for my time to go along and it's for that very reason. I mean, those documents, although people say, "Yes, they're innocuous and we'll only apply them to the interstate system," they use words like "absolute for safety" and they say it's important that they be used, if I can quote from one of the earlier things, "It is highly desirable that these standards and procedures also be applied to vehicles engaged in intrastate operations."

**MR GOODWIN:** Intrastate operations.

**MR MITCHELL:** Intrastate operations. So initially they made those recommendations to cover the Pilbara railways. The wording that they used, although they wouldn't be applied directly by regulation to the Pilbara railways, they would be applied. They also would be applied to our steelworks operations and they don't conform to that. I mean, our steelworks railways move something like 40 million tonnes a year, 40 to 50 million tonnes a year of freight, which makes them bigger than most railways in Australia. Queensland Rail and New South Wales would be bigger than them but no-one else would - and that's the size of those operations. People making the standards don't have the time to do that.

In terms of the industry comment - when you put recommendations in a report, it was only when I heard that forces were assembling to say, "No, no, don't give us regulatory impact statements," that we decided to make the submission. We thought that that would go through and when we realised - so there would be a number of people that are not here because they've relaxed and said, "Yes, finally." The matter of regulatory impact statements was discussed at the last meeting of the executive

committee at ARA and the ARA were - John Kirk was asked to include that in his

submission. In discussing it briefly with him he said there wasn't time to - but yes, he supported it.

**MRS OWENS:** Perhaps we could ask them if they're prepared to put in a supplementary submission.

**MR MITCHELL:** Yes, I think so, to take that up.

**MRS OWENS:** I think some comments from ARA on this issue would be I think useful for us but I think it was the IRG submission that was adamantly opposed?

**MR MITCHELL:** The IRG hadn't met, had they? Was it just the chairman of the IRG or the IRG itself? I'm on that committee and I haven't seen an agreed submission.

**PROF SCRAFTON:** If that's true, that's another illustration of exactly what we're talking about, but let me say that while the response to our draft, the submission in response to our draft was written in fairly antagonistic terms; defensive terms was the line that we use - in discussion you were able to get some understanding of where the situation really lies, you know, the extent to which things are rigid or whether they are still capable of being changed or whatever. Even in the submission, although there's this underlying feeling that the commission is suggesting something that they really don't want to do, at no point do they ever say, "We don't want to do that." They accuse us of maybe being a little premature in our recommendation, you know: we haven't let the process run its course or whatever.

In discussion there is really no opposition to best practice regulation. I think it was our suggestion that the way you implement best practice regulation is to do a race, that you actually undertake a regulatory impact statement and if your proposals are great it would take you half a page and 10 minutes, and nobody would have a problem with that. I think that in reading our submission people sort of have this feeling that for every proposal the regulatory impact statement was going to keep some consultant in business for life. But in discussion some of that was taken out. We had a similar response, I might add, from the accreditation authorities in terms of the content of chapter 8.

There's a sort of immediate bureaucratic wall is built, you know, and if it can be knocked down, well, that's fine, or if it can be carefully reconstructed that's fine. But the initial reaction is to build the wall and I think your examples are superb. The other point which was brought out very clearly is this timing business and the role of organisation like ATC. I spent my whole life in the transport bureaucracy and the first thing that people have to recognise is ATC is a council of ministers. It has no statutory powers. In fact it has some but they are not those of the ATC. The powers of those of the council of road transport ministers and when it meets as the council of road transport ministers it has deliberative powers. But they're set out in the - whatever it is, the National Road Transport Commissions Act, whatever; I've forgotten the proper title.

But there are no equivalents to that in rail and the way in which you've drawn attention to the process is of some concern, that the idea is that if we can get the ministers to endorse something then everybody else has to accept this and this is the gospel according to the ATC. In many areas, but particularly in technical areas, that's a very dangerous philosophy to pursue. In all fairness, to lay it on the ministers in the first place is a very dangerous thing and the committee did point out in one area they're no longer going to seek ministerial endorsement of some of the features because it is not appropriate.

But the way it has been used in your case is an interesting example of how the community needs to be protected against over-zealous regulation - and I'm sure if somebody reads those words in the transcript they'll come back and complain about the use of my adjective. But that's what it is. It's about making sure that the community is protected and in your case a rather big railway operating in two big locations - - -

**MR MITCHELL:** Three steelworks in north West Australia. One of the things, just one of the other points when you look into detail in that report is that they are suggesting although when you look at the overall recommendation, that's recommendation 6 in this - - -

**MRS OWENS:** What page?

**MR MITCHELL:** Page 21. Recommendation 6 is that:

Rail safety regulation in each state be upgraded to include the key powers, protection mechanisms and other features required to support best practice independent investment open reporting.

You can see that every minister would put his hand up and say, "Yes, that's wonderful," and when you go back to the previous page and you see what are these powers and when you look - powers in terms of the key features, the third group down, powers for investigators too, and the second bullet point under that:

Take control of the site, control or prevent access of others including the coroners.

Apparently we're going to do away with something like six centuries of law tradition where the coroner under one of the King Henrys I think - that's not my field of expertise perhaps.

**MRS OWENS:** No.

**MR MITCHELL:** But you just think that someone somewhere - this group that put this together were not independent and they were not open. By their own process they fail.



**MR GOODWIN:** And as a result, if items such as that are in the report and subsequently become apparent notwithstanding ministerial endorsement, the value of the report is actually reduced considerably. So it's advantageous to have that open process. I just wanted to also mention that if there's a concern amongst people in the industry that a regulatory impact statement process would serve to slow down reform, then we would say that the form is likely to be slowed down more by inappropriate or excessively costly regulatory initiatives which industry players then have to deal with, pay the costs of, or perhaps pay to unscramble.

**PROF SCRAFTON:** That's right, subsequently change. The other thing that I think is important is to recognise the way in which these things go through the ATC process. It may well be that the minister has spent an hour on this item, but it may also be that they spent 30 seconds.

**MR MITCHELL:** It tends to be a cyclic argument. Someone says to the minister, "These are the sort of things you should say." They then do the report and then say, "We can't question it because the minister has asked for it," and it's totally sort of locked up and the whole process, and private industry gets very little ability to influence that on industry reference group, on many of the things. In Standards Australia we stand a good chance because they have quite rigorous - - -

**PROF SCRAFTON:** Open process.

**MR MITCHELL:** Open and looking at industry blocks.

**PROF SCRAFTON:** Yes. There is a likelihood that a recommendation of this sort - I'm not saying it happened with this one - would go forward with a covering note that said, "Industry has been consulted."

**MR MITCHELL:** We've asked for comments. We've got comments from the industry and we'd modified our report where necessary.

**MRS OWENS:** And that's all they'd need to do. They'd say that's consultation, yes.

**MR MITCHELL:** It's endorsement.

**PROF SCRAFTON:** Well, you can always tell if industry doesn't approve because the covering note will say, "Industry has been consulted." But if industry endorses it then stronger language might occur, that's all part of the process. But I think it's important that you pick up this example for us because, as I say, there has been an underlying feeling that why would the commission wish to make a comment about the sort of divine right processes of technical reform and change which, almost by their own momentum, have a goodness about them.

**MRS OWENS:** Can I just come back to this appendix D where you'd raised concerns about the composition of the task group and I said I wasn't going to go

through all these comments in detail. But again it's an interesting question as to, you know, who actually got involved in doing the work and they say that there was a representative from the Australasian Railway Association and the State Transport Department, the ARTC, and you don't consider that whoever the representative was from the ARA, was sufficiently representative if your interests?

**MR MITCHELL:** There was no ARA representative, as far as I can see. I don't believe there was an ARA representative and certainly there was no representative sent. There are people on there who would say, "Yes, we are on the ARA. We represent organisations on the ARA." The ARA was not asked, as far as I know, to put someone on that committee.

**MRS OWENS:** So it wasn't an official representative. It'd be somebody that's on the ARA that - - -

**MR MITCHELL:** As far as I know. I asked John Kirk did we have a representative on it and he said no.

**MRS OWENS:** When we're talking about consulting widely, how did they consult widely? They sent out a draft of the report and that's what you responded to?

**MR MITCHELL:** Yes, I was part of that consultation process to the Rail Safety Committee of Australia. That's when I got my copy and so they've said to me, "Well, your copies are invalid because we've already" - they seemed to say, "We've already consulted widely. We don't have to answer your comments." But I'm in the group that was supposedly consulted.

**MRS OWENS:** From your perspective, that wasn't an appropriate or proper consultation process, an effective process.

**MR MITCHELL:** No, when I've raised it at the Rail Safety Committee of Australia earlier this month there was a certain amount of sensitivity that we couldn't discuss it now because the minister had endorsed it. The bulk of that committee is regulators and people said, "Well, you know, your minister has endorsed, end of story."

**MRS OWENS:** So where does that leave BHP?

**MR MITCHELL:** I don't know. I mean, it's still not convinced that the industry needs this. If there is biased reporting then the current system must be able to deal with that. There's ample powers there to deal with biased reporting.

**MR GOODWIN:** Can I just interrupt, Ross? The adoption or endorsement by the ATC is in the terms of a request that further development of Australian standard 4292 point 7, be consistent with its content. So I would say what we would be doing now is we would be interested in the process by which that standard is modified from here and we will seek to influence or have input into the way in which that occurs, and we are in a position generally speaking to do that sort of thing.

**MRS OWENS:** But are you confident that any future involvement is going to be any more effective than what has happened?

**MR MITCHELL:** No, it's always a struggle; that's the problem.

**MR GOODWIN:** There's a heavy onus cast on us to be vigilant, I guess, with these sorts of things.

**MRS OWENS:** Sorry, I interrupted you. Did you have other comment?

**MR GOODWIN:** No, that's fine, that's all.

**MR MITCHELL:** The only thing that I was going to say is most of the people on the standards committee, the people that can devote the most time, tend to be the government sector and the government trainee enterprises and corporations. They would tend to put - if they see ministerial approval they will tend to do that. So it remains to be seen, to what extent we can influence Standards Australia.

**MRS OWENS:** When you say standards committee, which of the numerous committees are we talking about?

**MR MITCHELL:** That's ME79.

**MRS OWENS:** Right. That was another frustration that I had when I tried to work out what all these different committees were and how they all slotted together and - - -

**MR MITCHELL:** They don't very well.

**MRS OWENS:** No.

**PROF SCRAFTON:** The extraordinary thing was, we found some of them had actually been blown away but it didn't seem to make any difference.

**MRS OWENS:** The task groups. There were these task groups at one stage and we kept on thinking they existed and the IRG came in under one of these task groups that came in under Scott, and those task groups I don't think exist now. But the IRG does and the Rail Safety Committee does, as I understand it.

**MR MITCHELL:** Yes.

**MRS OWENS:** Is this another committee, this other one you mentioned?

**PROF SCRAFTON:** Yes, that's an Australian standard - - -

**MR MITCHELL:** ME79 is the Standards Australia committee. That writes the standards that are called up in the inter-governmental agreement and also in the legislation that refers to Australian standards on safety.

**MRS OWENS:** So it's a broader committee. It's not just a rail committee.

**MR MITCHELL:** It is rail. It's rail safety management.

**MRS OWENS:** Right. So that's a standards committee that would be looking at standards within the context of AS 4292.

**MR MITCHELL:** Yes, and those standards by virtue of them being referenced in legislation have a regulatory impact.

**PROF SCRAFTON:** But there is another opportunity for you to argue BHP's case.

**MR MITCHELL:** Yes, but against what will be used now as ministerial imprimatur supporting the sort of powers - I mean, when you look through that the powers to demand medical evidence and all this sort of thing, a person's GP records etcetera, this is best practice inquisitorial powers.

**MRS OWENS:** Can I come back to your submission, on the first page of the submission, and you talk there about particular problems which remain - this is towards the bottom of the first page:

Particular problems which remain lie within the legislative differences between the states, for example in the area of differing reporting obligations from state to state.

Are these legislative differences significant or are they reducing over time?

**MR MITCHELL:** They can't reduce over time because they exist in the legislation. There has been - in terms of the way the legislation is applied, the various accreditation, regulating groups in the states have aligned them as much as they can. But there is still differences in reporting and what I was trying to say there is that the differences in the states that cause the problems on the national network are the differences caused more by the track owners than by the regulatory regime. The basis for rail safety regulation in Australia is a co-regulation model where industry owners and operators submit their operating plans and their proposal for safe operation.

The regulator in that sense has no real power other than to not approve or to cancel accreditation. The other side of that is railway owners, the RACs, ARTC or QR Network Access, seem to have assumed that as owners of the track they alone set the standards which new or existing operator has to comply with or their access will be denied.

**MRS OWENS:** Do you need both levels? Do you need to have a regulatory body,

an accreditation body, in the state doing this work and the track owners?

**MR MITCHELL:** My view is it doesn't necessarily have to be the track owner. Someone has to do it. I think there's a role. There needs to be some additional prescriptive regulation that the state - the sort of the rules of the road type of thing need to be taken on board the states not by the track owners.

**PROF SCRAFTON:** That message has been given to us in other submissions. There's a general feeling that the problems that have arisen over time in the development of the accreditation processes have, we would say, completely been overcome. But there's a feeling that a bigger issue is this, what now appears to be almost a duplication function because the track owners exercise their duty of care responsibilities in a way which in effect replicates the accreditation process.

**MR MITCHELL:** They've almost assumed the sort of mantle of "We, the government railway. If you want to come and operate on our system you do it to our rules," and those organisations themselves don't see the whole of Australia, they only see their area and that's the comment I made in there about the culture within those organisations.

**MRS OWENS:** Have you got a particular view of any individual organisation? Is there any individual organisation that stands out in this regard in terms of seeing their own patch and not the whole of Australia?

**MR MITCHELL:** It would be very hard to call it from the things that I see. I'm not involved directly with it. The documents that I read that they produce, the QR's access thing that QCA put out and the New South Wales access guidelines - and I haven't looked at ARTC, I haven't looked at theirs recently - but I imagine they're all the same and they all take the same view that we will totally control it. The idea that an operator might say to an accreditation authority, "Look, I'm the only user of this railway line" - or to a track owner - "Can I operate it to my rules so I don't have to do another one," is totally gone. Or an operator might have a contract with someone and says, "Look, I'm not running the sort of rolling stock you like, this is the rolling stock. Let's enter into a contract for using this rolling stock that is the economically sensible one to use, and, yes, you might lose a little bit off your bridge life or your rail life might be reduced a bit - -"

**MRS OWENS:** But you pay an access charge.

**MR MITCHELL:** You pay a charge to cover that, yes. So that isn't really contemplated and isn't really in the framework of doing it. The other real problem is defining the interstate network. I'm on a number of committees and it's always grappled with, and no-one can answer it.

**PROF SCRAFTON:** Yes, we've had that problem.

**MR MITCHELL:** Interstate trains run into our steelworks and use our steelworks

rail tracks and we have quite simple interface agreements with the operators. When you get into Rail Access Corporation it gets very, very complicated. One of the things in terms of this is, when people look at standardising it, for example, the Maunsell report suggested that one area that needed to be looked at was the standard formula for speed and access or speed and axle-load on the national system. That is the only task for civil engineering infrastructure. The IRG has taken upon itself to develop a civil engineering code of practice covering all the elements involved in track - provision of the rail track bridges etcetera. In that regard they're taking on an enormous amount of baggage to solve what Maunsell thought was a small problem. That's as I see one of the things that will slow down the process of getting those codes of practice in any form and finalisation.

**PROF SCRAFTON:** We had considerable difficulty in fact understanding a lot of this because the language actually changes between organisations and within the same organisation all the time. In fact you just used the expression "civil engineering", which I think we use one that's very similar like signal engineering or mechanical engineering and we're told, "We're not doing that, we're doing one for bridges, track and signalling." Even just getting on top of the nomenclature which is used by these organisations is itself quite trying.

**MR MITCHELL:** Well, "infrastructure" wasn't a word in the 1950s.

**PROF SCRAFTON:** Yes, good point.

**MRS OWENS:** I think one of the other issues that we've been talking to others about is this issue of mutual recognition, and the mutual recognition across states in terms of accreditation. When we were talking yesterday to the accommodation authorities, their submission stated that that process was now working particularly well, it was working well and that there is mutual recognition and there is a one stop shop, so you can just go to the statement of principal activity and it will all get sorted out in the other states. Have you got any view as to whether that is in fact the case?

**MR MITCHELL:** As far as I know it's certainly improving. There are still some remaining differences. The issue of accreditation was more a historical timing issue in that everyone had to jump over the hurdle of accreditation. So three years ago accreditation was a major issue amongst rail operators. All of BHP's rail sites had to be - the Pilbara operations are accredited under the Mines Act. They get ministerial exemption from the current State Act in Western Australia. But we've had to jump that hurdle with all of our steelworks - our three steelwork sites.

**MRS OWENS:** That's the hurdle you jump when you first become accredited. I suppose there's two points I could make: one is that you've got possibly new operators coming into the game that have to get accredited and there's more private companies coming in, and the other is each year you need to - you go through, as I understand it, a re-accreditation process in these investigations and there could be auditing and you have to pay fees on an ongoing basis.

**MR MITCHELL:** Our experience has been that on the BHP sites that if you know what you're doing it's not really a problem and you can influence the regulators. That was hard at first but we've worked our way to get through that one and it's easier now. As well as that there's a greater responsiveness amongst the regulatory authorities. I'm probably a little bit biased being on the rail safety committee. I have to sit with them at times and eat with them, so I've been compromised.

**PROF SCRAFTON:** I appreciate the comment because that has been said in submissions to us that there was a sort of assumption by the accredited agencies that everybody was a long-established railway and the real problems arose for people who wanted new entry. That is important too, it's important to the country if it wants competition in railways that you don't create unreasonable barriers for new and potential new entrants.

**MR MITCHELL:** But by the same token if I was to advise, I'd advise people who were seeking accreditation in various states. My view is that they need to be cognisant of the other people out there. You need a regulator to stop - your safety is dependent on the other operator as well, so you need to make certain that they're doing it properly.

**PROF SCRAFTON:** It was described in very simple terms by the previous participant who said that railways are one of the few forms of transport where you can be certain that if you don't have that regulator you will have an accident, whereas in other modes of transport there are various dynamics that help you to avoid them.

**MRS OWENS:** That gives a bit of balance. We have had concerns raised by Patricks and others about the accreditation process. But we're getting a slightly mixed message. It's probably harder for those new entrants.

**MR MITCHELL:** For someone that comes in from overseas it's a different model and if you're new, completely new, it's different again.

**MRS OWENS:** They often don't have a lot of staff to actually be able to put all the documentation together. They're all trying to do many other functions within their companies. I suppose it's just any chore like that may seem to be quite onerous.

**MR MITCHELL:** Some of the early guidelines for accreditation that the accreditation authorities put out were incredibly detailed, asking for enormous comment like details of the glazing in windows of your locomotive. That got some regulatory force in some states and a number of people - I sort of think that we were the first that said, "This is just over the top. We threw this out of the Australian standard, why have we got it now coming in this door," and that's largely gone away now. As I said it was a sort of thing of timing and people learning their new roles.

**MRS OWENS:** Yes. We've seen the 97 guidelines, the 98 guidelines and the 99 guidelines and they seem to be getting simpler. The 97 ones had all these additional requirements and they were different for different states. But that all seems to have

disappeared now.

**MR MITCHELL:** They've taken out some of the state differences and say, "Look in your legislation for that."

**MRS OWENS:** Okay. So that comes back to your point about the legislative differences between states, yes. So there's still something there but it's buried in the legislation.

**MR MITCHELL:** You have to be aware. For example, in New South Wales you have to report stock that you hit. In South Australia you have to report stock that you might have hit that were on or near the line and that's a reportable occurrence. For our steelworks railways I recommended they put a standing notification there that there's always stock that we might hit because our lines are unfenced, so that they met the reporting requirements of the legislation. In different states there's different times that you have to report on as well. It seems quite arbitrary when you're trying to manage safety for interstate operators that the train driver and the operator has to be aware of what those reporting differences are and tailor them for the different administrations. The definitions are different in each state as well.

**MRS OWENS:** So where are all these definitions and these requirements?

**MR MITCHELL:** A lot of those are in the legislation, yes. For example, New South Wales railways legislation came out first and it didn't refer to the Australian standard for safety because it didn't exist when that came out. Then each state has enacted - one is sometimes based on others, so you have the South Australian one. I think the Territory, Tasmania and Western Australia are sort of based on the South Australian one. New South Wales is coming up for review. It will probably take cognisance of the previous ones and then look at what IPART and its own review has done and then produce another one, put its own stamp of regulatory force there and then proceed with that.

**MRS OWENS:** I think there are other areas of regulation where you can actually have mirror legislation where one state introduces legislation and all the other states just adopt it.

**MR MITCHELL:** You could use the ministerial exemptions in the state to get over that and say, "If you follow this code then you don't have to do what the state requirements are," but it's a lot of administrative - it would be better to drop all those into some sort of document that remained outside the legislation.

**MRS OWENS:** Okay, thank you for that. That was very informative. Is there anything else either of you would like to say before we finish?

**MR MITCHELL:** No.

**MR GOODWIN:** There are a number of other points but they're amply set out in



the written submission, I think, so we thank you very much for your attention to what we had to say.

**MRS OWENS:** Thank you very much for coming. I'm sorry that we've held you up, we've gone over time a little. The submission I think was useful for us because you have given us those examples which I think we will try and make use of. We will just break for a minute.

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**MRS OWENS:** Okay, we'll now resume. The next participant today is Specialised Container Transport. Welcome to the hearings, and I'd like to thank you for - I think we've had three submissions and now we've had another document tabled today, so I'd like to thank you for the effort in putting in that material. Would you like to each give your name and your position with SCT for the transcript.

**MR McAVOY:** I'm Mark McAvoy, general manager, group development.

**MR REED:** Bill Reed, general manager, rail.

**MRS OWENS:** Thank you, and thanks for coming. I'm sorry we're running just a little bit behind time. I understand you do want to make a few opening comments. Who's going to do that?

**MR McAVOY:** That would be good. I might just run through this further response. Just dealing with the first point, the draft report notes that different users may be prepared to pay different prices to operate at different times. SCT has seen no evidence of operators being prepared to pay different prices to operate at different times. We agree that certain segments of the market, for example, non-time sensitive freight, may be educated, especially with reduced prices, to switch paths to say a Wednesday night, although the potential for this has been significantly reduced with sea increasing its share of non-time sensitive freight. We also agree that this may be another way of rail gaining market share. However, existing operators rely on, for example, non-time sensitive freight to break even.

Auctioning or spot pricing is no doubt a beneficial tool to determine a price. However, auctioning other trade paths is like the government deciding, through no consultation with existing operators, to auction new commercial TV licences, in our opinion. There needs to be more of an understanding of the rail market, otherwise existing operators will face uncertainty, with consequential effects on investment.

The second point which we'd like to raise, which is point 4 of my previous matter, was recommendation 7.1, "The pricing and allocation of train schedules should reflect the value that users place on the truck." We agree with that recommendation. However, we'd also like to note that access pricing should be such as to make rail competitive with the alternatives if Australia needs or wants a particular rail corridor open. Competition with road is tough, even in the east-west corridor. We believe the draft report should expressly note the statistics concerning the environmental and other advantages of rail over road.

The next point is concerning the national land transport commission. STC supports the National Land Transport Commission concept. This body if set up could even amply consider road and rail requirements and the associated benefits of each mode. However, we understand this concept was not agreed upon at the recent ATC. The national transport secretariat could go some way to giving rail proper consideration in the future. In the meantime, we need a national regulator which could assist with the removal of regulatory impediments to allow smooth and

affordable interstate rail operations. That's not to say that we believe there should be a whole new rule book introduced. We believe that if there is to be a regulator, it needs to be a national regulator. We believe the jury is still out on the ARTC in their efforts to get a totally coordinated approach happening. STC is not requesting another body be set up which will add further costs. The Commonwealth government's aim must be to remove the impediments and lower the costs.

In relation to coastal shipping, we note that the draft report says that railways could face greater competitive pressures from sea transport if reforms to coastal shipping were further progressed. We obviously agree with that statement, but STC believes that there is a general lack of understanding of foreign shipping subsidisation and related issues. We understand the Australian Ship Owners Association was recently reported as saying that the subsidisation of foreign shipping companies by foreign governments was a concern. It is generally accepted by those who should know - that's STC, the Australasian Railways Association and also the ARTC, who we have been informed have also taken this matter up with the federal government - that sea rates are having an impact on rail. In the circumstances, particularly in view of the general lack of understanding, we believe an inquiry of some type is warranted.

**MRS OWENS:** Good, thanks, Mark. Bill, do you want to make any other comments at this stage, or we can just ask you some questions?

**MR REED:** No, if we just go straight onto the questions, that will be fine. I think we've covered most of the concerns in this document.

**MRS OWENS:** Okay. I think it's good to have, though, the extra couple of pages there, because it just clarifies some of the issues you did raise in the submission. What we might do is run through the submission and run through that simultaneously, because they overlap. I think probably the first one we could talk to is this issue about different users having been prepared to pay different prices. You mentioned that you're not in favour of an auctioning type approach. We floated this as an idea in the report just to see what sort of response we'd get, and I think it's fair to say that you're not alone in your views. We've had quite a few fairly negative responses, and I think one of the concerns that you raised in your submission was this concern about certainty and wanting to have some certainty. I presume that means you would prefer to see posted prices - would your top, first preference - rather than negotiated prices. Is that the case?

**MR McAVOY:** Yes, that's definitely our preference, posted prices.

**MRS OWENS:** You said earlier you see no evidence of operators being prepared to pay different prices at different times, but you say that certain segments of the market - the non-time sensitive - could be educated to switch paths to the less popular ones. But do you do that administratively? I mean, does the track owner try and convince that operator to go onto another path?

**MR McAVOY:** I guess the second point where we talk about the education - we've

got a path going out on a Friday and if, as proposed by the current body, the ARTC - they've published on the Internet a path on the Thursday at a lower track access rate. As I said, you could probably get a lot of non-time sensitive freight approach them but, as I say, you don't need your freight in there for seven days. Why don't you take the Thursday or the Wednesday path as opposed to the Friday path? We agree with that: you can go through that process of education etcetera etcetera, but we've got to look at the practicalities. You've got operators, in order to break even on their trains, relying on non-time sensitive freight as well. We would be left with the situation of looking at the Internet, seeing, "There is a cheaper price on the Thursday," and leave our marketing people and the company as a whole with a real question as to, "Do we swap to that lower price on the Thursday and forget about the Friday path?" It could have a vice versa as well. If we then swapped to the Thursday, Friday - and perhaps the ARTC want more paths going on the Friday. It's just a real problem as to - - -

**MRS OWENS:** Do you think it's too messy? You can't do that now. Does the ARTC propose different prices on different days?

**MR McAVOY:** No, but that's their current proposal to us, and we have - - -

**MRS OWENS:** It's not really an auction; it's just giving you some flexibility so that you could choose paths that you think are the most advantageous to you if you don't need the Friday path.

**MR McAVOY:** Exactly. I think the key thing is that lower track access price. In all our agreements which we have in place, New South Wales, Western Australia and previous ones, we have the competitive neutrality clause, that is, no other operator can get a lower track access price. Otherwise we wouldn't have that certainty. If we knew that Joe Blow could just the next day get a 75 per cent discounted track access price, where would it leave us? Obviously they would then take a lot of freight away from our trains. The more freight you take away from our Friday trains and whatever, the train is going to go below break even and we won't be running it.

**MRS OWENS:** But you could do the same to your competitors. You could whip into one of those lower price spots and be able to do it more competitively.

**MR REED:** You would be running two half trains instead of one big train.

**PROF SCRAFTON:** That's the problem. You still need the Friday slot because that's your, let me call it, prime business. The top-up business is the low value freight, but you need that in order for the train as a whole to be profitable.

**MR REED:** To gain the economies of a full train.

**PROF SCRAFTON:** So if you were to take advantage advice for the lower stuff you end up with two loss leaders, in effect.

**MR REED:** The market dictates that the majority of the freight will leave on a

Friday for arriving Monday, which is direct competition with road. That's a market force that we really can't control, so of a Friday train you'll have at least 50 per cent, maybe even 75 per cent of freight is Friday's freight, and the rest comes in earlier at a cheaper price. You give incentives just to get that freight in there on a Thursday maybe or a Wednesday.

**PROF SCRAFTON:** Looking at it from a broader point of view, if the RTC does advertise a low price for the Thursday slot, the same slot on a Thursday, there may be somebody in the industry who'll take advantage of it. But your point is that there's certainly no way that anyone in your business, with your volumes and your accent on the higher priority of freight, can do so. The other thing that you say in your submission is that, even if there was somebody who could take advantage of it on rail, there's a strong likelihood that much of the traffic is now going by sea, or some of that traffic is going by sea. Is that fair?

**MR REED:** Some, possibly.

**PROF SCRAFTON:** Yes, that's what you say, that some of that traffic is going to be lost.

**MR REED:** It's a bit hard to differentiate between the types of freight. Where you say "non-time sensitive", that could be just a pallet of soft drink, or it could be a full train of BHP steel, which is a different concept altogether. That sort of product could be offered a lower track access rate and it wouldn't affect your general freight market at all, because that's a stand-alone BHP steel train travelling at 80 kilometres an hour in the middle of the week when no-one else wants to be on the track. That's a different situation altogether.

**MRS OWENS:** Can I ask you just a factual question. As a relatively new entrant into the market - relatively, aren't you?

**MR REED:** Yes.

**MRS OWENS:** Did you have any trouble getting the train paths you wanted initially, or were they occupied by NR?

**MR REED:** There were a lot of phantom paths drawn in on the schedules which people had put their hand up, especially around the time when SCT came in, because other companies, your TNTs, were also looking. So everybody had their paths pencilled in and therefore the whole system was crowded. But in essence there was, I don't know what percentage, but maybe 15 per cent of those paths weren't being used. There are still some phantom paths in there, but Track Access and now ARTC have gone to a lot of trouble, I think, to eliminate all those phantom ones, so that the network isn't as congested as it actually appeared on paper.

**MRS OWENS:** That's interesting. So ARTC is able to go back and say, "Which of these paths are really being used?" and then they'll just knock those ones out of the

system?

**MR REED:** And part of the ARTC agreement that they're putting forward allows them to cancel a path if you don't use it. I think that's quite fair, but that's just - some of your bigger operators can block others from coming in.

**MRS OWENS:** So it's a use or lose sort of arrangement?

**MR REED:** Yes, that's it.

**MRS OWENS:** That has taken a little while to sort out but that's being done?

**MR REED:** I think it's being done progressively, yes.

**MRS OWENS:** Okay. So that's no longer a real problem?

**MR REED:** I don't believe so, especially in these prime paths out of Melbourne say on a Tuesday evening and a Friday evening, any non-utilised paths I think have been pulled out.

**MR McAVOY:** I think it's true to say that's in all our other agreements as well. It's not just being proposed by the ARTC; it's in the Westrail one and the New South Wales one - - -

**MR REED:** RAC.

**MR McAVOY:** RAC one, so - - -

**MRS OWENS:** So now that you've got your paths you want to make sure that you hold on to those?

**MR REED:** You gear your whole business around those paths for your departure time out of Melbourne, and you have to educate your client base to a degree also that we must have the freight by such and such a time. It's a fairly lengthy process to get all that done, and then you gear up your operations for arrival time in Perth so that you deliver on the right date, all those sorts of things. So to change paths by a couple of hours can be quite disruptive.

**MRS OWENS:** Although sometimes you have no choice because you get held up, don't you?

**MR REED:** Yes, that's a fact of life.

**MRS OWENS:** It's in the lap of the gods or it's in the lap of somebody?

**MR REED:** That's right.

**MR McAVOY:** And you pay a big price when you do get held up. I mean, you've got the trains coming in at 2 o'clock in the morning now on Monday. If there's a problem or a delay and they come in at 10 o'clock, you've got a whole workforce just sitting around in Western Australia waiting for the train to come in.

**MR REED:** It's huge.

**MR McAVOY:** That could add something like thousands of dollars to your weekly costs.

**MRS OWENS:** Does this happen very much to you?

**MR REED:** It probably doesn't happen any more to us than anybody else, because once there's a hold up there's a hold up. There's only one track.

**MRS OWENS:** Yes, there's one track. I'm speaking from experience here, because I went on a freight train, a NR train, a few weeks ago from Melbourne to Adelaide, and we got pushed into a siding for about 2 and a half hours, so we got into Dimboola 2 and a half hours late. I thought, "Is this something that happens on a daily basis or is this a rare event or did this happen just because I happened to be on the train?"

**MR REED:** I wouldn't say daily, but it's not uncommon, by virtue of the fact that there is only one track and any one - - -

**MRS OWENS:** You only need a breakdown or something?

**MR REED:** Anything at all, yes, a wash-out - - -

**PROF SCRAFTON:** Any one train in either direction can actually get a major disruption.

**MR REED:** Yes.

**PROF SCRAFTON:** Could I ask you, in the submission that we received before, you say that during the past two years SCT has made large investments in terminals and in purchasing new rolling stock. When SCT first began it was a van train, wasn't it? Is it still a van train or is it mixed now?

**MR REED:** Predominantly. We predominantly have at best 10 per cent of intermodal traffic. Most of that, though, is really just a backup for the van - there are no more vans available.

**PROF SCRAFTON:** Right, so you use - right.



**MR McAVOY:** I guess, just to elaborate on that point, why I've raised it is that

SCT has completed a new terminal in Western Australia at a cost in excess of round about \$18 million. That was opened officially in January. In about September of this year we'll be opening a state-of-the-art rail facility at Altona in Melbourne and equivalent big dollars involved there, and we also have heavily invested in new refrigerated rolling stock. I think that program is still taking place. There are actual refrigerated vans operating as we speak. So the investment is continuing.

**PROF SCRAFTON:** It was certainly a useful comment, because it had been implied - and certainly you picked it up in the words of the draft report - that whilst the new operators such as yourselves have come on board, the implication was they won't last very long because the equipment will need replacement and so on. That's why I asked you the question, and I appreciate the elaboration, because it is important for carriers like yourselves to be able to respond. There's no reason in some ways for an established operator to believe that he or she has any more ability to invest in new equipment than anybody else. If the operation is profitable, that organisations can do that.

I just make the comment that the innovation that SCT brought to the business and Toll, or TNT as it was originally - but that introduction of new services across the desert has certainly caused a lot of people to sit up, not only people who felt they might have had a captive market when it will never be captive. But at least it was their field, if I can call it that. But also potential new entrants in other areas have said, "If these people can do it, maybe we can do it in a completely different way some place else," a niche market on a small set of branch lines or whatever.

**MRS OWENS:** Can I just come back to this idea of auctioning again. Sorry to harp on this, but one of the other questions I was going to ask you is, is it possible - it's an approach that's being looked at in other markets such as for airport slots, and we have been told that airports are different and they're much more constrained and that you can actually expand capacity on railways, you know, by putting more crossing or passing loops or whatever and that auctioning only really works when you're talking about congested routes. But there is the issue of the future in Australia of the potential for maybe more niche players coming into the market on some of these routes and if the existing incumbents, of which you're now one, lock into those routes, it makes it more difficult for new entrants so some would argue there's a barrier to entry.

The other thing I was going to say is that it could be possible to have some sort of pricing arrangement where you actually bid for your Friday slot and that you can have it then for the next 10 years, you know, so that there is some certainty. You could develop a sort of a market in that way. But you still don't think that would work?

**MR McAVOY:** I guess that depends on what price would come out of that auctioning process. I mean, SCT has put a lot investment into the industry. That investment is reliant on having those train paths at that price and I guess that's why we argued and I guess was supported by the NCC in saying that that type of

investment

should be offered 15-year terms. In most of the agreements which we've sought we've got rolling terms or terms of about 10 years or more. That's what we're pushing at the ARTC. That is to give us some sort of certainty with our investment. Once again, I mean, you do open yourselves up to a lot of uncertainty with an auctioning. Is it going to come over the price which we're paying now or not? I mean, that's just uncertainty for us, really.

**MR REED:** The danger there is too the big fellow could almost knock the little fellow out, given that the industry we're in dictates that we must run out Friday night and must run out on Tuesday night, out of Melbourne and then the following days out of Adelaide. If we were to be outbid for paths on Tuesday and Friday evenings then we really don't have a service because we couldn't go out and market a Thursday train. We could, but we would be marketing that at the very marginal rates that you already have for those non-tonne sensitive freights so virtually that could put SCT out of business.

**MRS OWENS:** So it could actually jeopardise the business of a lot of these niche players. Is that what you're saying?

**MR REED:** Yes.

**MRS OWENS:** Okay, that's useful to know.

**MR REED:** It could always be argued that if somebody took that slot on a Friday evening that didn't need it then it was going to be - with the clawback clause from the AR that said they're going to lose it anyway but by then we're out of business so it really doesn't matter.

**MRS OWENS:** Yes, you've lost it. You're gone.

**MR REED:** That's right.

**MRS OWENS:** Okay, thanks for that. We thought it was a useful sort of approach to explore.

**MR REED:** It probably is but it's extremely dangerous as far as we're concerned. The concept probably has merit but the disadvantage I think in our minds anyway outweighs any merit at this point.

**PROF SCRAFTON:** One reason for including it as an alternative for discussion was the fact that there was this - not a general agreement about whether posted prices or negotiated prices were the way to go and it was just another alternative that said, "Well, you know, auctions are a form of publicly negotiating," if I can call it that. The response we've had - I think your comment is one that we've received from others, that people are not opposed to the concept but the practicality of trying to introduce it on railways as they are at present - if I could use that expression - with various different regimes existing, different owners, track owners, that it's maybe an

idea

whose day has yet to come as was the case with airport slots. People knew about the idea of negotiating airport slots but it took quite a while to be any good at it and you require a very high level of problem, in that case congestion at the airport, before people will ascribe high values. I guess the equivalent in your case is that when you're making an enormous amount of money out of their run, your competitors, then maybe these prices will be non-negotiable.

Could I ask you about your comment in relation to regulatory reform. You said that SCT supports the establishment of a national safety regulator. I'd like to ask you if that support is based upon - as a result of your experience over the past whatever it has been - four years now or something, of dealing with - - -

**MR REED:** With the different state bodies. It does become difficult and I think one of the reasons that makes it a little more complex is the fact that it's a non-prescriptive area, the accreditation, so therefore every different person in every different state puts a different interpretation on it.

**MR McAVOY:** I think you can go the opposite way too, can't you, having too much regulation, but I mean, you've got to strike a balance somewhere.

**MR REED:** Yes, I'm not saying that it should be totally prescriptive either. It's just that the non-prescriptive nature does tend to - - -

**PROF SCRAFTON:** Allow these variations.

**MR REED:** Yes, and so therefore the more bodies you're dealing with, the more variations there are.

**PROF SCRAFTON:** But would it be true to say that you've now got over that hurdle?

**MR REED:** In the most part, yes, but there's still a little ways to go with your mutual recognition and so on and as I said, there will always be - even at audit time there will always be that interpretation problem that we'll come across so what we put together for say Victoria and the Department of Transport is all happy and comfortable with it here, in another state they may not be, with the exact same thing. That's all I'm referring to.

**PROF SCRAFTON:** So at the very best it's a sleeper - it's always in the background, however well you've succeeded, because again I think that your experience in becoming accredited and getting your operation together and so on is obviously an example that a lot of people look to.

**MRS OWENS:** I was going to just ask you about your access pricing and your views on whether you're actually getting charged too much or whether you - we talked about posted prices but we didn't talk about the level that you're paying.

**MR REED:** Well, the gap between road and rail becomes closer and closer every day and rail does, I guess, have the problem that they're going to be starting to lose more and more tonnage to road on the current rates and the ARTC are saying that they want to be self-sufficient; the operators will pay for all the track and conceptually there's nothing wrong with that but again, that's going to close that gap in even further. So I think there's a fair risk there to all rail operators with the track access rates and that again is made a little more complex by this differing of track access rates because if ARTC are going to be self-sufficient they need X amount of dollars. So if they're going to reduce this path they have to increase the cost of the paths at the premium times where everyone has to operate. So again, you're closing that gap in between road and rail and you're widening the gap between sea and rail.

**MRS OWENS:** Do you go into New South Wales - no.

**MR REED:** Not - - -

**MRS OWENS:** Because they have a different pricing methodology to ARTC and there is also government subsidies of track in New South Wales which in your submission you talk about, you make a comment that - this isn't the submission that we got earlier - Australia, if it needs or wants a particular rail corridor open then the access pricing should be such as to make rail competitive with the alternatives and that's really, I suppose, possibly how it works in New South Wales, I'm not quite sure. But it may mean that access prices are a bit lower than they would be on the east-west corridor because there is a government subsidy on the track. The other way of possibly doing it is instead of affecting the access price per se, government could have a transparent subsidy through a community service obligation which they give to the track owner. I mean, it's just another way of doing it. So I don't know if you have any comment. If you're not going to New South Wales it's a bit hard to sort of judge the relative merits of different systems.

**MR REED:** I don't believe that our track access rates in New South Wales are all that much different than anywhere else. Even though we don't use them at this stage, we have an agreement with RAC so there's certainly no obvious subsidy there anyway, not with SCT.

**MRS OWENS:** Yes, I'll ask RAC this afternoon. We saw them in Sydney and they're coming back to see us again today so I just will ask them about that, whether it does actually feed into the level of their access pricing.

**MR REED:** It could be for their coal trains or unit commodity things like coal, steel, whatever - they could have a subsidy on track access for those.

**MRS OWENS:** But I think the coal companies would say it certainly doesn't feed into their access prices; it goes the other way.

**PROF SCRAFTON:** No, I think - - -

**MR REED:** It's probably a better choice - - -

**PROF SCRAFTON:** They would argue that they were the ones - - -

**MR REED:** Change that to grain.

**MRS OWENS:** I just wanted to make one other point and that was in relation to the two-page document you gave us today about coastal shipping, that the commission is doing another - there is another inquiry going on simultaneously with this on the Trade Practices Act Part X looking at coastal shipping, which you might be interested in following up.

**MR McAVOY:** That's good, that's great.

**MRS OWENS:** So I won't get into that now but I haven't got any other questions.

**PROF SCRAFTON:** No, neither have I.

**MRS OWENS:** Is there anything else you'd like to say before we finish?

**MR McAVOY:** No, that's fine with me. That's great.

**MRS OWENS:** Okay. I'm sorry to have held you up for so long. We will now adjourn and we will reconvene at 1.30.

(Luncheon adjournment)



**MRS OWENS:** We will now resume. The next participant this afternoon is the Wimmera-Mallee Rail Services Association. Could you please give your name and your position with the association for the transcript.

**MR JONES:** Yes, I'm Phillip Jones and I'm the secretary of the Wimmera-Mallee Rail Services Association which is centred in a number of places along the railway line between Ararat and the border.

**MRS OWENS:** Thank you, and thank you for taking the trouble to come so far from Horsham to be with us today. We'd like to also thank you - and I'm talking on behalf of Derek as well - for the two submissions that you've given to us. We're always pleased when people do take the trouble to take an interest in what we're doing and we do take into account what people tell us, so thank you for that. I understand that you have got some opening comments that you'd like to make.

**MR JONES:** I've put it in context that where this association is working, if that is in order.

**MRS OWENS:** Yes, that would be very helpful.

**MR JONES:** I've referred to my first submission which gave an outline of the association. It's a community group that has been working for several years in the Wimmera-Mallee area, particularly the Wimmera, and its main aims have been to raise the standard of rail passenger and freight services and of more recent times certainly infrastructure. We have considerable interest, along with the municipal councils from Ararat through to the border in regional development. Most of those councils have their own economic officer and certainly two of them are associated with actual regional development boards.

So we have more than just a sort of a train buff interest in what's going on. We're particularly concerned that the whole system in the west of Victoria is opened up for the sake of industry - and that's mainly the farming industry - to have access to the ports of Portland, Geelong and Melbourne. Portland is Victoria's only deep sea port and it's very important that it becomes one that provides the facilities and whatever else is needed for grain and the other products that may be shipped from there. So our interest in what the Productivity Commission has been doing in rail reform is mainly centred on that type of thing: the improvement of rail in its position in the whole structure of things and the services it can provide and particularly the regional development that we see so essential for rural areas.

I don't think it's just being miserable but rural areas are strongly disadvantaged and they have been particularly under the Victorian government with the cutting of passenger rail services in 1993. That's when we got into the business, mainly, I must say, as a protest group. But we've far from that now into a fairly sophisticated group who network all over the place. It's quite different. We have to accept what's there that we don't like and we want to change it. So I point that out about the councils - particularly the rural city of Horsham and the rural city of Ararat which are the

biggest population centres along that line - that they really are concerned to have good rail services. The Ararat Council has taken their railway station, with help from various sources, turned it into what you might call a multi-modal transport hub - and you might have heard that from a submission earlier on. Councillor Peter O'Rourke told me he was down here on Tuesday - - -

**MRS OWENS:** He was.

**MR JONES:** - - - so you've heard his story and I don't need to go perhaps over his ground too much. We certainly support all that sort of work. My comments - if you wanted to go on from that introduction - were in two main areas, as you see in the submission, to deal with the issue of competitive neutrality between rail and road and the other was in this matter of upgrading infrastructure and making more rail services possible. So I would be pleased to put those to you in summary again or answer questions that you had of what you've read there.

**MRS OWENS:** I think we're happy to go on and ask you some questions about those and I think what you can do is, if there's other things that we miss along the way, you can bring us back to those in your answers. I think a good place to start, we could address the issues in the order you've addressed them in the submission. The first one is this issue of competitive neutrality between rail and road. I think we tried very hard to get to the bottom of this issue and in terms of what we've written had a fairly sympathetic view of the rail industry's concerns about competitive neutrality and I think we've taken those on board. But you've said in your submission that you feel our draft recommendations are a little bit fragmented and I think you're implying that we could have been a bit stronger in terms of what we say on that issue.

You argue that there should therefore be a recommendation that urges a consideration of access charges to roads for interstate and intrastate long distance freight and passenger road vehicles based on the use of the roads. I think we're somewhat sympathetic to that idea but what we did choose to do was recommend that there be a review or an inquiry into roads and we were a little bit cautious in case the government picked that up that we didn't pre-empt that inquiry, because we think there are some bigger issues that needed to be looked at. Do you think it's still worth making it clear that that is our view? I mean, it is our view - and Derek will support me on this - that we do think we need to find a way of making roads more commercial and providing the right incentives on roads. That does involve getting appropriate charges, particularly for the heavy vehicles. We looked at the New Zealand model and I think we're reasonably impressed with the approach they have adopted there.

**MR JONES:** Yes. My comment was that I found a stronger recommendation, so to speak, amongst the key messages. When I read those I thought that would be a good way to start and then perhaps your other step-by-step things would follow from that, perhaps not in exactly the same wording but that's a clear declaration in that key message. That's the second bottom one on page (ix) in the summary. I thought that's the best place to find it. The Wimmera-Mallee Rail Service Association is not rail

versus road. We see the road transport as being an integral part of the whole

transport job and that it's just got to be done in an integrated way; whether that's possible when you're talking about competition, I'm not sure. But the best thing we see is the sort of Ararat and Horsham, to a certain extent, rail yards where it's expected that the road will feed the rail.

At Horsham there's a very good arrangement there that's now in the hands of Freight Victoria where there's a private contractor who goes out to the farms with his semi, and the farmers have filled up containers full of peas or whatever it is, they bring them back and put them on the daily train which goes I think to Geelong - it just depends, it's a Freight Victoria super something or other - and what you need now, it's just so changed from the old days of gantries and so forth, you just have a great big front-end loader that can do that. It's a very efficient way of doing it. The farmers have been doing well out of it, their stuff is taken away safely, the local private contractor gets his income, it works well. They're probably moving - I've just forgotten the figures - but there are thousands of containers, and there are things that you'd never ever put in containers before, like peas and stuff like that.

So our view is that that is the way to do it. There's a minimum cost to the shire roads that way too. I'll just add there another point I made a bit further over that in 1994 when the standardisation was going to go ahead on the main line, they were going to close the lines to Yaapect and Hopetoun to the north. Are you aware of that part of the world?

**MRS OWENS:** Yes.

**MR JONES:** Hopetoun is north of Murtoa and the other one is north of Dimboola. There was a great noise made by the councils, by the farmers, and particularly of councils saying, "Look, if it's all going by road, we won't be able to fix the roads. It will just be a disaster." Minister Brown was persuaded that it was better to spend, it was only 18, 20 million, to change the gauge on those lines and the one to Portland to keep the shire roads in good order. It was cheaper to do it that way than to compensate the councils. That was the first recognition we had that there was some sense in putting the rail where it was most needed.

**MRS OWENS:** Can I just interrupt there. You mentioned that particular instance in your submission, I think. That actually happened?

**MR JONES:** Yes.

**MRS OWENS:** That cost them 20 million, and they didn't go ahead with those - - -

**MR JONES:** Closed those lines.

**MRS OWENS:** What happened to the roads, did they let them deteriorate or are they still doing both?

**MR JONES:** No, the roads were just maintained at the usual standard.

**MRS OWENS:** At a certain standard but not upgraded.

**MR JONES:** Yes. I haven't got the figures but it was estimated from the amount of wheat or grain that came off those two lines that we might have had 300 trucks running through Horsham every day on their way to Portland. It's a big harvest up there from the Wimmera into the Southern Mallee. Those lines - Yaapect goes right up into the Mallee. It was just a real eye-opener and that's when our association really started to realise, "You'd better get this freight stuff going and then you might talk about passenger trains," and you couldn't have one without the other, we know that now.

**MRS OWENS:** Did your association influence that actual decision at the time you got involved in that?

**MR JONES:** The chairperson of the association then was the mayor of Horsham and he sort of took us into that. As I said before, these connections with councils haven't just been made last weekend, they have developed out of action using people like myself, say, to do the council's work.

**MRS OWENS:** Yes.

**MR JONES:** Finding someone from the council - the councils were to appoint to the committee of the Rail Association a councillor and a community representative and that's how I got to be where I have been since 1994. So it has been a real learning experience for me. I'm still learning. That's why I've come to something like this. I'll find out some more.

**MRS OWENS:** We're finding out too. I was going to ask you, given that exercise back in 93-94, have you tried since then to get some other lines reopened or ensure that they don't close? Have there been other lines in the whole region that you've tried to get the government to look at?

**MR JONES:** Not with the state government. Marius Van Onselen the CEO of Freight Victoria, when he was the managing director of V/Line Freight, he did the same thing. He persuaded the government that they would do very well by standard gauging from Ararat to Maryborough and then dual gauging to Dunolly. So the summer crop from north of Dunolly could be stored there, having come on the broad gauge and then could go out during the winter or whenever it is moved on the standard gauge to Portland, so it could run all the way down. That's very good but now the people further north of Dunolly are saying that they can only move their stuff on the broad gauge and that doesn't give them such access. There's another inquiry - I don't know whether they've been down here - but there's a north-western group with two parliamentarians doing a survey or a study. Barry Bishop, the member from Mildura - haven't heard from them?

**MRS OWENS:** I haven't heard from them, no.

**MR JONES:** I'd want them to send me their stuff and tell me what they're actually doing. But that whole area has awakened to the transport thing. When you say, have we tried to persuade people to get other lines standardised, certainly we back that south-western municipality's move to have more lines standardised. But we would say a bit more than that; we'd like it to go right to the city. I can come back to that in a minute in that second part of the submission. But that's our aim and then that might help us get some passenger trains running to Dimboola again. That's roughly the ideal, the ultimate.

**MRS OWENS:** Forgive me for not knowing this but when there were passenger trains to Dimboola was it just a daily service?

**MR JONES:** Yes, twice a day. A thousand people a week rode on the Dimboola corridor trains which of course ran through Ballarat on the then broad gauge. You can't do it now. You can get as far as Ararat on the broad gauge. If you get the line put back into operation between Ballarat and Ararat - it's been abandoned. It's quite a good line. It used to be the interstate railway and it sat there rusting. I drive down past it - all that waste. But that's another story which I mentioned in the second part there. We can talk about that if you wish. But just concentrating on what we started with, I'd just reassert what I said that there's I suppose plenty of evidence around from a whole lot of sources that, I'll call it the heavy trucking industry - I don't mind the fellow with his four wheels but these whoppers that - - -

**MRS OWENS:** The B-doubles and so on.

**MR JONES:** - - - bypass me when I'm doing 100, the B-doubles and stuff, they just aren't sharing the costs of the road. I think we've got to be quite realistic about that and not let them get away with it. Their lobby is very strong and I don't see the private rail companies having really got themselves together. They're still I think competing with each in their own way but not moving fast enough to represent themselves as an industry. I think that's something we may hope for but I'm not one of them.

**MRS OWENS:** It's fairly early days, I think, with the private railways.

**MR JONES:** It's early days, yes.

**MRS OWENS:** They're all still really at the point of getting established.

**MR JONES:** When you see 1.2 kilometre freight going through, carrying as much as 80 or 100 semis, the efficiency is there but you've got to have the infrastructure to do it properly and that's another area that we've been very strong about. We had our say in getting Maroona to Pura Pura recognised as being the disaster area of the interstate system. That was partly in connection with the Overland. The Overland was just being so slowed up and tucked away in loops and sitting out there in the middle of - yes.

**MRS OWENS:** I was told of a few other participants, but I got stuck out in a loop a few weeks ago, going - I went on a freight train to Dimboola and then into Adelaide the next day and we got stuck in the loop for two and a half hours.

**MR JONES:** That just showed you though what can be done if suddenly someone decides to make a move on it, because we had both the state and the Australian Rail Track Corporation or the source of funding through them put into action and it's not a bad price, about 30 million. It's a lot cheaper than building freeways. Can I say something more about the reasonable development?

**MRS OWENS:** Please do.

**MR JONES:** I think I've expressed the other thing clearly enough. I don't mind how you put it, but it just should be sharpened to make a much more definite statement. The matter of the standardisation of further lines that you've heard about, I won't go through the details of that, but it's an obvious thing that should be done, partly because of where the breaks are, say at Dunolly now, even if you bring it in, in the summer, and cart it out in the winter you've still got a trans-shipment cost while it's - you know, and the whole business of unloading, loading again, whereas a train should be able to go straight through from Mildura to Portland or to Geelong.

That project from those south-west municipalities in conjunction with Geelong is a very worthy thing and the evidence is that the returns in savings over a period, let's say even of five years - depends whose figures you take, John Holland's or Maunsell's, which the government favoured because - the Victorian government favoured it, that second one, because they could say no. Another interest we've taken is in the state government's rural and regional transport policy which came in the book called Transporting Victoria, have you seen that? We continually kept in touch with the author of that and it was a long time gestating, like an elephant. But he was very faithful to us and he'd come up and talk and explain where they were at as much as he could and we developed quite an interest in that and that's where we've kept pushing these multimodal hubs, beyond Ballarat.

But they, he told me, had thought it was just going to be too expensive. But when you look at the benefits to the community and the industry I think it's worth them laying out some money to do that and I think they're trying to tell the government now they should spend the money they got from Freight Victoria, but I think it ought to be a bit better than that. So we're interested in, quite unashamedly, that government should be providing funding in the national interest for regional development as such and some of the instruments of regional development are in transport. That's one of the major factors or elements in that. The best way to do that, we say, is with rail and road feeding it.

I've mentioned in part B there the multimodal transport hubs. The one at Ararat is the outstanding one where I just came past there today and they're just getting their carpark, it was, turned into a bus transit station, the V/Line buses. We'll use that now

instead of the service station up the road and of course the Great Southern Railway are very happy about being able to stop there with the Overland and that integration of road and rail that we see as being the healthy way to use both modes. It's not as though one should compete with the other strongly, in practice to work them together.

The rural passenger rail services are something that - well, it should be a public concern and it certainly is in the Wimmera through the councils. They want to have rail passenger services if they can be available, because people find them just so much more amenable. Probably the area in Victoria where the bus section to where the train was truncated - in other words, say, from Horsham to Ballarat - is the longest section. Now, the world best practice is you have your buses coming to the train and the bus section of the trip is shorter than the other, and so the buses have never been very popular. Rail association - once we knew we were going to have buses we said, "If you don't use them you'll lose them too," and we promoted the buses even though we didn't really approve of them because that would keep a number of people still on public transport instead of getting into their cars.

The passenger service that we've got now is the Great Southern Railways Overland, refurbished or reborn, and we've been in very close relationship with the CEO and the Overland manager and we think with the councils we've prevented something happening that was likely to happen under the previous CEO and that was they'd only run the Overland as a capital city to capital city train. Councils have been very active to see that their station is one of the ones at which it stops and particularly at Horsham the group has worked to make the station more user friendly. Of all the stations at the biggest centre, it's the one that has been least - where the facilities for passengers have been least available. People don't want to go to a station in the middle of the night, no lights on, no toilets, no waiting room.

Now, they are at the station but we've just had to reactivate it all with VicTrack and that's the sort of - you know, what I'm talking about now is the nitty-gritty of how you make this work and have your theories. We hope we'll move from that with whoever becomes the private operator of V/Line Passenger to see if we can get the train restored to Ararat. That's, you know, the mission impossible almost. But if it happens to be Freight Victoria having both those, it's simplified in a way because while they mightn't have taken up that track amongst the parcel that they leased, it was available to them. They had a choice about the ones that were not in use and we want to get that train back that far. Now, if you standardise lines and went as far as Melbourne then you could talk about running the train to Dimboola again.

But of course you've got to get in with the bus operators. The present V/Line Passenger buses' contracts expire next year so there's a bit of work to be done there yet. But that's the background I come from, actually out of theory stuff into making it work.

**MRS OWENS:** To the practice, yes.



**MR JONES:** That's why I put such an emphasis on that actual thing happening, which I thought in terms of the report didn't say a great deal about what is actually happening, what are people trying to do or - - -

**MRS OWENS:** Yes, we need people like you to tell us, you see, and that's what's so useful about this process.

**MR JONES:** Yes.

**MRS OWENS:** Have you had a look at the private train operation to Warrnambool?

**MR JONES:** Yes.

**MRS OWENS:** Do they go from Warrnambool, as I understand it, to Geelong - and I presume then you've got to get onto a - well, it goes right through.

**MR JONES:** Run all the way.

**MRS OWENS:** So they can go right though.

**MR JONES:** They're part of the - Don Gibson is one of the people we're always talking to, particularly when in the earlier stages of privatisation of V/Line Passenger his section of the consortium that was then in the running, you know, one of the original bidders with Vivendi or, you know, the French lot - CGA. He had declared that they would seriously consider including Ararat because they had looked at it and it's the same thing as we have said in the past, that Ararat is in a very good place to receive people from a 100-kilometre radius. In 1994 the train still ran to Ararat because the road was so bad between Ararat and Ballarat. It was being upgraded and the private contractor went silly and ripped it all up for kilometres. You know, instead of doing a bit at a time they did tremendous lengths and of course nobody could use the road.

Anyhow then people like myself would drive to Ararat in the car instead of using the bus and do our return trips. Now, when you talk to the older people and the ones who want to go to Melbourne, the ones who want the train, they want a day return. They don't want to have accommodation overnight - go down to the museum or something in the morning and come home at tea time. Now, there's still a great demand for that. You can do it on the bus, fine, but the sort of convenience of the train, being able to move around and get your food on it and not have to wait half an hour at Ballarat from the time the bus comes in and the train goes out. It's all those things, which I think you even quoted me on that in the original report.

**MRS OWENS:** Yes.

**MR JONES:** That's what we hear, "When are you going to get the train back?" I don't get the train back, you're the people who have got to make a noise about it. But

that's, you know, the flavour of what we encounter. We do a fair bit of, you know, media releasing and commenting and so forth. The newspapers along there are sort of rail minded. You find the ABC lady there, Sue Dunstan, who always puts something up about rail, and that's fine. But somehow or other you've got to make it work and that's what you're encountering with me today, talking too much.

**MRS OWENS:** No, you're not talking too much at all. I think one of the interesting issues that has been raised in this inquiry and in other inquiries relating to rail is this issue about the need to invest in the infrastructure and you talked about the part of the line that you've had an influence over. But there is this uncertainty about who should be paying for it, a bit of buck passing between the Commonwealth government and the state government and now we've got the private sector in there just to complicate things. So do you think there's any chance that the private sector could become involved, say, in this rail standardisation?

**MR JONES:** Well, in Victoria, yes, because Freight Victoria leased those lines and they could be persuaded perhaps to standardise them for the sake of their business - need a fair bit of, what will we say, information. But that's the case in Victoria. I don't think it happens anywhere else in the world, where they've given them the tracks as well as the business - well, not given, leased, and they're in a very good position to do that. But I think we'd still have to say, just like you might for that piece of track between Maroondah and Pirra-Pirra. The money for that must somehow come from the public purse for the sake of the people or the national interest, or whatever you like.

**PROF SCRAFTON:** In the upgrading of the stations is that primarily councils that are providing the money for that or is it a combination of the councils with GSR or with VicTrack? How are they funded?

**MR JONES:** Do you mean for instance the Overland using Wimmera stations?

**PROF SCRAFTON:** Yes.

**MR JONES:** Great Southern Railway don't want to put anything into that, because all they need is a platform, two carriages on. They're quite clear on that. But the government didn't mind that. They built them one at North Shore. Now, that was an election promise. Have you seen the platform at North Shore at Geelong?

**MRS OWENS:** Yes, but there's nothing there.

**MR JONES:** Yes, it's a big block of concrete with a bus shelter on it.

**MRS OWENS:** Yes. I wouldn't like to land there in the middle of the night.

**MR JONES:** No, the Broadgate station just nearby is not - you'd think its facilities should be available but they're not. But you see, that's a bit inexplicable and it's done under VicTrack's - under the 1996 Rail Corporations Act. There's a proviso there

about number 32 or something, that the government can indeed instruct VicTrack to become non-commercial. But it has to pay the difference, or that's likely, and I think that's what happened at Geelong. Now, further up the line where we are, the councils leased the stations - Stawell, Ararat and Horsham. Mataro and Dimboola are still operational stations there. The Overland changes crews at Dimboola and the one at Horsham is leased to community bodies, the U3A. Do you know what that means, University of the Third Age? I'm one of them so I have to wear two hats sometimes - and the wood turners.

We had a meeting, the council arranged a meeting with VicTrack and GSR a fortnight ago and we tried to sort out who'd pay for the power and what we could do to open up the toilets through a back door instead of the platform door which should be locked because of vandalism and so on. When you say, "Who provides the money?" the council. In the contract it says that they're responsible for changes to the structure or maintenance and so on.

But I've been pointing out to them they ought to try what Geelong did; get something provided by a non-commercial act of VicTrack and that was pushed by the parliamentarians of both parties. The track of course is Australian Rail Track Corporation on the standard gauge line interstate. So somewhere through our association, we want to work in our community organisations who may see its worth their members having a better station who might contribute to even having a walk past there by the security patrol at night or something like that. There's Horsham Businessmen something or other with 300 members who have talked about doing that, so that would be the best we could do. Rather than have the station manned, just, say, a security patrol in the hours that the train might be there. There's two trains, one each way, five nights a week.

What we hope Great Southern Railway will do is get their time down to 10 and a half hours which is their aim by the end of the year and then they can talk about a shuttle, like the Ghan does. You see the Ghan comes through Horsham to Melbourne. The Ghan comes in Wednesday afternoon and goes out again Wednesday night. We've got two trains doing that at each end. You can have a daylight service. That would be okay for those who are prepared to stay overnight in Melbourne. So keep your eye on your private operators. Encourage them. We talk about ourselves as the friends of Great Southern Railway.

**MRS OWENS:** They're friends of yours.

**MR JONES:** Yes, they have been very good this year. Since the new CEO come in, he did an unprecedented thing.

**MRS OWENS:** We met him the other day.

**MR JONES:** Yes. He came up to Horsham and met the councils. The other bloke, we had to go down and see him. But this fellow, he looked at all the stations. He impressed them greatly by his diligence and apparent concern. By then he was being

quite definite, "No, we're not going to stop at all the stations any more," but he did it in a very reasonable way. The manager of the Overland, Neil Barrett, is like that - very focused - but sit and talk, find out, listen.

**MRS OWENS:** So what are they doing, they're not just going to go city to city, they will stop but not at as many stations.

**MR JONES:** That's right. It will still be as required. No flag-downs. They won't stop if you just walk on there one night and put your hand up. But you have to book through their booking service now. V/Line is Y2K compatible or compliant or whatever you call it. They've even got a tourist agent in Horsham and in Warrnambool, the same one, taking bookings. There's only four stations now - well, let's say, I've been waiting for a long time for their media release about this but there will only be four, Geelong and the two biggest ones and Dimboola, because they've got to stop at Dimboola. I don't think I'm letting out any secrets there. They didn't come up to discuss Horsham station the other Thursday morning.

**MRS OWENS:** No, I think it's just - we haven't really spoken to people about stations as much as we've talked about track and operations. We really haven't spent a lot of time thinking about this issue about stations, because that's all part of this intermodal thing and it's about people having access, so it's quite important to think about it. Is there anything else you'd like to say before we close off?

**MR JONES:** No, I think I've been able to say what was to the point that I wrote about and to give you an idea, as I've tried to say, about what you do in actual practice to try and achieve some of those things you talk about. In doing that, I must give my congratulations to those municipal councils, even under the commissioners at Horsham, they were good.

**MRS OWENS:** Yes. It sounds like they've really made an effort.

**MR JONES:** Yes, and when you see someone like Peter O'Rorke, you can see the quality of some of the councillors - - -

**MRS OWENS:** We had an excellent discussion with Mr O'Rorke the other day and we had a very high quality submission too.

**MR JONES:** Yes, so thank you very much.

**MRS OWENS:** Thank you very much, and as I said, thank you for coming all this way. We will take your comments on board. We will now adjourn until 3.15 when we'll be seeing the Rail Access Corporation.

**MRS OWENS:** The next participant this afternoon is the Rail Access Corporation. Welcome once again to our hearings. We had you as our first cab off the rank in Sydney and you're now our last cab off the rank in Melbourne, so that for us going to be very useful, because we didn't quite get through what we wanted to discuss with you. So thank you for making the time available and for coming to Melbourne. We do appreciate it, and I think as I mentioned to you, we had a few issues relating to safety and we've had quite a number of discussions with people since then, but there's probably a number of other areas we may want to just go back to fairly briefly. Could you please each give your name and your position with the Rail Access Corporation for the transcript.

**MS STACK:** I'm Judi Stack, chief executive officer, Rail Access Corporation?

**MR BONES:** Terry Bones, general manager marketing, Rail Access Corporation.

**MR HENRY:** Owen Henry, general manager safety task force, Rail Access Corporation.

**MRS OWENS:** Good, thank you, and, as I said, thank you for coming back. We have spoken to quite a number of participants, as you'd appreciate, at this stage, and we've had a range of different views put to us about different systems and different structures and different views about the role of the private sector versus the public sector, different views about the safety regulation system in this country and the degree to which it's causing problems or otherwise for the participants, different views about access regimes. So what we're trying to do is - we will after these hearings be going away and trying to make some sense of this, and it won't surprise you to know that there have been some different views about the New South Wales system and the Rail Access Corporation. I have to say that the views have been fairly balanced between the operators that have been working within the New South Wales system quite successfully and have had reasonably positive contacts with your organisation, and we've had others not necessarily working in the system but who have alternatively.

You're probably not surprised to learn that we've had Dr John Patterson representing the Victorian government here yesterday, who had some rather negative views about the corporation and just generally about New South Wales. I think the last thing we wanted to do was start up the Sydney-Melbourne rivalry again, so I think it might be worth your while, if you wouldn't mind, at some stage getting a hold of that transcript and seeing what Dr Patterson had to say. You may wish to come back to us at a later date on some of his comments.

As I said, we'd probably like to come back to some of the issues that we talked about a couple of weeks ago. I think one of the issues that we did discuss was structure and low volume railways. As you will recall, our draft report suggested that there was a reasonably strong case for horizontally separating low volume railways from other railways as vertically integrated entities, and you put a number of points to us at that stage, some of which I think were equally strong points, in the other

direction. You talked about the problems with interfaces and a range of other concerns that you had. One of the concerns that you did raise was the potential for monopoly profits, the owner to earn monopoly profits. I suppose the issue there is whether you mean that the profits that would be earned by the railway would exceed the true opportunity cost of providing both the train and the track services, including the tracks infrastructure, whether it's a true monopoly profit or whether it would just recover more of the costs and then reduce the government subsidy.

At the moment in New South Wales, as I understand it, you do have government subsidies on some of your rural lines and you are trying to promote competition on those lines. As I said, there may be a bit of a trade-off: you're promoting competition but you're having to subsidise to promote that competition. Do you want to comment on that?

**MS STACK:** Perhaps I could start and then just hand over to Terry. I think our real issue in terms of monopoly profits was in the higher volume lines, but in the lower volume lines I think our argument essentially rested on two main issues, one in New South Wales. There are relatively few parts of the network where in fact there is a single form of traffic, for example just the grain traffic or just a point-to-point traffic from one point to another, there's a lot of overlap in terms of the network by a number of different traffics, and you raised the issue of the sort of interfaces that would have to occur if an operator travelling through an area which was vertically integrated would have to deal with another operator.

The other issue we raise was in particular in terms of the low volume grain markets in New South Wales, where I think the commission made an assertion that these markets were subject to road competition. Our experience is in fact that the grain markets are not really subject to road competition. I mean, rail is a natural carrier for these goods and they have been historically subsidised, both within a vertically integrated and within the now vertically segregated model.

Our assessment is that there's a very strong political and economic pressure for a downwards pressure on prices in these rural markets in particular. Extracting monopoly profits I think would be very difficult in those markets, both politically and in terms of the economics of the movement of the goods to market. The agreement, as you know, that we have with the New South Wales government in respect of the subsidy guarantees the reduction of that subsidy over a period of time. In the theoretical case where that was a vertically integrated marketplace, I wouldn't see any reason why that CSO couldn't also be available on a contested basis to whoever might bid to own that line and on a basis that I think that it would be fair to say that if it was contested you might see that there would be a lower CSO then it would be on the basis of the negotiated settlement that we negotiated with government, and presumably government would be attracted to something that would reduce over time, as is our agreement with them.

But I think the real issue is in terms of both the interfaces that occur for other traffics going over those lines and the ability of a monopoly provider if you like to

price up to the market but not necessarily continue to deliver improved service levels and customer focus and those sorts of issues to - if you remove contestability from the marketplace for a long period of time there is the ability, as there was under the old monopolistic structure, for service levels to decrease, and those people using those have very little alternative. Would you like to add to that, Terry?

**MR BONES:** Sure. I think I'd reinforce Judi's points, that the monopoly profits issue is one for the high volume regional railway scenario, that if they're vertically integrated, even if you've got an access regime in place, the barriers to entry for a new entrant are such that it does provide the potential for the incumbent, if you like, or the vertically integrated owner to extract monopoly profits above rail. So we've got a situation in New South Wales where it is government policy to isolate monopoly rents below rail and to phase them out by July 2000.

In the low volume scenario, from what I gather the commission's thinking seems to have been driven by - we look at the grain line networks at the moment. Clearly, even in New South Wales, FreightCorp has basically still got all of that traffic. I think that's largely a function of the fact that if we look at not only in New South Wales but Australia-wide we've got one very dominant customer for grain, who's got a monopoly over export grain essentially or export wheat, being the Australian Wheat Board. All of that is changing or will be changing over the next few years and, as I pointed out last time, we're already seeing that in New South Wales, where new grain marketers are approaching RAC to build new grain loading facilities and have indicated to us that they'll be seeking to go through contestable processes for their rail haulage needs.

So I think we're looking at the grain network as it is now rather than the grain network as it will be in three or five years' time, and I think if we look at the way things are heading, the sort of market dynamics at that point in time will be to some extent incompatible with a vertically integrated framework, or certainly more facilitated by a vertically separated framework.

**MS STACK:** FreightCorp also gets a CSO for that grain traffic on an uncontested basis in New South Wales at the present time.

**MRS OWENS:** Would there be competition on those lines without a CSO?

**MS STACK:** I don't believe those lines could stay open without any CSO.

**MRS OWENS:** So why is there a CSO? If the line closes, what do the grain customers do? Do they use road?

**MR BONES:** I think that would change the grain network. I think we need to differentiate between below rail CSOs and above rail CSOs. Certainly without below rail CSOs that very extensive network of grain branch lines in New South Wales wouldn't exist. We get about 95 per cent of our revenue off a typical branch line from the CSO and only about 5 per cent through access fees. That's a government

policy



decision to favour rail against road for grain transport.

**MRS OWENS:** To your knowledge are there equivalent CSOs in other states, in other jurisdictions, for grain networks?

**MR BONES:** I'm not familiar with the government subsidy situation in other states.

**MS STACK:** The problem we've got is that the process of change (a) has been different in each of the states and (b) has actually been quite recent, and in some places like Queensland there has been no change. But the old model was essentially that there was no transparency in the funding arrangements, so that there was essentially a cross-subsidisation. Typically in New South Wales under the old SRA, effectively the monopoly rents that were paid by the coal producers cross-subsidised the grain lines, and I suspect that there is some element of that case in Queensland, although I haven't got any evidence to suggest that would be the case. Certainly in Victoria it would appear that there was an ongoing subsidy, just through the losses that occurred there, and whilst there wasn't the same sort of ability to cross-subsidise, it was quite unclear where the actual government funds were going.

One thing in New South Wales - I'm sure our friend Dr Patterson from Victoria was advocating a model where there should be no subsidies virtually in the rail system or it should not exist, and that's a very nice, pure free enterprise model and it's a perfectly legitimate model as well. But where governments decide to subsidise rail networks, as they do road networks, I believe in New South Wales, we've moved towards a transparency in below line CSOs, so that essentially our contract with the government says at any time the government can close the line to withdraw that sector of the CSO. They know exactly how much money is involved in that, and it is not being all sort sifted to a quite opaque set of accounts, so there's a clear government decision in New South Wales to keep those lines open.

**MRS OWENS:** It really is an indirect subsidy to the rural sector, isn't it?

**MS STACK:** Absolutely. I mean, there's a major push in New South Wales at the moment for disused lines in New South Wales to be reopened, and in fact the government announced that two disused lines would be reopened. Certainly in the rural sector it is perceived as a very important talisman, if you like, of the capability of commerce being developed in those areas. So it's often more symbolic and real in terms of some of the traffics that go on these lines.

**MRS OWENS:** In Tasmania there's a vertically integrated railway that's privately owned, and as I understand they're reopening lines, but I think doing so without government subsidy. So in Tasmania they don't seem to think that there's a need for a government subsidy but it's happening anyway. I'm not quite sure why the New South Wales government - you probably can't speak for the New South Wales government - deem it necessary to retain these subsidies, which I understand are not necessarily forthcoming in other states.

**MR BONES:** The New South Wales market is different from that in other states. If we look at grain, the distances are much greater than in other states. The average grain haul is probably 400-odd kilometres, much higher than in, for example, Victoria, South Australia or, to my knowledge, Western Australia, and that has some impact on the ability to extract a grain rate out of the grower, so to speak.

**MS STACK:** I think the Tasmanian market also is essentially a minerals based commodity market. I'm very familiar with Tranzrail in New Zealand and the ATN, is it, group?

**MR BONES:** Yes, Australian Transport Network.

**MS STACK:** They've been very successful. There's been six to nine months, though, of experience, and so I'd suggest that, whilst it is positive for railways, it's not something that you can necessarily use as a model on which we're going to base the rest of the railway system, particularly when you look at a place like New South Wales, where there has been no decision by government to privatise the railways.

**PROF SCRAFTON:** Helen, I don't want to labour this point about the low volume railways, but there are a couple of things that I'd just like to clarify, and Terry actually touched on one there. When we talked about it at our last meeting in Sydney, it was something that was new to us. We'd said in our draft that we felt that there wasn't much scope for competition and you responded by saying that you felt there was. We've pursued this since meeting with you and I will say have received support from some people for your point of view. In fact, you've given us some examples, and we talked about them generally and people have supported your point of view.

But there's still one thing: it seems to me a lot of that is competition for that market. We're not talking about here about more than one train. There may be cases where you might have competition in the market, but it's merely competition for the market that we're talking about, is it? It wasn't clear I think when we were talking in Sydney.

**MR BONES:** Certainly in the grain competition it's large competition for the market, but in New South Wales we've got some smaller new entrants, such as Austrac, Silverton Tramway, and they're largely targeting traffics that are on the road.

**MRS OWENS:** But that's not the same traffic?

**MR BONES:** That's not the same traffic, it's different, but it's on the same network.

**MRS OWENS:** But those operators, these niche players - you could technically have competition for the market for a vertically integrated entity and the owner of that entity - it might a leasing agreement, a franchising agreement, but the franchisee could quite easily under those circumstances - there's nothing to stop them letting those others onto those tracks, because they're not competing with them in any way. They're low volume tracks. There's not going to be a lot of congestion of those

tracks, so I don't see that there's an access issue.

**MR BONES:** I think it remains to be seen whether a vertically integrated operator would necessarily see it to their advantage to let another operator on, even if it's to target a different traffic.

**MRS OWENS:** But wouldn't a vertically integrated operator have the incentive to maximise volume on their line, especially if they could get a few extra dollars for letting somebody else on?

**MR BONES:** I guess that incentive has always existed. I mean, if that had been the case you would have expected under the old integrated railways that we would have seen the advent of new entrants targeting traffics that the big fish weren't interested in, but the reality is - and some people tried and they never gained entry, gained access.

**MS STACK:** I think if we look at - - -

**MRS OWENS:** But there wasn't an access regime at that stage.

**MS STACK:** But if you look at the very successful New Zealand situation where they've got a better neutrality arrangement with road over there, you've got Tranzrail working there very successfully and profitably. There is not another operator in that system. I mean, in our terms it's a pretty thin market and it's obviously geographically isolated from operators here, I mean, in the same way that Tasmania is. But there hasn't been another operator operating in that marketplace. I don't think there are many examples that I can think of - say, the United States environment - where there's integrated short line type operations where there are second operators. Are you aware of that?

**MR BONES:** Not normally on the same tracks. A lot of the short line operators feed traffic to the class 1s. But I don't know whether you've had much of a chat with some of the US short line operators - and I have - and they're very much beholden to the class 1s and what the class 1 says rules, even when it's their track. The class 1s have the ability to put the short line operators out of business at the flick of a pen.

**PROF SCRAFTON:** Yes, that point has been raised with us too. I don't really know, Helen, whether you want to pursue this any more.

**MRS OWENS:** I just wanted to pursue one comment that Judy made. You made a comment about what you thought Dr Patterson's views would be on railways.

**MS STACK:** I have no idea what they were but - - -

**MRS OWENS:** I'll clarify what he said yesterday because I've just found it in my notes. But he basically said that rail is good for some things and it's not good for other things - he said "bad for some things". I'm just reading from my notes. This

isn't from the transcript so I may have this slightly wrong but he said there can be

overlaps, there can be substitutes between different modes of transport, but in other areas rail is dominant and has no peer. We didn't really pursue which areas they were but I think he was basically saying there is a role for railway in an efficient transport system and we need to think about what that role is. When we later quizzed him about whether more money needed to be spent - we talked about the investment issue - he said, "Well, yes, to get it up to us at the appropriate level," he thought, "there would need to be about half a billion dollars spent in Australia."

So I don't think he was being quite as negative as you would think. I didn't talk to him about CSOs and subsidies in relation to freight but I think in Victoria there is an obvious acceptance that there will be ongoing subsidies at the urban network. But I can't vouch for what his views are on that, albeit reducing subsidies.

**MS STACK:** I was just on the other end of his questions in the Smorgon inquiry and he had a very - well, the Victorian government's view to subsidy is quite different from the New South Wales government's view to subsidy, and we're operating within the New South Wales government.

**PROF SCRAFTON:** I think it's worth saying in that context that in discussions with others, particularly Dr Affleck, he made the point very strongly that given the separation that had taken place in New South Wales that's where there were these examples of competition beginning to emerge. So he did support your view that whether one likes the separation model or the integrated model, the fact was that separation has taken place and these operators were appearing. So we want to flesh that out.

**MR BONES:** I think one point I'd reinforce from what I said at the Sydney hearing, people looked to the emergence of new operators etcetera as the evidence of competition. I guess from where I sit I can see behind the way the freight market is actually working now. The way it is working is fundamentally different from three years ago. Coal companies, it's standard practice to go through some sort of tender process; minerals companies, the same; the same is going to happen in the grain industry over the next few years. That is a fundamental change in the way the whole rail freight market operates in New South Wales that has been engendered by the restructure of the rail industry in New South Wales.

One point I'd also pick up on, on the branch line subsidy issue, one thing to be borne in mind from an economic perspective, closing those lines won't necessarily save all of that money given that we're talking about a rural road network that isn't properly invested or maintained to carry large volumes of grain traffic.

**MRS OWENS:** We're not necessarily advocating that these branch lines be closed, we're just trying to think of ways of keeping them open that minimise the amount of government subsidy and maximise the incentives for whatever player is out there that's interested in those lines. You mentioned one I think at the Sydney hearings. You had somebody approaching you about taking over - I think it was - - -

**MS STACK:** The Tumut line.

**MRS OWENS:** That's right. So it's just a matter of providing flexibility and market opportunities where they exist.

**MS STACK:** Absolutely. There's a lot of risk attached to these lines, even in taking a CSO at a certain level and assuming you'll get a certain level of traffic, because the markets themselves are quite volatile and from year to year they're very seasonal. So risk is not something that naturally governments are particularly good at managing. We have a very straightforward CSO contract which says that over the period of the contract we'll reduce the cost by 17 and a half per cent. Now, I'm not suggesting that somebody else couldn't reduce it more. In fact we know that we can reduce the cost by more than that but there's a fairly high level of risk in the revenue side of the business, particularly where the lines have been disused. Providing that there's some open access arrangements that are reasonable, as we said we would be encouraging, if we could, that burden and that risk level to shift from government to the private sector.

**MRS OWENS:** We may not be that far apart on some of these issues, when you start to sort of just tease it out and you think about those really - I mean, maybe we have to be more definitive about what we're talking about with low volume. Maybe low volume is just those tiny little branch lines and everything else is something else in between. But there maybe potential for some of these smaller lines that feed into other lines to have multiple owners.

**MR BONES:** The Tumut line is actually a good example. We've got two different prospective operators who are looking at potentially different traffic opportunities on the same line.

**PROF SCRAFTON:** Just let me clarify that. That was on a line that had actually been closed.

**MR BONES:** It's been closed for many years.

**MS STACK:** It's a basket case, Derek. I mean, you walk along it, there's no line there. There's just gravel.

**MR BONES:** We're talking about a line that requires a very substantial volume of investment to reopen it.

**MRS OWENS:** So these proposals include, in doing the investment, putting the bridges in and so on.

**MS STACK:** We haven't seen them yet.

**MRS OWENS:** But the expectation is - - -

**MR BONES:** Well, in principle, yes.

**MS STACK:** In principle that's what we would expect.

**MRS OWENS:** - - - that they would be doing that, without a government subsidy.

**MR BONES:** Yes.

**MS STACK:** That's the proposition but we haven't seen it.

**PROF SCRAFTON:** That's right. Whether it emerges remains to be seen. I think that's right, Helen. I think one of the good things about the discussion we had in Sydney and then with the discussion we've had since then, I think that we're not really that far apart. I guess part of it is the rigidity that was read into our typology which is what I mentioned to you in Sydney, but partly was the fact that equally people really sort of felt it was an affront to their way of doing things. I guess what has come out of that is perhaps it doesn't matter which way you go about it, the market will determine the result. But what you do have on your side is the fact that it is happening in New South Wales and I would want to acknowledge that. Should we go on to the investment thing?

**MRS OWENS:** Yes.

**PROF SCRAFTON:** We learned things from you when we were in Sydney and you sit down and think about them and want to pursue them a bit. The topic I'd like to pick up now is one where you told us that you had undertaken investment on the north coast main line and it was funded by a prepaid access charge by NRC. But you also told us that you were cash rich and good risk-takers and the question that sort of came up for me was, why wouldn't you do that yourself and why wait for the NRC opportunity, or is it just the fact that you've got so many priorities it wouldn't emerge otherwise?

**MS STACK:** I think that's a good question. Let me just say that when the NRC came to us with that proposition it was about two years ago, I think - about a year after we were formed - and they were very keen to get this work done and they made that offer and basically as a risk-free investment from our point of view, we accepted. At that time I have to say that we were only really - we were well down the track but we hadn't really fully got to the point of absolutely understanding the economics about business in terms of the cost structure. If you recall we said to you that we inherited a sort of an information-free environment. I mean, we didn't know what had been spent on various parts of track. We didn't know what was the efficient level of spending. In some parts of the network they had been underspending, in other parts there had been significant over-investment in terms of the requirements by the operators.

In the first year of Rail Access Corporation's existence we had been fighting with the NRC over what the access rates should be, which we resolved at the end of

that year. In fact we ended up with lump sum revenue arrangements from both



FreightCorp and SRA which was just to get the whole thing going. No-one knew whether they were the right numbers. I mean, there was a big cake and everyone said, "Here you are, you have this bit and you have that bit," and there was really no understanding of whether the costs were being distributed fairly across the various groups. So it was a major exercise of ours to do that. We believe now we have a very good understanding of the costs and the level of investment that's required on an ongoing maintenance basis for the network, for the types of traffic and the requirements that our operators have.

In fact about four months ago our board took a decision to invest \$42 million in crossing loops on the main lines to augment and supplement the NRC program. That was after some 18 months of waiting for this \$250 million that has been promised in each year's federal government budget for the last three I think years.

**PROF SCRAFTON:** So really 750 million if you add it all together.

**MS STACK:** That's right. Not one dollar has flowed into New South Wales as yet. So we have been hopeful that there would be federal government funding obviously, but our board has committed \$42 million worth of funding to these crossing loops. They are a good investment from our point of view and that's because the cost of that investment can be amortised over a very long trip length and that work is now well advanced in terms of the design of those loops and in fact we expect to start construction quite soon.

**PROF SCRAFTON:** Given what you've said about the north coast case, maybe I'll rephrase my question a little bit. Does that mean on the line that was funded in collaboration with NRC, as distinct from the one you're now funding yourself, that there will be a different set of principles in terms of access to the track?

**MS STACK:** No, because what we intend to do is charge a premium for longer trains. I mean, NRC will naturally get a credit for those crossing loops that they have funded but ARTC charges a premium for longer trains. For 1500 metre trains we'll be charging a premium. That premium is what we've used in our business case to justify these investments.

**MRS OWENS:** Does NRC on this line now get privileged access to schedules, slots?

**MR BONES:** It's not privileged access but I mean they've got a certain set of paths that are NRC paths.

**PROF SCRAFTON:** Yes, but it would be no different from the fact that they would have a number of paths to the - - -

**MRS OWENS:** They don't get any first right of refusal for any new paths or anything like that?

**MS STACK:** There's no privileges that go with them investing their money.

**MRS OWENS:** How much did they actually invest?

**MS STACK:** 15 million.

**MRS OWENS:** It was quite significant.

**MR BONES:** There was an umbrella agreement.

**MS STACK:** They haven't spent the 15 million yet.

**MRS OWENS:** But that's what they're intending to spend.

**MS STACK:** That's what they were intending to spend. We'll see whether it all returns - - -

**MRS OWENS:** So when you say you were giving them a premium, that's a premium on their access charge. You'll give them like a discount.

**MS STACK:** No, no, everybody will pay a premium but obviously NRC, through this investment, has a certain credit towards that premium.

**MRS OWENS:** So it's a discount sort of.

**MR BONES:** Effectively they've advance-paid the premium.

**PROF SCRAFTON:** They still pay the premium.

**MRS OWENS:** Yes, I understand that but they're getting a lower premium than they would otherwise or their competitors would on that.

**MS STACK:** No, no, they're just prepaying an access fee premium. That's what's happening. We've net present valued that and - you know, so it works out the same.

**MRS OWENS:** So this doesn't affect the access of anybody else that wants to - anybody else can come along and use those crossing loops.

**MR BONES:** Absolutely. There's a clawback provision so that NRC gets some benefit back when another operator uses the loop.

**MRS OWENS:** Okay.

**PROF SCRAFTON:** You mentioned that, I think, when we met in Sydney.

**MS STACK:** In fact what it does, it gives us more capacity to put more trains on.

**PROF SCRAFTON:** Sure.

**MRS OWENS:** There's another issue which was - something else we proposed in our report which didn't go down particularly well with just about everybody that we've spoken to over the last two weeks and that was the issue of auctioning train parts. As economists we like price signals and an auction seemed to be a good way of allocating things according to how much value people put on whatever the object is, whether it's a house or whatever. But you actually said at that time, Judy, that what you'd prefer to do, rather than auction the capacity, what you'd rather do is add the capacity. If there was a greater demand for a particular period, like peak period, you'd rather add to the capacity to deal with that problem. There's a few questions in my mind that come out of that and one is that once you take that sort of approach, what you're doing is you're spreading - the costs are going to be spread over all operators because everybody is really paying sort of an equivalent, under an equivalent rate, not equal.

But I'm saying rather than auctioning, there's going to be a cross-subsidy between those that don't value the paths from those that are using the trains at the non-congested times and those that are using them at congested times. So in some ways you're not actually getting a true reflection of the scarcity value in your charges. If it's electricity you have peak low pricing.

**MS STACK:** Look, I'd be the first to agree with you that we've got a fair way to go with our pricing. I think actually in New South Wales our pricing is more sophisticated than anywhere else in the rail system and more market - it's basically a Ramsey-based pricing system and it's end-market responsive. We don't have, for example, at the moment peak pricing. We don't have pricing that relates to different loads, like wear and tear on the infrastructure, although we've looked at it. We are going to be introducing premium pricing for longer trains to reflect the investment that's required. So I think it's fair to say that we do need to refine our pricing, although a lot of the criticism of the marketplace of the RAC pricing system is that it should be posted prices, it should be fixed prices, it should be the same for everybody regardless of what time of the day or whatever and you know, I think that it will be an incremental thing. I mean, something like, for example, introducing additional capacity to allow more long trains, particularly on our north coast corridor but also our main south line, we do intend to charge a premium for that so that the burden of that will go to those people that are benefiting from it.

We could actually run a lot more shorter trains between Sydney and Brisbane than are now currently being run and we're looking to offer discounts to people who want to run shorter than 12-metre trains, for example, at the moment, because it's a more efficient use of infrastructure as it's currently configured.

So I don't think that the concept of building to meet demand and pricing that so that the beneficiaries of that improved infrastructure - they're mutually exclusive at all. I think we are actually on quite a straightforward evolutionary path to having

pricing

that reflects the investment and that's certainly what we're doing with our crossing loops. I mean, obviously when you get into the peak in Sydney - and this is where your auctioning I think came up. You know, there's certain trains that you want to leave at 5 o'clock in the afternoon and there's only a certain number of paths - that's an issue as to say can the market stand the increase in investment that you require to provide sort of almost an unlimited supply. Right now the answer to that I would say is no. So that's why we're arguing that there has to be investment from the federal government in that sort of infrastructure because at the moment our business cases, just our pure commercial business cases, won't stand that sort of investment.

**MR BONES:** Just to pick up on that point, I mean, that fact if auctioning were introduced in the metropolitan area, freight wouldn't get a look, see in the peak. The passenger access prices are vastly higher - much higher than the freight access prices, and in fact they might even have trouble in the off-peak, given there have been situations where CityRail has looked to increase services on certain corridors from say 30 minutes to 15 minutes and hasn't been able to be accommodated because of freight services. Much of the network in the metropolitan area is fully utilised for much of the day. During the commuter peaks it's utilised for passenger services and the surplus capacity there in the off-peak is utilised for freight.

**PROF SCRAFTON:** Just picking up those comments about Sydney, a lot of people, including Dr Patterson, stress the fact - something that several people have said over a number of years, that if you have these sort of capital sums to invest from the federal government, in many ways the economy of Australia would probably benefit most if you spent it in Sydney. It's not a very well received political concept but nevertheless, this first 250 million is a fairly small amount of money but it would go a long way if it's put in the right projects and I think that has already been demonstrated to the federal government and in fact one of the things that's very surprising to us is that they have naturally got on with it. It just seems odd to us that when people say there are two and a half billion dollars worth - and even if it's only a billion dollars worth of good projects that need doing and they only put quarter of a billion up and they seem to be, you know, messing about forever in the allocation of those funds.

Having said that, do you expect to get a reasonable proportion of that money in the Sydney metropolitan area? Do you have any expectation? I mean, presumably the people - ARTC are responsible for the final allocation and presumably they've had discussions with you about it. It just seems as though what people have said and what you have just said, but even ignoring the act that you are New South Wales and Sydney sort of based, other people from across the country recognise the significance of getting this Sydney railway sorted out and if that's true, why don't we just get a big chunk of this money and get on with some of these new - - -

**MS STACK:** Look, there's no question that the Brisbane, Sydney, Melbourne freight corridor is the biggest freight corridor in the country and rail at the moment has 19 per cent of that roughly. Is that right, Terry?

**MR BONES:** It's probably a bit unclear.

**PROF SCRAFTON:** Well, it's anything up to about 25.

**MRS OWENS:** It's a lot lower than the - - -

**MS STACK:** So just the incremental amount of gross in terms of market share, you're talking pretty big numbers and certainly the federal government, that we're aware, had Booz-Allen do a report for them that looked at the cost-benefit ratios and the crossing loops, for example, that we were talking about earlier and the Sydney, Melbourne priority freight came up as pretty strong projects in that analysis. We had a critical situation in Sydney the Easter before last where, because of the Homebush rail link, we just weren't getting any freight through, virtually no freight through at all except between sort of midnight and 4 am in the morning which was very restricting and we pursued under a sort of handshake agreement with the federal government and built a 35 million dollar Flemington crossover there and we have not seen federal government's half of that money yet. So I don't know whether it's a political thing, Derek, that you know, there's just two different colours of government that exist or whether it's - - -

**PROF SCRAFTON:** I don't think anyone else has seen this money either.

**MS STACK:** But certainly it would seem that everybody has agreed that if there's going to be investment in rail that that north-south corridor and through Sydney is a good place to put it.

**MR BONES:** But that's it. I mean, the word from ARTC is we're definitely going to get some money for crossing loops outside the metropolitan area and we might get some money for the metropolitan routes so it has sort of got a lower status than the non-metropolitan investments which has got me concerned, in that at the end of the day we can only extract the full value out of the non-metropolitan investments so we get the metropolitan investments as well.

**PROF SCRAFTON:** Right, and get all these long trains.

**MRS OWENS:** Dr Patterson actually said - I think he was referring to the east coast route, that rail is losing market share even in its traditional areas and he, as Derek has said, said that a lot of the problem was Sydney. He wasn't just targeting Sydney on rail. He spread it around and talked about airports and ports and just basically said there were a number of areas in relation to transport where Sydney was holding the rest of the country back. Those weren't his words but he said that something desperately needed to be done and he called Sydney a hot spot that had to be fixed.

**MS STACK:** There's no question Sydney is becoming a more and more congested city in terms of transportation and basically the New South Wales government has integrated a transport plan for Sydney which is principally in respect of public

transportation but also is about to release a freight plan as well but the funding of that is an issue that needs to be worked out at the federal and state level, particularly when it comes to freight corridors. One of the clear reasons that rail has lost market share, apart from the fact I think it's reasonable to say that it became very moribund and inefficient for a number of years, but for a number of years that has been improving - is that you've just got to look at the amounts of money that have been spent on the Pacific Highway. The efficiency as a competitor has increased to a much greater degree than has been possible on the railway.

**MRS OWENS:** The other question that I had was in relation to the interstate network and how you operate vis-a-vis the ARTC and the question was: how do you actually - you're meant to have this one stop shop and how do you negotiate rail schedules under this one stop shop? How do you actually resolve conflicts between say those that are going through the ARTC and say what FreightCorp might want.

**MR BONES:** We're currently in the process of negotiating the agreement with ARTC and I guess the basic principles that get to the nub of your question are that we will each have - on day 1 there will be a set of paths for the interstate market as well as paths obviously for the intrastate market, which leaves some uncommitted capacity on the network. We each have rights to sell our uncommitted capacity, ARTC for interstate purposes or RAC for intrastate purposes, and there will be an iterative process in the agreement under which we negotiate and agree those paths in a practical sense. In a very practical sense I can tell you what actually happens in practice and that is we'll have a path cleaning workshop where we will get the ARTC, ourselves and a rail operator on agreement and roll out the train graphs and have an iterative process to identify something that meets their business requirements and that works very well.

**MRS OWENS:** And this is an iterative process. What happens if a new entrant comes into the market?

**MR BONES:** It is an iterative process. We get a new entrant, we have to try and identify the path that meets their business requirements. I mean, they will start off with an ideal requirement that may or may not be able to be met and there's an iterative process to try and come up with the best fit of a path that can be accommodated on the infrastructure and in meeting their business requirements.

**MRS OWENS:** So what happens if two operators come along and both want to - you know, FreightCorp and STC and FreightCorp decides they want to start going out on the interstate route, or in the RSCT and they both want the train path. How do you resolve that?

**MR BONES:** We haven't had situations where the two operators have both wanted exactly the same train path. We have had situations where an operator has had a business requirement that couldn't be met without altering another operator's train path and we couldn't alter the second operator's train path without materially impacting upon their business so we've had to say, "I'm sorry, we can't accommodate

that." But again, it's largely the function that we've got some shortage of capacity on the interstate network at the moment, particularly of north coast line. One of the objectives of the crossing investment is to provide sufficient capacity that we can meet forecast business demands as well as putting more robustness in the timetable to improve the reliability of operation.

**MRS OWENS:** We're going to talk about safety.

**MS STACK:** Please do, otherwise Owen will be feeling very lonely.

**MR BONES:** I've got one point on investment that I might make. It's broadly an investment issue and it picks up on something that Lucio de Bartolomeo said in his verbal submission. I think he was posed a question - you raised an issue about sort of the wheel-rail interface and efficiencies in making investment decision-making, saying above rail investment that might have below rail benefits, and you gave an example of track friendly bogies and said that we, RAC, didn't reflect that in access pricing. In fact, that has been the subject of consideration discussion between FreightCorp and ourselves and the original decision to invest in track friendly bogies was made in the old integrated railway days, and I guess there was this paradigm that they were a good thing that were justified.

Again, in relation to another issue, I said that I felt that a separated framework was actually a good thing and it put a lot of rigour into investment decision-making and I think this is actually a good case in point, that when we had a close look at the track benefits, the actual quantifiable track benefits out of track friendly bogies, they're actually very marginal. You know, there was this engineering paradigm that the benefits would be very significant but I've spent many hours looking at this issue and I've had a lot of engineers looking at the issue and at the end of the day when it came to put your dollars on the table they weren't really there. I mean, there was a little bit there but it was actually not much more than the order of magnitude and error.

**PROF SCRAFTON:** I think I've heard this debate before in relation to these world friendly suspensions.

**MR BONES:** It's a similar issue. So I went back to FreightCorp and said we can only quantify a very small amount of benefit and actually put it back on them and said, "Why don't you tell me what sort of access price reduction you would need to justify your investment decision, then we'll make a commercial decision about whether we think there are going to be sufficient benefits to make it attractive for us." FreightCorp have never taken us up on that offer and I think if we look at the outcome - they said, "Another operator has come in and they haven't invested in track friendly bogies. It's a perverse outcome." I would actually say it's a very rational outcome in that for a start the benefits of the track friendly bogies don't appear to be there.

If you look at what had been the situation if it had still been a vertically



integrated railway, even with an access regime. A new entrant comes along. The vertically integrated railway says, "Fine, we have a requirement for track friendly bogies." (a) it's a barrier to entry and (b) it's a less economically efficient outcome than the one that we've had through a vertically separated framework. So I know Lucio gave it as an example of the disbenefits of vertical separation but I would actually use exactly the same scenario and say we've had a very rational outcome.

**PROF SCRAFTON:** I would have to point out that that's one of the problems that confronts us in a number of areas. In one of these is the safety area where we wrote in our draft report this chapter 8 on safety and since then have been put through the wringer in various ways by people first of all pointing out that it was quite confusing and we accept some of that criticism and in our final report we will try to clarify this to get rid of that criticism. But one of the issues that sort of has prevailed throughout all this is what exactly the rail safety accreditation bodies do and what are the responsibilities of the owners in relation to rail safety and ethical standards. Some people tell us - the accreditation people for instance, tell us, that they have almost got their act together and there seems to be a little bit of support for that. By using a little bit, I don't mean to demean the thing. There seems to be an undercurrent there that says maybe that's right but in much the same way as we've talked about other things, maybe time will tell. Similarly the expert group, what is it called, the technical - - -

**MRS OWENS:** The IRG.

**PROF SCRAFTON:** The IRG, yes. They also have made a submission to us and told us that in terms of the technical standards that's all moving along reasonably well - maybe not quite as quickly as the safety thing, and there's a third issue which we'll come to later on this matter of responsibility and so on, but I wondered, given your sort of expertise in this area and the fact that you've been involved with some of these bodies - in fact, I remember the day that we met you. You were heading off to catch a plane to go to one of these meetings of which since, I suppose there have been many to resolve this. So just if you would give us a professional view or analysis of whether we are well over the cusp of the problem and the solution is around the corner and it's all smooth sailing from here on.

**MR HENRY:** Certainly. In 1993 the Rail Safety Act in New South Wales brought the Department of Transport miraculously into rail and at that stage rail in New South Wales was still vertically integrated and they started from scratch. There was a lot of work to do and they established themselves in a vertically integrated environment and I think at that time they were the only accreditation regulator body in Australia. Almost before they were set and stable in 1986 we changed and it was quite an upheaval for them to have to come to terms with four different entities and five in New South Wales. Thinking of New South Wales alone, and not trying to bring them the issues nationally, the process doesn't work too badly. The concept is fine if it's implemented well but at the highest level we have a government body looking down upon the rail industry and all the different groups and saying, "To manage safety properly you've got to have good risk management processes in place. Let's have a look at your risk management processes."

The process of actually looking at it and making certain that it's okay is the accreditation process. So they say to us, "Tell us how you're going to manage safety in your organisation and we'll accredit you if it all makes good sense," because they're not a body with a great deal of railway expertise, a very small body and that's fine. The expertise in rail lives in the organisations themselves. That works quite well which then puts the responsibility right back onto the railway groups where I think it should be and we need very strong safety management systems inside each of the groups. Rail Access Corporation, being an owner, has a particular role because it has a responsibility to look after all the interface issues on the network. It invites operators onto their network. It invites maintainers onto the network and so they have a particular role to make sure that all those interface issues between them and ourselves and between each other are resolved properly. That's our job.

The operators and the maintainers in New South Wales also undergo the accreditation process. The Department of Transport asks them, "How are you going to manage the safety in your area of responsibility," and they've got to demonstrate it - quite simple. Behind all that is a fairly sensible safety framework, the Australian standard for rail safety management, Australian Standard 4292, and that's used as a safety framework for all those groups and it's quite effective. The industry reference group has been given the job of preparing some codes for railway standards after the Maunsell report, mainly addressing harmonisation, uniform standards across Australia. Part of that process is always intended that the codes they develop would also be compliant with Australian standard 4292. So we weren't heading in a different direction with the code of practice work and the well-developed codes which principally address the uniformity issues. Safety is just an environment in which all these standards work and you don't develop a standard without thinking about safety, but not many of them are safety precisely.

That work is due for completion in about the three-quarter mark this year and implementation, a difficult implementation, will start next year. But again it has been very helpful. It is consistent with the objectives of each of the railway groups and it is helpful to the Department of Transport, the regulator, who can then hopefully pull back to a position above us all and really just make sure that we know what we're doing. Without getting too deeply involved in it, you need a very tiered, layered structure of management of safety in the rail industry.

**MRS OWENS:** One of the issues in relation to accreditation is this issue of accreditation in different states and most people have raised that in the context of interstate services. But there's also the question of individual operators moving into other states and running businesses there like FreightCorp winning the Leigh Creek contract. So there has been the question as to whether the mutual recognition process for example is working properly now and we've had different views on that. The accreditation agencies say, "Yes, it's all pretty well - any of the problems have now been ironed out and we've got a reasonably good mutual recognition process as a one-stop shop," and so on.

Then we have others that say, "Well, there's still duplication, there's special requirements, there's duplication of fees, there's special auditing requirements," although that's improving and so they're moving towards just having one auditing process in one state. Have you got any insights into how you see all of that process working?

**MR HENRY:** Certainly. That's not a particular issue for us because we only deal with one regulator, so we don't suffer under that.

**MRS OWENS:** I'm really asking you as a safety expert.

**MR HENRY:** We need to be helpful in resolving that issue and that's a big reason why we're in the industry reference group. Historically around Australia there have been different approaches in different railways. It's not all that long since we resolved the gauge problem, but there are certainly gauge problems of a different type. An operator who wants to operate in several states comes to us and in New South Wales want to be accredited, one of the requirements upon them is they abide by the standards of the network owner and that will be part of their accreditation, which says, "You operate in this state. You will abide by the standards of the owner."

So there's the first issue, that they're required to work to our standards in New South Wales, rail access standards, and in other states of Australia they're required to work to other owners' standards. So there's a difference already and I think that is the principal objective of the uniformity task, that if we can get to a stage where the difference in operating techniques, operating standards and procedures are minimal then there'll be comfort in each of the accreditation authorities that they can let go. I think that's the principal objective in that task.

**PROF SCRAFTON:** I think in your two comments there perhaps the new element or the outlook you put forward, this future one, that the accreditation agencies themselves, while their activities might have seemed to operators or potential rail operators to have been fairly heavy-handed, in the future we can see them actually - your words were, "pull back" to a sort of almost an oversight rule with certainty or surety that organisations elsewhere setting the standard are requiring the standard or approving the standard. Is that - - -

**MR HENRY:** I think any rail group is still entitled to come forward with its own proposition. If they come forward with a case which is almost standard recognised between all groups then they're 99 per cent of the way there, it's not a problem, and the standards that have been developed and the procedures don't take away their ability to be commercial because they refer primarily to the interface areas and the areas which become company policy and company procedure are left almost untouched, that they can come in and say, "We can do that part of the exercise very well," and they might need to go forward with some support for that. But that's where they're going to get their commercial advantage.

**MS STACK:** As we said in our written submission, you know, RSC supports the

concept of a national safety regulator and as Owen said, we've been putting a lot of our intellectual resources behind this activity to try and get this harmonisation so that we can actually get the proper relationship between the regulator and those that are operating within the system because certainly you look at the New Zealand model and others - there is no way the regulator can have an inspectorial role in the system. It has got to have a very high-level systems role. Ultimately legally each of the entities that operates on the rail system, their officers and directors, have that legal responsibility and have the requirement to undertake the due diligence to make sure that that happens. So the issue is for us not only harmonisation at the level of national standards but ensuring that the legal position of each of the entities is managed in such a way that we don't get duplication between us as well.

**MRS OWENS:** I think that is an important issue, that others have raised this issue of duplication and just been concerned that there is some. I'm still a little unclear about the role of the national regulator vis-a-vis what the states would - - -

**MS STACK:** We wouldn't see a role for the states under that.

**MRS OWENS:** Okay, so you're not duplicating - - -

**MS STACK:** Not a regulatory role, no.

**MRS OWENS:** So the states would bow out of that regulatory role, the national regulator would take over sort of the broader responsibilities. Is that right?

**MS STACK:** That's right.

**MRS OWENS:** And inspectorial, did you say?

**MS STACK:** I mean, we don't believe that - I think it's proven essentially internationally that - and as Owen said, that the systems management of the due diligence is best within the operation. But in terms of establishing whether an entity has proper systems, monitoring that those systems are in fact working, having the power to withdraw accreditation in the event that there is dereliction of those systems and basically having the capacity to audit in order to undertake that monitoring role, is the appropriate role of the regulator, so that the ultimate sanction, if you like, that the regulator has is to withdraw an owner or an operator's ability to operate and that's, you know, very like other types of aviation and other industries forecasting and others.

**MRS OWENS:** I think others have said, "Oh, we don't really need to go that extra step and have a national regulator because we've got this mutual recognition system in place, so you can keep the state regulators going, doing what they're doing, and just make sure that the mutual recognition system is working properly."

**MS STACK:** I would think as we move towards harmonisation of standards of communications protocols and essentially as we see, which we will see, undoubtedly,

you know, we'll cross state-owned operators and more mergers and consolidation between the operators as the privatisation process rolls out, that it is going to - I mean, the case for a single regulator I think is going to be very strong.

**MRS OWENS:** Yes, it becomes much stronger.

**PROF SCRAFTON:** Will emerge as part of the process.

**MRS OWENS:** Yes, and you mentioned I think in your submission that it could have been something like the National Land Transport Commission that had been proposed but that seems to have disappeared into the black hole, as I understand that proposal for a land transport commission. Is that your understanding?

**MS STACK:** Our understanding is that there's some sort of interim type of management being established. But I mean, we would still continue to argue for a national safety regulator.

**MRS OWENS:** In the meantime it's something else.

**MS STACK:** Yes.

**PROF SCRAFTON:** As you said, if the proposition you've just described comes to pass it will just emerge. The necessity or the desirability will become apparent to all the people, all those involved.

**MS STACK:** I think the same should be said for safety incident investigation as well, that really - again the New Zealand model or the Basel model, you know, where you have an expert group who are independent from the regulator and the operators available to investigate major accidents in the United States of the National Transportation - NTSB.

**PROF SCRAFTON:** Safety council, is it?

**MS STACK:** Yes, National Transportation and Safety Board. I mean, I'd like to see something like that emerging in respect to the investigation of transport accidents in general in Australia and certainly that would clarify those roles.

**PROF SCRAFTON:** Yes, that's right, these roles. I think, Helen, we ought to make the point that one of the things that we want to be very clear about in our final report is that we are not going to be recommending any further regulation in this area, you know. I mean, I think that your submission, the written submission, sort of seems to give the impression that we were arguing that these codes of practice should in some way be ensconced in more formal regulation. We certainly don't - if we left that impression in the draft we certainly don't want it to happen in the final report and the sort of processes that we've just talked about are what we would hope would emerge.

But there's one other area I'd like your advice on. One of the things that is very

confusing is the way in which some of the codes of practice will be - no, let me get this right. Some of them will be prescriptive but most will not, and some will be mandatory but most will not. Is that right? Is that the correct interpretation?

**MR HENRY:** There will be a mix. Some standards will need to be prescriptive, some will be performance based and I think some are strategic. But the prescriptive ones I guess are mandatory. Take it down to its element, as I said before. Not a great deal of the standards relate to safety but if you think for a moment, some of them are fairly basic and you can't ignore them, that our track gauge is 1435 millimetres. If it gets beyond 1475 millimetres we're in big trouble, so they'd like it specified. So that's fairly prescriptive. But when you come to issues like - and a big one is the transfer of data around Australia between different train controlled systems and wagons systems monitoring and it's important in a performance way that you say we want the data that you've sent to be in a particular protocol, a particular format. How you catch it and how you send it, it is up to you.

So there's a mixture of a sort of performance and prescriptive, isn't it, together and there's a whole raft of those things. There are some issues which are so big and getting into the commercial area that we might have some trouble with. I saw one in the report about the colours of signals around Australia and we can tackle that uniformity by pulling all the signals out of one or two states and replacing them with the signals of another. But there's not a lot of value in that, so that the objective then is to have uniformity of standards which tend to focus on the way people understand the signals, that the meaning is understood, and you can make a lot of progress there. Now, that's some of the softer stuff that the standard's dealing with and doing it fairly successfully.

So yes, there is some mandatory stuff, some prescriptive, and you need that I think to eliminate any doubt, be in no doubt that if you're in position X you need to do Y and that's the essence of it being sensible and being uniform. But it doesn't take away the ability of organisations to act commercially and innovatively. It certainly doesn't do that, so it's a good balance.

**MRS OWENS:** I think one of the things we highlighted in our report and actually made some recommendations on in relation to codes and in relation to accreditation and so on was that best practice regulation be implemented wherever possible. We were talking about regulatory impact statements and the industry reference group didn't really like that idea. They seemed to, I think, misinterpret it, because I think what we were saying is that there's a certain process you need to go through when you're thinking about these things. There's a thought process and that is to look at the benefits and look at the costs, consult widely, you know, and have a proper consultation process and so on.

I mean, they're pretty basic sort of steps and I think that's what we were trying to get across, the idea, that thought processes is important. We heard from BHP this morning who had some concerns about a particular process and they've given us quite an interesting example in their submission. So I think in our mind we feel that



perhaps

in some instances that sort of best practice approach isn't necessarily being adopted in all cases at the moment. So I don't know whether you've got any views on what we said on best practice regulation.

**MR HENRY:** I struggled a little bit to understand what best practice regulation really was and I don't know what BHP said their role was.

**MRS OWENS:** We've got a whole document on it. The commission - we have as part of our function the Office of Regulation review and we've put out a document on what it's all about. We could actually send you one, if you like.

**PROF SCRAFTON:** But in your submission you said that the corporation believes that the co-regulation model can provide the necessary level of safety assurance to give best practice regulation.

**MRS OWENS:** I'm not quite sure about that, you see. I mean, you've got a co-regulation model now but things are falling through the cracks. The BHP example gives me an impression that there may be a few problems still, so - - -

**MS STACK:** What was the BHP example, sorry?

**MRS OWENS:** I haven't got it with me, but there was an investigations manual. I can't remember the title of the manual. It was developed and there was a group, task group, set up to develop this manual and it had a whole lot of requirements in it that they thought were not entirely appropriate to their circumstances and felt that they hadn't been appropriately consulted and - - -

**PROF SCRAFTON:** Including the provisions for investigators to enter property and there's a list of things that - - -

**MRS OWENS:** And stop processes and be able to close off properties even before the coroner got in, if there was a death - you know, very strong.

**PROF SCRAFTON:** That was the detail.

**MRS OWENS:** Very strong recommendations and BHP put in a response to a draft of this, but the draft went off and got approval by the ministers and none of their concerns were addressed at that time. So they just felt that there hadn't been a proper hearing and one of their complaints was that there hadn't been on the task group an industry representative, and there was a response from the department which said that there had been - - -

**PROF SCRAFTON:** The federal department.

**MRS OWENS:** Federal department, that there had been in fact a representative of the ARA. When you look at the actual list of the people on that group there wasn't an industry representative or not one that BHP said that would satisfy their expectations

of what an industry representative should be. So I think they just felt disenfranchised by the process.

**PROF SCRAFTON:** So in that sense the best practice if you like, whether it's consultation or best practice regulation or however one wants to describe it, had not necessarily been followed. We're not debating the accuracy of the case at all but that was an example.

**MR HENRY:** I took best practice without knowing exactly what it was to be, in the concept of it, very good best practice. That group of course is not part of the IRG, Industry Reference Group, and I think the process is put in place by the Industry Reference Group, to include a lot of consultation and there's been a lot of people involved in the development, because one of the key issues here is if we're going to make a change in the future and get harmonisation across Australia, we've got to have the people working with us while we do it, but otherwise it won't work. That's why we've taken a lot of care to do that.

**MRS OWENS:** It will get bogged down when you get to the hard bit which you said the implementation process next year, it will come to a grinding halt if people feel as if they haven't been involved in the process.

**MR HENRY:** The consultation stage is definitely planned and very, very important.

**MRS OWENS:** I'd like to come back, just to finish off and get your response to something that Dr Fred Affleck raised with us yesterday. It's a broader issue, it's not RAC, it's not New South Wales. This is a standing back and looking at the big picture type issue. It partly involves the issues of investment and the role of the private sector. But he said you could look at it - we were talking about productivity achievement and who should pay for what and what you should do. He said you can think of productivity improvement in three phases: the first phase was addressing the inefficient use of resources, addressing whether there's too many wagons or too much fuel being used, too many people, people doing wrong things and so on and that was trying to address inefficiency within the production function.

The next phase was to actually change the production function. That was his focus, to try and have the most appropriate technological configurations, so you have the appropriate axle-loads for the environment in which we're working, so for the Australian environment. In the United States they are able to have longer, heavier trains because there are certain environmental factors which lead in that direction so they have a productivity advantage. But in our case it's a matter of can we get to a point of optimal technological capacity. Then his third stage was to look at the integration of railways into the total logistics chain. That's been one of the issues I think that we've been rather remiss on in our draft report. We haven't really talked about the role of railways in the broader transport system as much as we should have and we ought try and address that in our final report.

He said if you're going to see railways as being part of the logistics chain, the

only way you can actually do that is privatisation because you need to be able to be flexible enough to have merges and alliances with corporate entities, and corporatised entities such as FreightCorp, I think he was thinking more about operators than track owners, but corporatised entities aren't in that position where they can easily form these alliances and then move to the next step. I was just wondering - I know this is springing it on you a bit - if you've got any top of the head reactions to that sort of thought process.

**MS STACK:** I agree with that. Certainly what he's describing is essentially what National Rail has been going through, what FreightCorp has been going through and certainly in terms of number 1 and number 2, which is the efficient use of resources and changing the means of production and applying new technologies is what we're going through in terms of getting the sort of improvements we're getting into the actual infrastructure. I know how frustrating it has been, particularly for National Rail but I think probably increasingly so for Westrail and FreightCorp and others, because as you say they can't go out and acquire a trucking business or divest themselves of a business very easily or merge or take equity or use all of the other instruments that you can use in the private sector to form alliances and commercial arrangements with other entities where you have some mutual benefit.

So certainly, whilst I stress this is not New South Wales government policy that I'm articulating here, we would - and I think we said this last time - see that the privatisation of the freight railways is going to be another step in terms of a step change in terms of the railways becoming more efficient. It's great to go to driver only and it's great getting better rolling stock, more fuel efficient locos for us to develop much better scoping of our maintenance and to become efficient, but at the end of the day unless the railways are able to integrate across the other parts of the business - because I think Gerry said this last time, the actual economics of the railways aren't too bad until you get that pick-up and delivery at either end on short haul. It's that pick up and delivery that really kills us on all of these shorter trips. So better systems and systems that integrate with ports and with direct customers, that is the next stage. Do you want to add to that.

**MR BONES:** No, I think you've explained it very well.

**PROF SCRAFTON:** One of the other things that Fred said to us was that as part of his second stage, if I could call it that, he wondered whether or not it wasn't possible to determine the sort of limits of productivity gains that we might make under the existing environment in which we work and operate in. It ties in a bit with your comment about the freight rail or FreightCorp axle-loads and suspensions and weights of rail and so on and he had the little sort of indicative graph that maybe you've seen it before. But if not, ask Fred about it. It's quite an interesting sort of technical thing. He's obviously sat in his office and worried about these things and now he's sort of putting it out for comment and it's quite interesting.

Whether it is methodologically possible to do it, I'm not sure, but the concept is certainly an interesting one. This of course comes out of the debate about

comparison

with US class 1s and we talked about this at our meeting before. But whether or not instead of measuring our productivity on that basis that we can actually have a sort of a goal that we know is like the optimum for us, given the circumstances within which we find ourselves in Australia. So you might just want to - it would be of interest, I think.

**MR BONES:** I mean, that sounds very interesting but I'm not sure we could ever explore the limits. It's the history of economic improvement that you can always - - -

**PROF SCRAFTON:** There's always something else.

**MR BONES:** There's always something more you can do. You can never reach - - -

**MRS OWENS:** We don't reach the limits in terms of where we stand today. By tomorrow the environment may change anyway.

**PROF SCRAFTON:** To think of it in terms of track weights, whether or not one should go - whatever we talk about - so many kilogram of rail and our axle-loads and should we be seeking to get 30 tonnes or is 25 for interstate an optimum number or something like that. He obviously sort of fiddled with this a bit and I think it's something, if you're talking to him, ask him to draw the graph for you.

**MRS OWENS:** It's in the submission. But he also mentioned that there had been similar sort of work done for roads.

**PROF SCRAFTON:** Yes. The roadwork was started sometime during the 1980s in about three stages. They started off with ERVL, whatever it stands for - economically rational vehicle limits - and then it was followed by another stage called RWVL and the last stage was undertaken by the National Transport Commission as part of the latest bout which has led to the debate about the federal government pumping money into roads and bridges so that we can have these trucks operating. Fred was wondering whether there isn't a rail equivalent and I'm sure - - -

**MR BONES:** Sure. I guess we've started to initiate a process broadly along those lines. We have an infrastructure planning process, a line management planning process, and we're now into our third or fourth year or heading towards our third or fourth year and we're getting increasingly sophisticated with each year and we're up to the point now of actually going back to our customers and saying, "What are your ideal business requirements, looking at five, 10, 15, 20 years, in terms of axle-load speeds etcetera. I guess the objective was to say, "If an operator says they want to move to 35-tonne axle-loads let's have a look at that. Let's see if that's the optimum or is it 30 or is it 25."

**PROF SCRAFTON:** See what that involves and what the costs are.

**MR BONES:** So Fred's thinking accords pretty closely with our thinking on those

sorts of issues.

**PROF SCRAFTON:** I agree. Thanks for that.

**MRS OWENS:** I think we've finished our questions. Is there anything else? I'm just looking at the time and I realise the time has gone quite quickly. Is there anything else you'd like to say before we conclude?

**MS STACK:** We'd just like to thank you for hearing us out so comprehensively and apologise again for not making an earlier submission.

**MRS OWENS:** That's fine. We've well and truly made up for it this time. We've got your submission, we've got the slides that you presented in Sydney. Thank you for seeing us twice and coming down here.

I'll now conclude these hearings in Melbourne and they're the last of our hearings that have been held over the last three weeks. A final report will be handed to the Commonwealth treasurer in early August, so I'd like to thank you for coming and everybody else that has participated in these hearings.

AT 4.53 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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