

24 December 2004

Chairman
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Review of National Competition Policy

Thank you for the opportunity to give evidence to the public hearing in Sydney on 30 November. I hope you found our discussion useful in considering the matters before the Commission.

As we indicated in our discussions, and as is revealed in the Econtech modelling project, there are significant benefits to the economy as a whole from increasing Australian infrastructure capital stock. The Econtech work was canvassed at length during the hearings but we are happy to discuss any additional questions the Commission may have. We would encourage additional modelling to examine the economy-wide benefits of meeting in a timely and adequately scoped way Australia's key infrastructure needs over the next 15-20 years.

In a similar vein, we would draw the Commission's attention to the recent comments of the Deputy Governor of the Reserve Bank¹.

I indicated in my opening comments at the public hearings that AusCID remains concerned about the approach being taken by some regulators in some jurisdictions in relation to the regulation of infrastructure prices and other access terms and conditions. Significant problems still exist and have been most recently demonstrated by the Queensland Competition Authority's draft decision in relation to Prime Infrastructure's Dalrymple Bay Coal Terminal. We would urge the Commission to review this decision, and the

¹ See http://www.rba.gov.au/Speeches/sp_dg_141204.html

associated regulatory framework, in the light of its own substantial body of work on infrastructure regulation².

We believe it is essential that consistent national principles for economic regulation, modelled along the lines of the principles developed by the Commission over the last few years through various inquiries³ be adopted by COAG. Once adopted, we would strongly support a reference to the Commission to identify where various State and Commonwealth regimes fall short of best practice standards.

The one issue the Commission did ask us to come back on as a result of the discussion at the public hearings was on the idea of developing a "Statement of Land Transport Opportunities" similar to that issued by NEMMCO for the national electricity market. Ideally, an annual statement of available justified projects (obviously above a certain size) from all jurisdictions and across modes would be published.

The discipline of this annual publication, similar in scope to the AusLink project list but more frequent and based on transparent objective criteria, could be expected to lead a convergence in planning and project assessment processes across jurisdictions. Related analysis and annual publications may also be advisable for the water and telecommunications sectors.

Such statements also have the potential to lead to the development of better market based mechanisms for investment and resource allocation from both private and government sources. To achieve this, pricing and other financial outcomes need to have a similar level of certainty as can be found in the electricity industry. In particular, the following issues would need to be resolved:

- The long term processes for setting road and rail prices, preferably on a consistent basis across modes and jurisdictions
- The resolution of infrastructure tax issues (as discussed during the public hearings)
- A more consistent approach to risk sharing and funding of non-commercial services and complementary investment
- Access and/or connection to existing public sector infrastructure thus avoiding the need to seek declaration under Part IIIA of the Trade Practices Act (as in the recent case of Services Sydney's access to the Sydney sewer network)
- The sovereign risk concerns that have been caused in some jurisdictions by short term populist political posturing (such as in relation to the Mitcham-Frankston Freeway.)

² AusCID's submission is attached to this letter.

³ In particular the National Access Regime, Price Regulation of Airport Services, Gas Access Regime, Telecommunications and the Prices Surveillance Act.

If you wish to discuss these issues any further, please don't hesitate to contact myself on 02 9247 2022 or Dr Warren Mundy on 0409 911 554.

Yours sincerely

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