



Commonwealth involvement in reform of the rail freight industry

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Executive summary

- The Commonwealth government's role in rail has changed greatly since the mid-1990s when it took the forms of providing freight and passenger services, funding of infrastructure investment, and steps to reform the regulation of interstate freight services.
- Factors prompting Commonwealth involvement in reform of the interstate rail freight industry included the recognition that rail will have a role in meeting the future freight task, the existence of barriers to efficient services and competition policy.
- Reform has taken the forms of:
 - the privatisation of services
 - the establishment of the Commonwealth-owned Australian Rail Track Corporation as a 'one stop shop' for train operators seeking access to the interstate network
 - measures to harmonise the regulation of safety and operational requirements across jurisdictions, and
 - the funding of investment in infrastructure.
- The Commonwealth's involvement has contributed to positive industry outcomes including increased productivity, a more competitive industry, and lower freight rates.
- But reform remains a work-in-progress. Productivity levels, for example, are still below those of comparable countries, and regulatory fragmentation across jurisdictions remains a barrier to more efficient operations and a genuinely national industry. This suggests the need for a national approach to some reforms.

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Glossary

Above-rail operations	Train operations for freight and passengers using rolling stock.
Access regime	Procedures governing access to rail track. Includes setting an access pricing policy, criteria for permitting access, and operating conditions.
AusLink	The Commonwealth government's land transport funding plan. AusLink 1 runs from 2004-05 to 2008-09. Includes funding for rail investment.
Australasian Railway Association (ARA)	Peak industry body. Represents train operators, rolling-stock manufacturers, and other elements of the rail industry in Australasia.
Australian Rail Track Corporation (ARTC)	Commonwealth-owned company established to manage and develop the Defined Interstate Rail Network as a single entity.
Australian Transport Safety Bureau (ATSB)	Independent Commonwealth body responsible for transport safety investigations.
Australian Transport Council (ATC)	Ministerial forum of Commonwealth, state and territory transport ministers. Advises governments on the coordination and integration of transport policy at the national level.
Below-rail infrastructure	Physically fixed infrastructure such as track, sleepers, signals, terminals and yards. Also called below track infrastructure.
Bulk freight	Commodities such as coal, iron ore, other minerals and grains.
Competitive neutrality	Refers to government and private enterprises competing on a similar footing regarding commercial incentives and disciplines, taxation and regulation.
Defined Interstate Rail Network (DIRN)	The standard gauge interstate rail line linking the mainland capital cities (except Darwin) and the regional centres of Alice Springs, Darwin, Whyalla, Port Kembla and Newcastle.
East-west track	The interstate track that connects Perth with Melbourne and Perth with Sydney.
National Transport Commission (NTC)	Body established under Commonwealth legislation to advise the Australian Transport Council on regulatory reform of transport.
Non-bulk freight	Comprises commodities such as general freight, cars, food and general merchandise.
North-south corridor	The rail track connecting Brisbane, Sydney and Melbourne.
Rolling stock	A railway vehicle that is not a locomotive. Also known as a railway car.

Source: Productivity Commission, *Progress in rail reform*, Inquiry Report no. 6, 5 August 1999.

Introduction

The Commonwealth government has long been involved in the rail industry (see Appendix 1 for a brief history).¹ The role that the Commonwealth has played in the industry has changed considerably since the mid-1990s. The purpose of this paper is to provide an overview of Commonwealth involvement in reform of the rail freight industry since the mid-1990s. To do so, the paper identifies factors that have driven Commonwealth involvement in reform, reform objectives, the forms that reform has taken, and its consequences.² The paper's scope is limited in that it does not address other rail-related issues including applications for access under the *Trade Practices Act 1974*. Nor does it evaluate the findings of the reports it refers to and so does not assess competing arguments or methodologies. Nor does the paper examine in detail the reforms that state governments implemented over the same period.

Commonwealth involvement in the mid-1990s

In the mid-1990s, the Commonwealth government's involvement in rail took several forms including:

- the provision of 'above-rail operations', namely, interstate freight and passenger services, and intrastate services in South Australia and Tasmania³
- the funding of investment, particularly on the east-west track which links Melbourne and Sydney with Adelaide and Perth
- moves toward establishing a single authority to control access by train operators to the interstate rail network⁴ to replace the system whereby a train operator seeking to provide services on the network, had to deal with multiple state authorities
- measures to reform rail safety regulation, and

1. For an analysis of rail policy to the mid-1990s, see John Kain, 'A Spirit of Progress? Assessing Australian Rail Transport Policy', *Research Paper*, no. 31, Parliamentary Library, Canberra, 1994–95, <http://www.aph.gov.au/library/pubs/rp/1994-95/95rp31.pdf>, accessed on 6 November 2008.

2. For recent rail statistics, see Australasian Railway Association and Bureau of Infrastructure, Transport and Regional Economics, *Australian Intercapital Rail Freight Performance Indicators 2006–07*, Information Paper no. 62, May 2008, at http://www.bitre.gov.au/publications/62/Files/IP62_2.pdf, accessed on 5 November 2008.

3. Above-rail operations are the freight and passenger services that train operators provide using locomotives, freight wagons, and passenger carriages. Below-rail infrastructure is the fixed physical infrastructure such as rail lines, sleepers, and signalling equipment.

4. This links Kalgoorlie in WA; Adelaide, Wolseley and Crystal Brook in SA; Melbourne and Wodonga in Victoria; and Broken Hill, Cootamundra, Albury, Macarthur, Moss Vale, Unanderra, Newcastle (to the Queensland border) and Parkes in NSW.

- measures to encourage competition in the provision of services on the interstate network.

Service provision

The Commonwealth operated freight and passenger services through the Australian National Railways Commission (AN) and the National Rail Corporation Limited (NR).⁵ AN provided some freight services, and passenger services on the *Indian-Pacific*, the *Ghan* and the *Overland*. NR was established in 1993 to provide interstate freight services, and progressively assumed responsibility for these services from AN. But NR was plagued by low productivity and losses. Consequently, steps were taken to improve NR's operational efficiency and financial position including capital injections to re-equip NR.⁶ NR nonetheless remained unprofitable and was subsidised through the Budget. Still, NR's financial and productivity performance was a vast improvement over the very heavy losses and poor productivity of the constituent state rail systems that existed before NR's creation.

Investment funding

The focus of Commonwealth funding of investment in rail infrastructure was the completion of the Keating Government's *One Nation* program, which began in 1992. The main project under this program was the standardisation of the gauge of the track between Adelaide and Melbourne. The completion of this project in 1995 meant that all the mainland capital cities, except Darwin, were linked by standard gauge track.⁷

Regulation and competition

In the mid-1990s, the rail system was focused primarily on intrastate operations.⁸ State authorities controlled access to the track within their respective jurisdictions, and were responsible for operational practices and safety regulation. Potential train operators wishing to provide interstate services faced numerous problems including having to deal with multiple state authorities and different—and inconsistent—operational and safety requirements.

Steps to reform safety regulation began in the 1990s. In 1993, the [Australian Transport Council](#) (ATC)—which consists of transport ministers from all jurisdictions—endorsed a report titled *A National Approach to Rail Safety Regulation*. This report concluded that

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5. The Commonwealth owned 73 per cent of NR, and NSW and Victoria 19 and eight per cent respectively.
 6. These measures included investment in new locomotives, and setting freight rates that better reflected costs. See the Department of Transport, *Annual Report 1994–95*, Canberra, 1995, p. 29.
 7. In 1995–96, the government provided \$5 million for the standardisation of the gauge on grain lines in SA from narrow gauge.
 8. 'States' should be read as the states and territories.

nationally-consistent safety regulation was required especially on the interstate network where inconsistency was a barrier to efficient operations. The report recommended, amongst other things, that an intergovernmental agreement be developed to establish nationally-consistent regulation.

While the rail industry was not subject to specific [National Competition Policy](#) reform obligations, the Keating Government sought to increase competition in the provision of interstate freight services. Elements of this policy included:

- establishing a single body—separate from above-rail operations—to manage and control access by operators to the entire interstate network
- the introduction of a ‘competitively-neutral’ regime whereby all train operators using the interstate network—irrespective of whether they were government-owned or privately-owned—would face the same terms and conditions, and
- the development of an intergovernmental agreement for a single, national safety regime.

In the early 1990s, steps were taken to establish a single authority to manage the interstate network. Initially, the intention was that NR would provide both ‘above rail’ freight services—that is, operate trains and rollingstock—and own, maintain and operate the ‘below rail’ infrastructure—railway track and associated equipment. But that did not eventuate and NR had to obtain access to the track within each jurisdiction, on commercial terms, from state authorities.⁹ In the event, AN was split with a separate entity—the AN Track Access unit—established to administer access to the section of the track that AN controlled. The government, in conjunction with AN, also developed an access pricing regime for the AN-controlled track. The regime’s purpose was to foster competition by ensuring that all train operators, including new service providers, faced the same terms and conditions.

Reform drivers and objectives

Several factors have driven reform at the Commonwealth level since the mid-1990s.

First, the Howard Government saw train operations as a function better suited to the private sector than to government. Neither did the government see a role for the Commonwealth in subsidising freight and passenger operations. The desire to reduce the drain on the Budget from funding unprofitable services may also have been a motivating factor. The government thus sought to divest its above-rail operations.

9. Commonwealth Competitive Neutrality Complaints Office, *National Rail Corporation Ltd*, Investigation No. 3, 2000, p. 2, http://www.pc.gov.au/_data/assets/pdf_file/0017/5444/report3.pdf, accessed 6 November 2008.

Second, reform was also driven by the recognition that rail will play a role in meeting the nation's future freight task. While rail's role will be limited, the future freight task will be considerable.¹⁰ To counter the decline in rail's share of the freight market, it was recognised that rail's competitive position relative to other transport modes, notably road but also shipping, would have to improve. Further, rail would have to become more nationally-focused.

Third, concern that infrastructure bottlenecks at and leading to major ports were hindering exports led the government to place greater emphasis on developing intermodal links, and rail access to ports. This emphasis was reflected in its land transport plan—AusLink—and in a report on export infrastructure.

Fourth, [National Competition Policy](#) spurred reform. While, as noted, the rail industry was not subject to specific National Competition Policy reform obligations, the Howard Government continued the Keating Government's policy of encouraging competition in service provision on the interstate network by encouraging new private sector entrants. To this end, the government sought to remove barriers to the entry of train operators. There are now three main interstate train operators: Pacific National (owned by the Asciano Group), Queensland Rail, and SCT Logistics.¹¹

National rail summit

Reform objectives were spelt out at the September 1997 meeting of the ATC—the so-called 'national rail summit'.¹² They included:

- a national interstate network would be designated—the [defined interstate rail network](#) (DIRN)—which runs from Perth to Brisbane
- investment would focus on this network
- the most urgent need was for the DIRN to be operated as a single network with respect to investment, access and pricing, to replace the discrete state-based systems
- safety, and operational practices and standards on the DIRN would be made more uniform

10. The Bureau of Transport and Regional Economics has projected that non-bulk freight will increase by 82 per cent in tonne-kilometres terms between 2003 and 2020, an average of 3.6 per cent a year. See Bureau of Transport and Regional Economics, *Freight Measurement and Modelling in Australia*, Report 112, Canberra, 2006, <http://www.btre.gov.au/publications/76/Files/R112.pdf>, accessed on 5 November 2008.

11. SCT was the first company to operate a private general freight service in 1995. Pacific National was formed as a joint venture between Toll Holdings and Patrick Corporation.

12. Australian Transport Council, *Communiqué*, 10 September 1997, <http://www.atcouncil.gov.au/communiqué/atc4.aspx>, accessed on 6 November 2008.

- operators would be able to access the network through a single point of entry—the so-called ‘one-stop-shop’—to provide seamless access and operations across the network, and
- new infrastructure and access arrangements would include commercial principles, mechanisms and incentives in the relationship between track management and operators.

The communiqué of the meeting also noted that a plan would be developed for a dedicated freight track through southern Sydney.

The following examines how the government sought to implement these principles.

Reform measures

Commonwealth involvement in rail freight reform since the mid-1990s has taken four main forms: the privatisation of above-rail services, the establishment of a single body—the Australian Rail Track Corporation—to manage access to the DIRN, measures to reform safety regulation and operating practices, and investment mainly in the DIRN.

Privatisation

As noted, the Howard Government sought to divest itself of freight and passenger services and encourage private sector service provision of above-rail services, and so privatised AN and NR.¹³ The 1993 decision to transfer interstate freight from AN and from the Commonwealth-owned state systems to NR left AN unviable. AN’s (and NR’s) dire financial positions led the then Minister for Transport and Regional Development, the Hon. John Sharp to appoint, on 15 April 1996, Mr John Brew to review and report on the financial performance of AN and its relationship with NR, and to make proposals for the future of both organisations. The Brew Report’s main recommendation was to sell AN and NR.¹⁴

On 24 November 1996, the government announced that it had decided to sell AN’s freight and passenger operations and its stake in NR. As noted, AN was structurally separated with the government retaining ownership of AN’s below-rail interstate track and associated assets. The government privatised AN’s intrastate freight operations in Tasmania and SA, and its interstate passenger services (*Indian Pacific, Ghan* and *Overland*).

The government expected the reforms announced in November 1996 to affect adversely certain locations in the NT, SA, Tasmania, and WA. Under the Rail Reform Transition Program, the government allocated \$20 million over 1996–97 and 1997–98 to ease adjustment in these locations. The government also allocated \$50 million under the Environmental Remediation Programme for the remediation of land that AN previously owned.

13. Some of the states also privatised some functions. For more details, see Appendix 2.

14. J.R. Brew, Review of Australian National Railways Commission and National Rail Corporation, 19 June 1996.

The Senate Rural and Regional Affairs and Transport References Committee reviewed the Brew report and took account of the November 1996 announcement. Non-government members were a majority on the Committee. In the Committee's report, these members concluded, among other things, that the Brew Report was not a proper framework for policy development because it failed to consider the role of rail in the transport system and any issues other than financial performance, and that it failed to take account of the need for future policy on the rail industry particularly in relation to community service obligations.¹⁵

In January 2002, the government announced the joint sale of NR and NSW's Freight Rail Corporation to National Rail Consortium Pty Ltd.¹⁶

Australian Rail Track Corporation

As noted, a reform objective was to have the DIRN operate as a single network with respect to investment, access and pricing. On 14 November 1997, transport ministers signed an intergovernmental agreement, which provided for the establishment of a company to manage access to and develop infrastructure on the DIRN.¹⁷ In February 1998, the government established the Commonwealth-owned [Australian Rail Track Corporation](#) (ARTC) for these purposes. The ARTC began operations on 1 July 1998.

When the ARTC was established, its control over the DIRN was limited to the track it acquired from AN, and a five-year lease of the Victorian section of the DIRN. Hence, a train operator seeking to use the DIRN still had to seek access from state authorities who controlled the sections of the track the ARTC did not control. The main section of the DIRN the ARTC did not control was in NSW. In September 2004, the ARTC reached an [agreement](#) with NSW¹⁸ to which there were several strands:

- the ARTC would [lease](#)

15. Senate Rural and Regional Affairs and Transport References Committee, *Report on the Brew Report and the Continuing Role of the Commonwealth in the Australian Rail Industry*, May 1997, http://www.aph.gov.au/Senate/Committee/rrat_ctte/completed_inquiries/1996-99/brew/report/index.htm, accessed on 5 November 2008.

16. Hon. John Anderson (Minister for Transport and Regional Services), Senator the Hon. Nick Minchin (Minister for Finance and Administration), the Hon. Peter Batchelor (Victorian Minister for Transport), and the Hon. Michael Egan (NSW Treasurer), *Combined sale of FreightCorp and National Rail*, joint media release, 31 January 2002, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F9BU56%22>, accessed on 6 November 2008.

17. Australian Transport Council, *Communiqué*, 14 November 1997, http://www.atcouncil.gov.au/communiqué/atc5.aspx#strat_plan, accessed on 5 November 2008.

18. Australian Rail Track Corporation, *The Agreement in Summary*, at http://www.artc.com.au/library/agreement_summary.pdf, September 2004, accessed on 5 November 2008.

- the NSW section of the DIRN for 60 years
- the Hunter Valley coal export track¹⁹, and
- the dedicated metropolitan freight lines to the Sydney ports
- the agreement licensed the ARTC to construct a dedicated freight line (the Southern Sydney Freight Line) within the existing rail corridor²⁰
- the ARTC agreed that it would manage the country regional network that [Rail Infrastructure Corporation](#) owns and funds,²¹ and
- the Commonwealth government and the ARTC would invest \$872 million between 2004 and 2009. Of this, \$192 million was for the dedicated freight line and \$152 million for the Hunter Valley coal network.²²

The ARTC now [owns or leases](#) most of the DIRN. The sections the ARTC does not own or lease are between Kalgoorlie and Kwinana in WA, and between Brisbane and the Queensland border. The ARTC has rights to sell access to the former under an agreement with [WestNet Rail](#). QR Network and the ARTC are attempting to finalise an agreement which would allow the ARTC to sell access between Brisbane and the Queensland/NSW border.

The ARTC's access regime is subject to competitive neutrality requirements, and the principles of full cost recovery and a commercial rate of return on assets.²³ In 2002, the Australian Competition and Consumer Commission [approved](#) the ARTC's access regime.

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19. This consists of the track from Port Waratah (Newcastle) to Werris Creek and Ulan via Muswellbrook.
 20. Australian Rail Track Corporation, *A New Freight Access Route for Sydney*, http://www.artc.com.au/library/agreement_syd.pdf, September 2004, accessed on 16 December 2008.
 21. Rail Infrastructure Corporation is a statutory corporation responsible for monitoring the state of the country regional network in NSW and its funding. The ARTC does not, however, control the Sydney urban network that RailCorp owns and manages.
 22. The ARTC's five-year investment program in the Hunter Valley strategy now stands at over \$1 billion. See Australian Rail Track Corporation, *Infrastructure Australia Submission. 2008–2024 Network-Wide Infrastructure Strategy Overview*, p. 5, http://www.artc.com.au/library/RIS_1.2%20-%20201A%20OVERVIEW.pdf, accessed on 6 November 2008.
 23. Tim Ryan and Derek Harris, 'North-South upgrade will boost rail's market share', *Railway Gazette International*, December 2007, p. 776.

The ARTC submitted a replacement access undertaking to reflect the fact that the ARTC had assumed control of the DIRN track in NSW, which the Commission approved.²⁴

The ARTC is now the vehicle through which the Commonwealth funds investment in below-rail infrastructure.

Safety regulation and operating practices

As noted, the government, operating through the Australian Transport Council, saw the lack of uniformity in state safety regulation and operational procedures as barriers to efficient service provision on the DIRN.²⁵ The following discusses how the government sought to establish a more harmonious operational and safety regulatory framework.

One step was to establish the [National Transport Commission](#) (NTC). This followed consideration, by the ATC, of a review of the National Road Transport Commission (NRTC) whose function was to recommend reforms to road transport.²⁶ In the event, it was decided to replace the NRTC with the NTC. The latter's mandate—which was contained in the National Transport Commission Inter-governmental Agreement—included the development of nationally-consistent road, rail and intermodal transport regulatory arrangements.²⁷ Tasks identified for the NTC with respect to rail included the development of a national approach to safety regulation, the preparation of model legislation, and the development of a code of practice for operations on the DIRN. The NTC functions were thus considerably expanded over the road functions of the NRTC. The [National Transport Commission Act 2003](#), which established the NTC, came into effect on 15 January 2004. The NTC reports to the ATC.

The Howard Government's policy of developing nationally-consistent safety regulation initially continued earlier measures. As noted, *A National Approach to Rail Safety Regulation* recommended that an intergovernmental agreement be developed to advance consistent regulation. In July 1996, Commonwealth and state ministers signed the *Intergovernmental Agreement on Rail Safety*. This sought to ensure that safety regulation would be nationally

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24. On 29 April 2008, the Australian Competition and Consumer Commission released a draft decision. See Australian Competition and Consumer Commission, *ACCC issues draft decision on ARTC interstate rail access undertaking*, media release, 29 April 2008, <http://www.accc.gov.au/content/index.phtml/itemId/825694>, accessed on 5 November 2008.
 25. Optimal harmonisation does not require the complete standardisation of systems because customised systems can provide benefits. See Bureau of Transport and Regional Services, *Optimising harmonisation in the Australian railway industry*, Report 114, September 2006, <http://www.bitre.gov.au/publications/37/Files/r114.pdf>, accessed on 5 November 2008.
 26. Australian Transport Council, *Communiqué*, 8 August 2002, <http://www.atcouncil.gov.au/communiqué/atc13.aspx#review>, accessed on 5 November 2008.
 27. *Inter-governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport*, 2003, http://www.atcouncil.gov.au/documents/pubs/NTC_IGA1.pdf, accessed on 16 December 2008.

consistent by adopting agreed aims and principles. Problems the *Intergovernmental Agreement* addressed included those associated with accreditation and the lack of mutual recognition (see Box).

Accreditation and mutual recognition

Safety regulation involves the accreditation of service providers. A train operator seeking to provide a service must be accredited—in effect licensed—with the relevant state rail safety authorities by meeting certain requirements. A problem was that each state had different requirements. A second problem was the lack of mutual recognition among the states: even when a service provider had obtained accreditation in one state, the other states did not recognise that accreditation. Service providers thus had to obtain multiple accreditations if they wished to operate in more than one state. The complication and expense this entailed was a barrier to the entry of service providers on the DIRN. The *Intergovernmental Agreement on Rail Safety* required all parties to make legislative provision for accreditation and mutual recognition. In response, the states amended their rail safety legislation to incorporate accreditation and mutual recognition, and nominated one body as the safety regulator for each jurisdiction.

At its April 1999 meeting, the ATC called for an independent review of safety regulation focusing on the DIRN, including a review of the operation of *Intergovernmental Agreement on Rail Safety*.²⁸ The *Independent Review of Rail Safety Arrangements in Australia* found, among other things, that safety regulation lagged behind developments in the industry and best practice.²⁹ The review recommended that the Commonwealth establish two national bodies, one for safety regulation and the other for accident investigation. The ATC did not, however, adopt this recommendation because of:

... the substantial progress made towards achieving the objectives of the 1996 Intergovernmental Agreement on Rail Safety.³⁰

The states enacted rail safety acts in response to the *Intergovernmental Agreement on Rail Safety* and the subsequent AS 4292.³¹ The [Rail Safety Regulators Panel](#) was also established

28. Australian Transport Council, *Communiqué*, April 1999, http://www.atcouncil.gov.au/communique/atc8.aspx#mech_drive_rail, accessed on 5 November 2008.

29. Booz Allen and Hamilton, *Independent Review of Rail Safety Arrangements in Australia*. Prepared for the Standing Committee on Transport at the request of the Australian Transport Council, September 1999, http://www.atcouncil.gov.au/documents/review_rail_safety.aspx, accessed on 5 November 2008.

30. Australian Transport Council, *Communiqué*, 12 November 1999, http://www.atcouncil.gov.au/communique/atc9.aspx#rail_reform, accessed on 5 November 2008.

31. AS 4292 is the Australian Standard for rail safety management.

to develop a nationally consistent accreditation system, and the Panel developed the National Rail Safety Accreditation Package³² and guidelines.³³ The November 2004 meeting of the ATC endorsed the Package noting that it was:

... designed to streamline the accreditation of rail industry operators in all jurisdictions through more consistent guidance and the application of processes for risk and safety management systems.³⁴

The November 2004 meeting of the ATC also endorsed the accelerated development of national model rail safety legislation for which the NTC is responsible. The intention is that all states will reproduce the bill's [provisions](#). Unfortunately, the states have been consistent in their application of the model legislation with different states having different implementation dates. The Council of Australian Governments has set December 2008 as the date for implementing the agreed legislative reforms in a nationally consistent and co-ordinated manner.

As noted, the *Independent Review of Rail Safety Arrangements in Australia* recommended that the Commonwealth establish a national body for safety regulation. In its response to the *Tracking Australia* and the *Smorgon Revitalising Rail* reports (see below), the government announced that it would legislate for an independent Commonwealth rail safety investigation role for the [Australian Transport Safety Bureau](#) (ATSB). The [Transport Safety Investigation Act 2003](#), amongst other things, empowers the ATSB to investigate accidents and incidents on the DIRN. The ATSB conducts, under state legislation, investigations at the request of state authorities but the state authorities are responsible for implementing ATSB recommendations.

On 25 July 2008, transport ministers [agreed](#) to instruct the National Transport Commission to prepare a regulatory impact statement for a single, national rail safety regulatory and investigation framework.

Operational practices and standards

At its November 1997 meeting, the ATC asked for a report on ways of obtaining greater uniformity of operational requirements.³⁵ The ATC, at its 24 April 1998 meeting, agreed that

32. Rail Safety Regulators Panel, *National Rail Safety Accreditation Package*, December 2005, http://www.transport.qld.gov.au/resources/file/eb62b50b667a29a/Rail_safety_nap_guidelines_part01.pdf, accessed on 16 December 2008.

33. Rail Safety Regulators Panel, *National Rail Safety Accreditation Guideline*, December 2005, http://www.transport.qld.gov.au/resources/file/eb62b80b668592f/Rail_safety_nap_audit_checklist.pdf, accessed on 16 December 2008.

34. Australian Transport Council, *Communiqué*, 24 November 2004, <http://www.atcouncil.gov.au/communiqué/atc20.aspx#rail>, accessed on 5 November 2008.

this report³⁶ should be used as the basis for advancing uniformity of technical standards.³⁷ The ATC subsequently agreed to an intergovernmental agreement as an interim measure to facilitate the implementation of uniform operational standards.³⁸ In November 1999, the ATC signed the *Intergovernmental Agreement for Rail Operational Uniformity*, which established the Australian Rail Operations Unit (AROU) within the Commonwealth Department of Transport and Regional Services to facilitate the development and implementation of a national voluntary Code of Practice to harmonise operational practices for the DIRN.³⁹ To assist the AROU, the government assumed ownership of the Code of Practice through a Code Management Company. Following a review of the *Intergovernmental Agreement for Rail Operational Uniformity* and the AROU, the ATC agreed to transfer ownership of the Code to the rail industry as represented by the [Australasian Railways Association](#) (ARA), the industry's peak body. In July 2003, ownership of the Code Management Company was transferred to the ARA.⁴⁰ Responsibility for the further development of national rules, standards, codes of practice and guidelines under an umbrella structure called the Australian Code of Practice now rests with the Rail Industry Safety and Standards Board, which the ARA wholly owns.⁴¹

Investment

Commonwealth funding of investment since the mid-1990s has been predominantly in the DIRN through the ARTC. The main purpose has been to improve rail's competitive position vis-a-vis other transport modes, notably, long-distance road transport.

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35. Australian Transport Council, *Communiqué*, 14 November 1997, <http://www.atcouncil.gov.au/communique/atc5.aspx>, accessed on 5 November 2008.
 36. Australian Transport Council, *Study of Rail Standards and Operational Requirements. Final Report*. Prepared by Maunsell Pty Ltd, February 1998.
 37. Australian Transport Council, *Communiqué*, 24 April 1998, http://www.atcouncil.gov.au/communique/atc6.aspx#rail_reform, accessed on 5 November 2008.
 38. Australian Transport Council, *Communiqué*, 30 April 1999, http://www.atcouncil.gov.au/communique/atc8.aspx#mech_drive_rail, accessed on 5 November 2008.
 39. Australian Transport Council, *Communiqué*, 12 November 1999, http://www.atcouncil.gov.au/communique/atc9.aspx#rail_reform, accessed on 5 November 2008.
 40. Hon. John Anderson (Minister for Transport and Regional Services), *Landmark day for rail reform*, media release, 15 July 2003, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p?query=Id%3A%22media%2Fpressrel%2Fsfv96%22>, accessed on 6 November 2008.
 41. The Code of Practice contains guidance on how to attain the standards the Code contains but is not legally binding.

The performance and investment audit of the DIRN, which the ARTC undertook in 2001, was a factor behind investment decisions.⁴² The audit was prepared in response to rail's poor performance and several reports on the rail industry (discussed below). The audit recommended investment of \$507 million on the DIRN. The audit identified the north-south corridor between Melbourne, Sydney and Brisbane as warranting the highest priority and recommended that \$398 million of the \$507 million be invested in this corridor, with \$109 million for the east-west corridor. The poor state of the track and other factors partly account for rail's relatively low market share on the north-south corridor: whereas rail accounts for about 80 per cent of the east-west land freight market,⁴³ it accounts for about 30 per cent of the freight market between Brisbane and Melbourne, nine per cent of the Sydney-Melbourne market (mostly Tasmanian freight), and 11 per cent of the Sydney-Brisbane market.⁴⁴ Of the \$398 million for the north-south corridor, \$146 million would be for a dedicated southern Sydney freight line (see below). The audit estimated that benefits would be more than three times the amount of the investment.

The north-south corridor is now a major investment focus. All up, the ARTC is scheduled to spend about \$2.5 billion over five years on the corridor.⁴⁵

The funding of investment was also a 'carrot' whereby the Commonwealth encouraged the states to implement reform. At the 1997 national rail summit, the Commonwealth undertook to fund investment in the DIRN of \$250 million over four years from 1998-99 on condition that satisfactory access arrangements, and plans for investment and harmonisation of regulatory and operational requirements were in place. Assigning to the ARTC responsibility for recommending where the investment of \$250 million should be made, side-stepped the problem of deciding how to distribute the funds among the states.

AusLink

In 2004, the government released the white paper for its land transport program—*Auslink: Building our National Transport Future*.⁴⁶ A feature of AusLink was that it expanded the

42. Australian Rail Track Corporation, *Rail Audit Shows \$500m Investment Needed*, 1 May 2001, <http://www.artc.com.au/Article/Detail.aspx?p=6&np=4&id=13>, accessed on 5 November 2008.

43. Australian Rail track Corporation, *2007-08 Statement of Corporate Intent*, August 2007, op. cit., p. 2.

44. Department of Transport and Regional Services, *North-South Rail Corridor Study-Detailed Study Report: Background Briefing*, September 2006, http://www.auslink.gov.au/publications/reports/pdf/north_south_rail/north_south_rail_keystudy_points.pdf, accessed on 5 November 2008.

45. Australian Rail Track Corporation, *North-South Corridor Strategic Investment Outline*, September 2007, p. 17, <http://www.artc.com.au/library/North-South%20Corridor%20Strategic%20Investment%20Outline.pdf> accessed on 5 November 2008.

focus of land transport planning from roads on the former national highway to include both road and rail, and intermodal links to capital city ports.⁴⁷ Under AusLink 1, which covers the period 2004–05 to 2008–09, the government initially pledged funding of \$1.8 billion for rail projects including the \$872 million under the agreement with NSW. Among the projects identified were national communications standards for urban passenger and freight trains. This has been described as as significant, in operational terms, as overcoming the breaks of gauge between the different state systems.⁴⁸ The total government funding commitment from the Budget to rail under the Auslink 1 period was approximately \$1.5 billion. This comprised various Commonwealth tied and untied grants to the States and to the ARTC. ARTC contributed around \$900 million for rail projects from its own funds to deliver a total program of around \$2.4 billion over the period.

The emphasis in AusLink on developing access to ports was reinforced by the Exports and Infrastructure Taskforce, which the government established in March 2005.⁴⁹ The Taskforce's function was:

... to identify any bottlenecks, of a physical or regulatory kind, in the operation of Australia's infrastructure that may impede the full realisation of Australia's export opportunities.⁵⁰

Rail access to major ports and the state of the rail track featured among bottlenecks likely to constrain exports. The Taskforce identified three issues directly relevant to rail: links through urban areas to major metropolitan ports, coal rail lines, and grain lines. The Taskforce found that rail (and road) links to some ports were inadequate:

... road and rail connections to ports are major issues for the Port of Melbourne, Port Botany and to a lesser extent the Ports of Brisbane, Fremantle and Adelaide.⁵¹

The report noted that the main areas of concern with respect to rail connections to ports had been identified for action under Auslink.

46. Department of Transport and Regional Services, *AusLink White Paper*, 2004, <http://www.auslink.gov.au/publications/historical/pdf/whitepaper.pdf>, accessed on 5 November 2008.

47. An example is the new rail link and grade separation of Footscray Road between the Dynon intermodal freight precinct and the Port of Melbourne.

48. Bryan Nye, 'Rail industry moves into top gear', *Railway Gazette International*, December 2007, p. 768.

49. Exports and Infrastructure Taskforce, *Australia's Export Infrastructure*, Report to the Prime Minister, Canberra, May 2005, <http://www.abareconomics.com/infrastructure/pdf/Report.pdf>, accessed on 5 November 2008.

50. *ibid.*, p. 1.

51. *ibid.*, p. 31.

Infrastructure Australia

On [11 May 2005](#), the Australian Labor Party announced that it would establish Infrastructure Australia if elected to government. On [2 August 2007](#), the then leader of the opposition, Mr Kevin Rudd, reiterated this pledge, and said that Infrastructure Australia would have three divisions:

- to deal with policy and regulatory issues, driving reform on legal, tax, planning and infrastructure finance matters
- to audit the adequacy of the nation's infrastructure, identify weaknesses and prioritise projects, and
- to evaluate the business cases of projects, project financing options including Private Public Partnerships (PPPs) and manage the probity process.

The Rudd Government introduced the bill to establish Infrastructure Australia on 28 February 2008. [Infrastructure Australia](#) reports to the Council of Australian Governments (COAG) through the Federal Minister for Infrastructure, Transport, Regional Development and Local Government. COAG agreed that Infrastructure Australia immediate priorities are:

- the completion of a national infrastructure audit by the end of 2008
- the development of an Infrastructure Priority List for COAG consideration in March 2009, and
- the development of best practice guidelines for Public Private Partnerships.

Building Australia Fund

The Rudd Government also proposed to establish the Building Australia Fund:

... to help finance the current shortfall in critical economic infrastructure in transport and communications such as road, rail, ports and broadband, particularly where infrastructure requirements in these areas are not provided by the State and Territory governments or by the private sector.⁵²

On 5 December 2008, the legislation establishing the Building Australia Fund—the Nation-building Funds Bill 2008 and the Nation-building Funds (Consequential Amendments) Bill 2008—was passed.

52. Budget Paper No. 1 2008–09, p. 7–5.

Nation Building Projects

On 12 December, the Rudd Government announced that it would invest in a number of rail and other infrastructure projects to provide stimulus to the economy in the wake of the international financial crisis.⁵³ In the case of rail, the program entails a \$1.2 billion equity investment into the Australian Rail Track Corporation to help finance a \$1.6 billion investment in track upgrades and construction. This is additional to \$1.6 billion committed to rail infrastructure through the Building Australia Program (formerly called AusLink 2). In essence, the announcement brings forward investment in projects that were already planned.

Southern Sydney Freight Line

As noted, the ARTC audit identified the north-south corridor as the most in need of investment. Within this corridor, the audit identified Sydney's passenger network as the single biggest constraint on the movement of freight trains: they not only have to share use of the network with passenger trains but the latter also have priority.⁵⁴ The largest single project in the north-south corridor is the proposed dedicated freight line in southern Sydney—the Southern Sydney Freight Line. This will connect the DIRN with the Sydney freight-only network thereby providing direct access to Port Botany.⁵⁵ On 21 December 2006, the NSW Department of Planning announced that it had given development approval to the project.⁵⁶ On 13 August 2008, the Commonwealth Minister for the Environment, Heritage and the Arts, the Hon. Peter Garrett, signed the environmental approval for the project subject to conditions.⁵⁷ The line is expected to cost around \$300 million.

Alice Springs–Darwin railway

The government also funded investment in non-DIRN track. The main project was the Alice Springs–Darwin railway. The first train ran on this track in 2004. The construction of the [Alice Springs–Darwin railway](#), while not part of the DIRN, connected all the mainland capital cities by standard gauge. Commonwealth support for the project took two main forms. First, the government subsidised construction to the tune of \$191.4 million. The South Australian and Northern Territory governments also agreed to contribute up to \$367.8 million. The

53. Australian Government, Nation Building. Rail, Road, Education and Research and Business, December 2008, http://www.infrastructure.gov.au/department/publications/pdf/Nation_Building_electronic.pdf, accessed on 17 December 2008.

54. Australian Rail Track Corporation, *Annual Report 1999*, 22 September 1999, p. 17.

55. The line will be 30 kilometres and will run from Sefton Park junction to Macarthur South Sydney Freight Line.

56. Australian Rail track Corporation, *2007–08 Statement of Corporate Intent*, August 2007, op. cit., p. 4.

57. *Railway Digest*, October 2008, p. 9.

second component was the leasing of the track between Tarcoola in South Australia and Alice Springs to the consortium that built the railway. Previously, the ARTC had controlled this track. Under its constitution, the ARTC was required to provide this track to the consortium that constructed the railway. Under the lease terms, the consortium—Asia Pacific Transport Consortium, assumed responsibility for the ongoing maintenance and management of the railway between Tarcoola and Alice Springs. In effect, the lease excised the Tarcoola-Alice Springs track from the ARTC network. Asia Pacific Transport Consortium is the parent company of [FreightLink](#), which operates services on the railway.

Without the Commonwealth subsidy—and those of the NT and SA governments—it is unlikely that the project would have proceeded. The railway has struggled since its inception and FreightLink has since gone into administration.⁵⁸ The Australian Inland Rail Expressway has called for government subsidies to the railway to give it a:

... genuine chance to prove its long-term viability.⁵⁹

Other projects the government agreed to fund included the Hunter Valley [coal export network](#), the [Geelong-Mildura](#) upgrade, and the upgrading of the [Tasmanian network](#) and the [Eyre Peninsula](#) network.

Project evaluation and feasibility studies

The government also funded several investment feasibility studies. The most notable were those relating to very fast trains, and a proposed inland railway between Brisbane and Melbourne.⁶⁰

One proposal was for a high speed train between Sydney and Canberra.⁶¹ On 4 December 1996, the government announced that it had decided to proceed with an investigation of options to provide a commercially-viable high-speed train service between Canberra and Sydney. A key condition was that Commonwealth involvement would be on the basis of no net cost to the taxpayer and that the project would be commercially viable. On 13 December

58. Michael Smith, 'FreightLink calls in administrators', *Australian Financial Review*, 7 November 2008, p. 60,

http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:UZGQ6%3B, accessed on 5 November 2008.

59. Australian Inland Rail Expressway, *Everald @Large*, July 2008, p. 5, <http://www.aire.com.au/EveraldatLarge0708.pdf>, accessed on 5 November 2008.

60. Paula Williams, 'Australian Very fast Trains - A Chronology', *Background Paper*, no. 16, Parliamentary Library, Canberra, 1997–98 <http://www.aph.gov.au/library/pubs/bp/1997-98/98bp16.htm>, accessed on 5 November 2008.

61. Matthew James and Denis James, 'High Speed Trains between Canberra and Sydney', *Current Issues Brief*, no. 17, Parliamentary Library, Canberra, 1996–97 <http://www.aph.gov.au/library/pubs/CIB/1996-97/97cib17.htm>, accessed on 5 November 2008.

2000, the government announced the termination of the tender process on the grounds that the government was not convinced that the bid by Speedrail, the consortium behind the proposal, met the no net cost to government criterion.⁶²

However, the government also announced a study of a proposal for a high speed train to connect Brisbane, Sydney, Canberra and Melbourne and major regional centres on the route. In 2002, the [East Coast Very High Speed Train Scoping Study](#) was released. On 24 March 2002, the government announced that the scoping study would be terminated on the grounds that the project was uneconomic:

... the likely cost to Government of such a massive infrastructure project was potentially enormous. A Preliminary Study report suggests that to construct a full 2000km network between Melbourne and Brisbane would cost between \$33 billion and \$59 billion.

The report shows clearly that about 80 percent of the costs involved would have to be provided from public funds. As the ratio for public benefits to public costs is very low – between 0.12 and 0.25 – the return to the community may never justify the public investment required.⁶³

Inland railway

The concept of an inland freight route between Melbourne and Brisbane which bypasses but is linked to Sydney has a long history. The concept is most commonly associated with Mr Everaldo Compton of Australian Transport and Energy Corridor Limited (ATEC). ATEC's costings of its proposal have been reviewed twice. In 2000, the Bureau of Transport Economics (BTE) conducted a benefit-cost analysis of the railway between Melbourne and Brisbane.⁶⁴ It is important to note that the BTE used data from ATEC's pre-feasibility study. The BTE was sceptical about the economic merit of the project, concluding:

Using the data and estimates in the ATEC (2000) report, the net present value [NPV] for the project exceeds \$8 billion and the [benefit-cost ratio] is between 6.1 and 8.5 at a 4 per

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62. Hon. John Anderson (Minister for Transport and Regional Services), *Sydney's Future Airport Needs*, media release, 13 December 2002, <http://parlinfoweb.aph.gov.au/piweb/repository/1/media/pressrel/gk2361.pdf>, accessed on 5 November 2008.
 63. Hon. John Anderson (Minister for Transport and Regional Services), *Government ends scoping study on east coast very high speed train network*, media release, 26 March 2002, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p?query=Id%3A%22media%2Fpressrel%2FOH766%22>, accessed on 6 November 2008.
 64. Bureau of Transport Economics, *Brisbane-Melbourne rail link: Economic Analysis*, Working paper 45, October 2005, <http://www.bitre.gov.au/publications/62/Files/wp45.pdf>, accessed on 5 November 2008.

cent discount rate (NPV over \$4 billion and benefit-cost ratio between 3.6 and 5.1 with the older 7 per cent discount rate).⁶⁵

However:

In our view, ATEC's freight flow estimates could well be overoptimistic. It is understood that ATEC is currently developing a business case for the project. If that work significantly changed the estimates of freight flow and growth, it would be appropriate to review the present benefit-cost analysis.

The sensitivity test involved the use of lower freight estimates and higher construction costs, producing an NPV of \$2.4 billion and [benefit-cost ratio] of 2.0, at 4 per cent discount rate.

Based on estimates of freight flows, growth and costs in ATEC (2000), this is a significant project which could produce net benefits to the Australian community of over \$8B over the next 35 years. From the sensitivity test, the project would still be economically desirable even if the much more pessimistic costs and freight flows were the eventual outcome.⁶⁶

The BTE also questioned the 'no cost to government' assumption:

Despite claims that the project '... could be implemented on a no cost to Government basis' (ATEC 2000, page 8) one or more levels of government will be involved if the project goes ahead. Much of the proposed project from Melbourne to Brisbane involves relatively minor upgrades within existing alignments. However, land will have to be purchased for some new rail line reservations. Depending on the final option chosen, this will involve between 100 and 200 kilometres of new line. It is only governments that have the powers of compulsory acquisition—the project is most unlikely to proceed unless it receives government assistance in acquiring the necessary land.⁶⁷

Further, the BTE noted that:

ATEC construction cost estimates are not very robust.⁶⁸

As part of its 2001 audit, the ARTC asked Arup-TMG to review ATEC's costings. Arup-TMG concluded amongst other things that:

- transit time desired by ARTC to achieve market share are achievable using appropriate combination of infrastructure investment and motive power;
- investment costs needed to create new and upgrade existing infrastructure are likely to be significantly higher than was assessed in the ATEC report; and

65. *ibid.*, p. 25.

66. *ibid.*, pp. 25–6.

67. *ibid.*, pp. 6–7.

68. *ibid.*, p. 10.

- transit times are significantly affected by practical operating conditions.⁶⁹

The Department of Transport and Regional Services funded a study of options for an inland rail between Melbourne and Brisbane. The [North-South Rail Corridor Study](#), which was released in September 2006, examined four possible routes:⁷⁰

- Sub-Corridor A—the Far Western Sub-Corridor—which links Junee to Brisbane via Parkes, Dubbo and/or Narromine, Coonamble, Burren Junction, Narrabri and/or Moree, North Star, Goondiwindi, Warwick and/or Toowoomba
- Sub-Corridor B—the Central Inland Sub-Corridor—linking Junee to Brisbane via any inland route that includes the Werris Creek – Armidale-Tenterfield rail links
- Sub-Corridor C—the Coastal Sub-Corridor—which follows the existing Coastal Route between Junee and Brisbane, and
- Sub-Corridor D—the Hybrid Sub-Corridor—which combines elements of the inland route options and the Coastal route, linking Junee to Brisbane via Muswellbrook and Maitland.

All four sub-corridors could be linked to Melbourne either through Albury or through Shepparton.

The study examined all sub-corridors for their consequences for government budgets, their commercial feasibility from a private sector perspective, and for wider economic costs and benefits (including some externalities). In summary, the Study found that:

The results on a Net Present Value basis are negative for all rail options.

The results indicate that while there will be an increase in additional freight (especially on the Melbourne - Brisbane route), to undertake a further significant corridor upgrade requires substantial capital cost that would not be fully offset by the increased freight revenue.⁷¹

69. Australian Rail Track Corporation, *Audit of the Inland Railway Proposal – Parkes to Brisbane. Report*, page 14, <http://www.artc.com.au/library/0025ReportPBT.PDF>, accessed on 5 November 2008.

70. Hon. Warren Truss (Minister for Transport and Regional Services), *North-South Railway Corridor Study Released*, media release, 7 September 2006
<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FM6TK6%22>, accessed on 6 November 2008.

71. Department of Transport and Regional Services, *North-South Rail Corridor Study-Detailed Study Report. Background Briefing*, op. cit.

With respect to government budgets, the Study found:

The negative NPVs demonstrate that all project configurations evaluated produce net budgetary deficits. Whilst there are a number of benefits associated with the establishment of a North-South Railway, prima facie they are not sufficient to defray the substantial cost of construction and operation of a track and would not justify government investment on the direct project cash flows alone. The analysis performed includes the entire project term, and individual government treasuries may take the view that a shorter budgetary cycle is a more appropriate analysis period. This would have the effect of significantly worsening the NPV results by removing the later positive cash flows from the analysis.⁷²

With respect to the cost-benefit analysis:

Governments generally do not intervene in efficient private markets via initiating and funding transactions unless:

§ The transaction will generate significant net wider benefits; and

§ These benefits would not be generated without government intervention.

The cost benefit analysis demonstrates that while improvements to the Corridor do generate material external benefits, these are not sufficient to produce a net positive position under this analysis view. The fact that the key externalities derived from the improvements are proportionate to the rail traffic that switches from road to the improved Corridor implies that these benefits would be produced whether the infrastructure is government or privately funded.⁷³

With respect to the private investment viewpoint:

The negative NPVs demonstrate that all project configurations evaluated would not provide viable investment opportunities to the private sector without external support. The amount of the negative NPV can be viewed as the scale of the support needed to transform a particular route project into a feasible privately funded transaction. As noted above, the better NPVs for the private sector for the unconstrained cases are largely a factor of the discounting effects, rather than any clear private sector efficiency. It is likely that the extended construction periods and spend amounts of the unconstrained cases would pose material capacity issues if they were structured as single transactions.⁷⁴

72. Department of Transport and Regional Services, *North-South Rail Corridor Study-Detailed Study Report*, September 2006, p. 8-6
http://www.auslink.gov.au/publications/reports/pdf/north_south_rail/chapter_8.pdf, accessed on 5 November 2008.

73. *ibid.*

74. *ibid.*

The 2008–09 Budget contained \$15 million for the ARTC to conduct a study based on the far western corridor identified in the North-South Rail Corridor Study.⁷⁵

Reports

Throughout the period under discussion, the government was not short of advice on how to proceed with rail reform judging by the number of reports it received. They included reports the Australian Transport Council commissioned, other commissioned reports—notably those prepared by the Productivity Commission—and reports from parliamentary committees. In addition, the Bureau of Transport Economics in its different incarnations and the National Transport Commission released reports that dealt with rail issues. The following reviews the findings of some of these reports.

On 13 April 2000, the government [responded](#) to three reports. They were:

- the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform report *Tracking Australia. An inquiry into the role of rail in the national transport network* (the Neville report)⁷⁶
- *Revitalising Rail. The private sector solution*, (the Smorgon report), prepared by the Rail Projects Taskforce, and
- *Progress in Rail Reform*, prepared by the Productivity Commission.⁷⁷

A theme of the recommendations in *Tracking Australia* was the need for a national approach to services on the DIRN, including consistent safety standards, operating practices, and access arrangements, with the Commonwealth assuming responsibility for investment.

Revitalising Rail was a private sector perspective on rail reform, and covered two main topics: how governments can facilitate rail investment proposals that the private sector has developed, and the need to remove barriers to private rail investment. *Revitalising Rail's* 30 recommendations were based on three principles: the need for a national and integrated approach to rail, the need for increased involvement of the private sector, and the need for a

75. Hon. Anthony Albanese (Minister for Infrastructure, Transport, Regional Development and Local Government), *Inland Rail Alignment Study Underway*, media release, 28 March 2008 http://www.minister.infrastructure.gov.au/aa/releases/2008/March/AA025_2008.htm, accessed on 5 November 2008.

76. House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia. An inquiry into the role of rail in the national transport network*, August 1998, at <http://www.aph.gov.au/House/committee/cita/rail/contents.htm>, accessed on 5 November 2008.

77. Productivity Commission, *Progress in Rail Reform*, Report No. 6, 5 August 1999, at http://www.pc.gov.au/_data/assets/pdf_file/0020/34526/rail.pdf, accessed 5 November 2008.

better climate for private investors.⁷⁸ The Taskforce recommended that the rail industry be treated as an off-road user of diesel fuel and thus entitled to receive a rebate of the excise on diesel. The government accepted this recommendation.

Progress in Rail Reform examined reforms in the 1990s including those that state governments had undertaken (see Appendix 3). Consequently, most of the report's recommendations related mainly to the activities of state governments. However, the report identified a role for the Commonwealth in:

- developing a national transport policy
- facilitating ongoing harmonisation of regulatory arrangements
- establishing a single manager for the interstate network
- ensuring a more commercial approach to road provision, and
- financing freight by-pass lines in Sydney.⁷⁹

In its response to the three reports, the government claimed that each report endorsed its approach to reform, and reiterated its determination to pursue a nationally uniform framework for track access arrangements and regulatory and safety regimes for interstate rail. The government also pledged to continue to fund investment, and to legislate to give power to the Australian Transport Safety Bureau to allow it to investigate, independently, accidents and incidents on the interstate system. The government further proposed benchmarks aimed at facilitating access by rail operators to the interstate track, and ensuring mutual recognition of accreditation and harmonising safety standards.

The House of Representatives Standing Committee on Communications, Transport and the Arts followed up the *Tracking Australia* report with a 2001 report titled *Back on Track. Progress in Rail Reform*.⁸⁰ *Back on Track* reviewed progress in interstate reform including an assessment of whether the benchmarks the government established in its April 2000 response would be achieved. *Back on Track* concluded, amongst other things, that further reform would not be achieved without direct and forceful Commonwealth action, that the government must declare the standard gauge line from Brisbane to Perth to be a 'national

78. Jack Smorgon AM, *Modernising the Australian Rail Network*. Speech to the Academic Symposium, November 1999, <http://www.atse.org.au/index.php?sectionid=297>, accessed on 5 November 2008.

79. Productivity Commission, *Progress in Rail Reform*, op. cit., p. xix.

80. House of Representatives, Standing Committee on Communications, Transport and the Arts, *Back on Track: progress in rail reform*, April 2001, http://www.aph.gov.au/house/committee/cita/backontrack_railreform/railcontents.htm, accessed on 5 November 2008.

track', establish a National Rail Network Manager to ensure a consistent access regime for operators seeking to use the interstate track, establish a National Rail Transport Commission to ensure coherent cross-border planning for the future of the industry, and fund infrastructure investment to overcome chronic deficiencies in infrastructure. In its response to *Back on Track*, the government stated that its objectives were to reduce rail costs and improve service by improving the quality of interstate rail infrastructure, increasing harmonisation and minimising duplication between jurisdictions, improving rail safety, and removing barriers to new entrants into rail markets.⁸¹

In February 2006, the Council of Australian Governments asked the Productivity Commission to develop proposals for efficient pricing of road and rail freight infrastructure through consistent and competitively neutral pricing regimes.⁸² Amongst the issues the Productivity Commission addressed in its report, *Road and Rail Freight Infrastructure Pricing*, was the issue of competitive neutrality between road and rail and, in particular, whether road is subsidised relative to rail.⁸³ The Commission found that the argument that road is subsidised relative to rail is not compelling:

In contrast to road provision, Australia's rail infrastructure now generally operates within a commercial structure. Nevertheless, charges for many rail services fall well below their long-run economic costs, as assessed by regulators, at least if the expectation is that current services will continue. (The exceptions are generally in the bulk freight areas, particularly coal.) While low rates of return are not uncommon for a time in any industry, where government owners tolerate low rates of return for extended periods, this amounts to implicit subsidisation.

In addition, there have been substantial periodic injections of public funds for major rail corridors and some regional lines, with no apparent expectation of recovery from users (box 5). At least some of these contributions are intended to keep lines open that otherwise would not be commercially viable.⁸⁴

In addition, the Commission found:

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81. Hon. John Anderson (Minister for Transport and Regional Services), Response of the Federal Government to the House of Representatives Standing Committee on Communications, Transport and the Arts Report: *Back on Track*, 26 March 2003, http://www.infrastructure.gov.au/rail/publications/doc/rail_Final-%20BOT%20-MASTER.doc, accessed on 5 November 2008.
 82. Council of Australian Governments, *Meeting Outcome 10 February 2006*.
 83. Productivity Commission, *Road and Rail Freight Infrastructure Pricing*, Report No. 41, 22 December 2006, http://www.pc.gov.au/data/assets/pdf_file/0003/47532/freight.pdf, accessed on 5 November 2008.
 84. *ibid.*, p. xxxv.

As a result of the inherent differences in the service characteristics of road and rail, only a small proportion of the total freight task is considered to be contestable across the two modes – most estimates are around 10-15 per cent.⁸⁵

This suggests that prospects for switching large volumes of freight from road to rail through investment in rail may be limited. Indeed, road and rail are more likely to be complementary than competitive.

Conclusions

The rail freight industry has changed substantially since the mid 1990s. The changes have been described as follows:

In the last decade, Australia's railways have undergone an ownership, operational and technological revolution. The establishment of national public and private train operators has finally brought seamless rail freight services across the country. There has been a complementary development in track management, with one manager (Australian Rail Track Corporation) rather than five, now controlling most of the interstate track. The standardisation of the Melbourne-Adelaide railway in 1995 removed the break-of-gauge on the East-West Corridor. This has facilitated the subsequent more than doubling of the rail freight task between those cities. Infrastructure investments and complementary funding of new generation locomotives have enabled train operators to harness train economics of heavier, longer trains, for instance, with Melbourne-Adelaide trains now 50 per cent longer than a decade ago.⁸⁶

The Commonwealth's policies contributed to these outcomes, and the industry is more national in its outlook. Measures such as the agreement between the ARTC and Telstra to replace nine separate telecommunications systems with a single telecommunications network, to provide consistent telecommunications coverage for the interstate rail network—from Brisbane to Perth (via Melbourne and Broken Hill) and in the Hunter Valley—will further integrate the industry.

Rail is destined to play an important role in meeting the future freight task. A Bureau of Transport and Regional Economics report found that based on past trends, rail is expected to remain the largest mode in the transport of bulk freight with a 46 per cent share in 2003 and 45 per cent in 2020.⁸⁷ On the other hand, rail's share of national non-bulk freight is projected to decline from 21 per cent in 2003 to 17 per cent in 2020, although these projections do not take account of the potential for the revitalisation of rail on north-south routes.

85. *ibid.*, p. xxix.

86. Bureau of Transport and Regional Services, *Optimising harmonisation in the Australian railway industry*, op. cit., p. iii.

87. Bureau of Transport and Regional Economics, *Freight Measurement and Modelling in Australia*, op. cit.

Major challenges remain. For example, productivity is lower and freight rates higher than in comparable countries.⁸⁸ Further, rail's competitive position vis-à-vis other transport modes is under challenge:

... strong price competition from these other modes is keeping freight rates low, making it unlikely that rail operators will be able to pay back the cost of infrastructure works currently being funded by the federal and state governments without putting the rail freight renaissance at risk ... Effective cost recovery is impeded by modest traffic volumes on most routes and strong competition from other modes. While rail performs well in the non-bulk sector between Melbourne and Perth, with almost two-thirds of the combined rail/road/sea market and train operators recording a profit, ARTC recovers less than half of its long-term costs. Strong road and sea competition prevents the rail infrastructure managers from raising access charges, for fear of customers switching their operations to these other modes.⁸⁹

The industry continues to suffer from regulatory fragmentation. The Export Infrastructure Taskforce observed:

Road and rail regulation in Australia share similar regulatory issues. That is, their regulation is jurisdiction based even though they are now national industries.⁹⁰

The 2005 Export Infrastructure Taskforce cited the following example of the problems resulting from regulatory fragmentation:

The complexity of rail regulation was detailed by Patrick Corporation. It advised the taskforce that an operator of interstate trains may, potentially, have to deal with:

- seven rail safety regulators with nine different pieces of legislation;
- three transport accident investigators;
- fifteen pieces of legislation covering occupational health and safety of rail operations;
- six access regulators; and
- seventy-five pieces of legislation with powers over environmental management.

88. Organisation for Economic Co-operation and Development, *Economic Surveys Australia 2004*, Paris 2005, p. 106.

89. Henry Becket, *Competition drives rail freight renaissance*, pp. 770 and 771, http://www.railwaygazette.com/news_view/article/2007/12/8005/competition_drives_rail_freight_renaissance/archive/Sydney.html?tx_ttnews%5BbackPid%5D=110&cHash=7c7c9b3294, accessed on 5 November 2008.

90. Exports and Infrastructure Taskforce, *Australia's Export Infrastructure*, op. cit., p. 48.

Inconsistency in state rail access regimes is an additional element of the regulatory problems that train operators face (see Appendix 4). Further, progress in reducing regulatory fragmentation has been slow.⁹¹

Even where regulation is consistent, implementation can diverge across jurisdictions:

- In the last decade, mandatory access regulations have been introduced, with complementary safety and pricing regulations. However, while jurisdictions introduced these regulations with the ideal of consistency, the reality has been diverging regulation. Ongoing initiatives have pursued convergence but, nonetheless the result is regulatory breaks-of-gauge.
- The primary cost to the industry of this is the time lost by railway operators. This cost is especially relevant for industry safety management, where inconsistent regulations inevitably lead managers to be reactive to safety rather than proactive.
- Australian and overseas experiences illustrate that multiple regulatory systems are inherently unstable—ongoing resources are required to maintain that consistency.
- Overseas models involve regulatory structures with clearer regulatory boundaries and fewer regulatory overlaps. Such structures then require less effort in achieving and maintaining regulatory harmonisation.⁹²

In short, there is much more to be done before it be claimed that Australia truly has a national rail system.

In 2008, the Rudd Government established [Infrastructure Australia](#) whose primary function is to provide advice:

... to the Minister, Commonwealth, State, Territory and local governments, investors in infrastructure and owners of infrastructure on matters relating to infrastructure, including in relation to the following:

- (a) Australia's current and future needs and priorities relating to nationally significant infrastructure;
- (b) policy, pricing and regulatory issues that may impact on the utilisation of infrastructure;
- (c) impediments to the efficient utilisation of national infrastructure networks;

91. Productivity Commission, *Review of National Competition Policy Reforms*, http://www.pc.gov.au/data/assets/pdf_file/0016/46033/ncp.pdf, accessed on 5 November 2008. p. 220.

92. Bureau of Transport and Regional Services, *Optimising harmonisation in the Australian railway industry*, op. cit., p. vi.

- (d) options and reforms, including regulatory reforms, to make the utilisation of national infrastructure networks more efficient;
- (e) the needs of users of infrastructure;
- (f) mechanisms for financing investment in infrastructure.⁹³

It remains to be seen what role Infrastructure Australia will play in the future of the rail freight industry.

93. *Infrastructure Australia Act 2008*, section 5,
[http://www.frli.gov.au/ComLaw/Legislation/Act1.nsf/0/79A6B7F25E520E7ECA257427000B8D7C/\\$file/017-2008.doc#_Toc195590754](http://www.frli.gov.au/ComLaw/Legislation/Act1.nsf/0/79A6B7F25E520E7ECA257427000B8D7C/$file/017-2008.doc#_Toc195590754), accessed on 5 November 2008.

Appendix 1: A short history of Australia's railways⁹⁴

1850–1900

Australia's first railways were built independently over 150 years ago. Some were publicly provided. However, most were built by private organisations with government underwriting. In developing the early railways, little consideration was given to how the various railways could operate together as a national network. The various railways were developed as disjointed networks that focused on linking the hinterland and areas of significant agricultural production with capital cities and major ports. In the pre-1900 era of rail development, railways developed different gauges, or width, between rails:

- railways in Queensland, Tasmania and Western Australia were built on the 3'6" (1,067 mm) narrow gauge
- railways in NSW were built on the 4'8½" (1,435 mm) standard gauge, and
- railways in Victoria and South Australia were built on the 5'3" (1,600 mm) broad gauge.

During the latter part of the nineteenth century, the various colonial governments took over the ownership and operation of the nation's remaining privately owned railways. However, little progress was made towards standardisation, with each state continuing the development of its own railways without thinking about developing a national system.

1901-1950

The 1910 *Northern Territory Acceptance Act* included the first of many promises to complete a transcontinental rail line to Darwin. During the period immediately following World War One, road transport began to emerge as a viable alternative to rail transport.⁹⁵ The standard gauge Trans-Australian railway, between Kalgoorlie and Port Augusta was completed in 1917. It was later extended to Port Pirie in 1937. A standard gauge line finally connected Brisbane with the NSW system in 1930. The 156 kilometre link eliminated the previously existing break of gauge, cut 160 kilometres from the previous journey and over six hours from the passenger journey from Sydney. The loss of rail freight to the road sector continued following the Second World War, during which many railways were run down through the lack of maintenance, resulting in the need for substantial renewal.⁹⁶

94. Source: Australian Rail Track Corporation, *The Rise, Decline and Rise of Australia's Railways*, undated, http://www.artc.com.au/library/agreement_railwayrise.pdf, accessed on 5 November 2008.

95. To stem the loss of rail freight to competing rail operators, all state governments introduced regulatory regimes to protect rail's share of the freight market.

96. The loss in rail's share of the freight market accelerated in the 1970s with the removal of protective regulatory regimes.

1951–1996

Over the last half of the 20th century, successive Australian governments sought to connect the mainland state capital cities with a standard gauge railway system. Major milestones in achieving that outcome were:

- linking Melbourne to NSW by standard gauge line in 1962, which eliminated the famous break of gauge at Albury
- completing the Perth to Kalgoorlie standard gauge line in 1968
- completing the Broken Hill to Port Pirie standard gauge line in 1969⁹⁷
- connecting Adelaide to the Trans-Australian line in 1982 with the conversion to standard gauge of the line from Crystal Brook, and
- the completion of the standard gauge network linking mainland capital cities - except Darwin - was finally achieved in June 1995, with the conversion of the Adelaide to Melbourne broad gauge track to standard gauge.

The first private sector interstate freight rail service commenced in 1995. By 1996, up to four rail operators were providing freight rail services between Melbourne, Adelaide and Perth.

1997–2002

The management of access and investment on the interstate rail network was the subject of an Intergovernmental Agreement made by the Federal and mainland State transport ministers at the September 1997 National Rail Summit. At the summit, transport ministers agreed on the need for the interstate rail network to be operated as a single network for investment and access. The Australian Government subsequently established the ARTC in February 1998, to manage open access arrangements and infrastructure development on the interstate rail network. On 1 July 1998, the ARTC assumed management of the track from Kalgoorlie to Broken Hill and Albury and engaged in negotiations with other track managers for the rights to sell access to their networks by interstate freight and passenger train operators.

Under the various arrangements already in place the ARTC:

- owns and manages the track from Kalgoorlie (WA) to Broken Hill (NSW) and Wolsley (SA)
- manages the interstate standard gauge rail network in Victoria,⁹⁸ and

97. This resulted in a continuous standard gauge rail link between Sydney and Perth.

98. In May 2008, the ARTC and Victorian government extended the lease, which was due to expire in 2014, by 45 years to 2059. The lease provides for: the addition to the lease of the north-east

- has rights to sell access between Kalgoorlie and Kwinana to interstate rail operators under a wholesale access agreement with the WA track owner and operator, WestNet Rail, a subsidiary of the Australian Railroad Group.

The construction of the Alice Springs to Darwin section of the AustralAsia Railway started in April 2001, with a \$191.4 million contribution from the Australian Government.

2003–2004

The final section of track on the AustralAsia Railway, between Alice Springs and Darwin, was laid on 25 September 2003. The first freight train operated on the line in January 2004.

The 60 year lease agreement between the ARTC and NSW for the management of the NSW interstate and Hunter Valley networks effectively ends 150 years of confusion over Australia interstate rail system.

Appendix 2: Privatisation

Privatisation was an aspect of reform at the Commonwealth and state levels. The main focus of privatisation was freight services. The Commonwealth privatised Australian National's intrastate freight operations in Tasmania and South Australia, Australian National's interstate passenger services (*Indian Pacific*, *Ghan* and *Overland*), and National Rail (in conjunction with NSW's Freight Rail Corporation). The buyers were Australian Southern Railroad (which operated the South Australian network), Great Southern Railway (which operated interstate passenger services between Perth, Adelaide, Sydney and Alice Springs), and Australian Transport Network (Tasrail) (which operated the Tasmanian network).

New South Wales corporatised FreightCorp in conjunction with National Rail.

Victoria corporatised V/Line Freight and sold it to Freight Victoria.

Western Australia sold the freight operations of Westrail as a vertically-integrated entity to Australian Railroad Group (Wesfarmers Ltd and Genese and Wyoming Incorporated).

Appendix 3: State government reforms

In the 1990s, the states implemented reforms to their rail industries.⁹⁹ Reform was prompted by numerous factors including increasing competition from road transport and rail's declining share of key segments of the land freight market, budget pressures arising from the financing

broad gauge track between Seymour and Albury and its conversion to standard gauge; construction of the Wodonga by-pass; and the partial conversion of the Albion to Jacana line to dual gauge. As part of the agreement, \$285 million will be invested in several projects.

99. These reforms are described in Productivity Commission, *Progress in Rail Reform*, op. cit., p. 39.

of rail operating deficits, and the National Competition Policy reforms.¹⁰⁰ Reforms that the states implemented included:

- the clarification of management objectives and responsibilities of government trading enterprises
- funding, through the budget, of community service obligations such as lower fares for certain groups
- measures to enhance the transparency of the financial performance of each of the main elements of state rail operations, including the identification of non-commercial elements and their funding as community service obligations
- the imposition of stronger financial discipline on rail authorities, and
- competition policy reforms.¹⁰¹

With respect to competition policy, the Organisation for Economic Co-operation and Development has [described](#) the reforms as follows:

- Application of competitive neutrality principles through the commercialisation, corporatisation, and in many cases subsequent privatisation of government rail businesses;
- Structural separation (both vertical and horizontal) of passenger and freight into separate businesses. By 2002 only the Queensland government has retained ownership of a corporatised vertically-integrated freight rail operation;
- The enacting of access regimes to provide third party access to essential rail facilities in all mainland jurisdictions through state-based rail access legislation;
- Establishing regulatory pricing and rail access oversight institutions; and
- Introduction of specific policies to promote competition “for” and “in” the market including franchise arrangements for rail metropolitan passenger services (Victoria); increased use of contract bidding for commercially viable bulk minerals contracts (eg Queensland and NSW) and contracted maintenance arrangements.¹⁰²

100. *ibid.*

101. For a review of these reforms, see Productivity Commission, *Progress in Rail Reform*, *op. cit.*, Appendix D.

102. Organisation for Economic Co-operation and Development, *Structural Reform of the Rail industry*, 21 December 2005, p. 134, <http://www.oecd.org/dataoecd/7/14/35911008.pdf>, accessed on 5 November 2008.

The Productivity Commission concluded that these state reforms and reforms involving the Commonwealth resulted in greater competition among service operators, more private sector participation in some corridors, and significant productivity increases.¹⁰³

Appendix 4: State access regimes

The National Access Regime was introduced under Part IIIA of the *Trade Practices Act 1974*. This gives third parties a legal right to share the use of certain infrastructure on reasonable terms and conditions. The Regime is confined to the services of major infrastructure facilities where it would be uneconomic to develop another facility, and where access is needed to promote competition. The introduction of third party access regimes facilitated the entry of private sector train operators such as Specialised Container Transport, Patrick Corporation and Toll Rail, and opened up new markets to state-owned operators; Queensland Rail has taken advantage of this opening.

Jurisdictions introduced their own access regimes, and this has been detrimental to rail operations. The Productivity Commission has likened the multiplicity of and inconsistency in access regimes to the break in the rail gauge at state borders in their effects in inhibiting the efficient operation of trains across Australia.¹⁰⁴

Appendix 5: Chronology of Commonwealth rail reform involvement since 1995

1995	Conversion completed of the Adelaide to Melbourne broad-gauge track to standard gauge under the <i>One Nation</i> program.
1996	Australian Transport Council ministers sign the <i>Intergovernmental Agreement on Rail Safety</i> . Sale of Australian National Railways Commission (AN) freight and passenger operations, and the Commonwealth's stake in National Rail Corporation (NR) announced.
1997	The Australian Transport Council holds the national rail summit. Agrees to a defined interstate rail network (DIRN). Australian Transport Council agrees to the formation of the Australian Rail Track Corporation.
1998	Australian Rail Track Corporation established. Release of House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform report <i>Tracking Australia. An inquiry into the role of rail in the national transport network</i> .

103. Productivity Commission, *Progress in Rail Reform*, op. cit.

104. Productivity Commission, *Review of National Competition Policy Reforms*, op. cit., p. 217.

1999	Australian Transport Council ministers sign the <i>Intergovernmental Agreement for Rail Operations Uniformity</i> establishing the Australian Rail Operations Unit to facilitate the development of a national voluntary Code of Practice for procedures on the DIRN. Release of Smorgon report <i>Revitalising rail. The private sector solution</i> . Productivity Commission report <i>Progress in Rail Reform</i> .
2001	ARTC conducts audit of the DIRN. House of Representatives Standing Committee on Communications, Transport and the Arts report <i>Back on Track. Progress in Rail Reform</i> .
2002	Sale of NR (and NSW's Freight Rail Corporation) announced.
2003	Australian Transport Safety Bureau empowered to investigate incidents on the defined interstate rail network.
2004	National Transport Commission began operating. AusLink white paper released. Australian Rail Track Corporation reaches agreement with NSW to lease the DIRN in NSW, the Hunter Valley coal export track, and the dedicated metropolitan freight lines to the Sydney ports. Alice Springs-Darwin railway completed.
2005	Transport ministers agreed, in principle, to a range of policy reform objectives for nationally-agreed model rail safety legislation. Establishment of the <i>Exports and Infrastructure Taskforce</i> .
2006	Productivity Commission report <i>Road and Rail Freight Infrastructure Pricing</i> . The North-South Rail Corridor Study released.
2008	Infrastructure Australia established. Commonwealth Minister for the Environment, Heritage and the Arts signs the environmental approval for the dedicated South Sydney freight line. 2008–09 Budget contains funding for the ARTC to conduct a study based on the far western corridor identified in the North-South Rail Corridor Study.

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