



Alcoa World Alumina Australia

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Dr K Michael
Acting Rail Access Regulator
Office of the Rail Access Regulator
Level 27, 197 St Georges Tce
PERTH WA 6000

PUBLIC SUBMISSION ON DRAFT DETERMINATION ON TRAIN PATH POLICY TO APPLY TO WESTNET RAIL

Dear Dr. Michael,

Response to Regulator on Train Path Policy from Alcoa World Alumina

The following submission is provided by Alcoa World Alumina (Alcoa) in response to the Draft Determination on Train Path Policy to apply to WestNet Rail (WestNet) as issued by the Rail Access Regulator (the Regulator) on 15 August 2002.

1. Terms and Definitions

Alcoa considers that the revised definitions as detailed in WestNet's letter of 18 April 2002 provide a good basis for defining the different types of train paths. In particular, the new definitions address Alcoa's key requirement to have sufficient allocated capacity on each route combined with the added flexibility to move entry and exit times to match shipping requirements and refinery production.

However, to aid in the terminology in other sections of the TPP and in the updating of the standard access agreement, Alcoa suggests the amendments as shown below.

Add the following definition in the TPP and the standard access agreement so that there is a collective term for all scheduled train paths:

"Scheduled Train Paths" means any of the following:

- (i) Fixed Scheduled Train Paths (Passenger);*
- (ii) Fixed Scheduled Train Paths (Freight), and/or*
- (iii) Flexible Scheduled Train Paths (Freight).*

Each of these types of scheduled train path would then be defined as:

- *"Fixed Scheduled Train Paths (Passenger)" – train paths with fixed entry and exit times and fixed intervals between intermediate stops.*

- *"Fixed Scheduled Train Paths (Freight)" – train paths with fixed entry and exit times.*
- *"Flexible Scheduled Train Paths (Freight)" – train paths with nominal entry and exit times that may be changed at short notice provided the revised times do not affect a Fixed Scheduled Train Path (Passenger) or a Fixed Scheduled Train Path (Freight).*

The following amendment to the definition for Conditional Paths is suggested. Note the word "reserved" is now not used in this definition as it was confusing when there is also a defined term of the same name:

"Conditional Paths" – Paths that are included on the master control diagram and will be available to the operator to whom they are assigned if required but otherwise can be reallocated on a temporary basis. Conditional Paths are created (i) because of the requirements for optional destinations, (ii) to provide peak or surge capacity, (iii) because of known seasonal or intermittent requirements.

The following amendment to the definition of Reserved Paths is also suggested:

"Reserved Paths" – Paths that will, at a point in the future, become a Scheduled or Conditional Train Path and are only reserved based on reasonable contractual requirements.

2. Allocation and Cancellation of train paths

Allocation of train paths

We agree with the Regulator that WestNet must clearly state how it proposes to address train path allocation and any resulting disputes arising from this allocation process. It is still not clear how a network expansion is triggered by an application for access or even how a capacity constraint would be resolved if the Regulator rejects an application under Section 10 of the Code. Since the Regulator has now stated that he cannot attach conditions to a Section 10 decision, it is difficult to understand how network expansion or capacity constraint issues are resolved under the Code.

On this basis, we would suggest that WestNet should include a statement of its obligations to negotiate with an applicant on increased capacity on the network. We would also suggest that WestNet's obligations under Section 10 be clarified to ensure that the intended purpose of ensuring a public debate on the utilisation of the remaining capacity on a route does not inadvertently restrict the expansion of the network.

Instructions

The Regulator has suggested that the term "Instructions" should be a defined term. We would suggest that WestNet adopt the definition currently proposed in the Alcoa Draft Access Agreement.

Repairs Maintenance and Upgrading.

Alcoa is of the view that this issue is a global issue and should be addressed in the TPP as well as at the access agreement level. Availability and reliability of the network is a common issue to all users and operators. Maintenance practices that interfere with scheduled train paths result in delays to the movement of product and can lead to additional costs or lost opportunities for operators and users. Whilst WestNet may not agree to compensate operators for delays, there must be a clear commitment to provide access under the terms agreed and to minimise any disruption from maintenance activities. In our access agreement, we have included several performance indicators to monitor WestNet's ability to perform maintenance without interfering with the scheduled traffic and also to monitor the number and duration of temporary speed restrictions which adversely affect transit times and result in lower track standards. We support the Regulator's view that if service levels fall below the agreed standards, then the ceiling should be reduced to reflect the lower standard being achieved.

Removal of train path for under-utilisation/ Review of scheduled train paths

Both these sections will need to be updated to reflect the new definitions of train paths - particularly with the inclusion of a Flexible Scheduled Train Path as stated departure and arrival times need a different definition for a flexible path. The definition of "differ in material respects" will also need to be altered to reflect the variability of flexible paths.

3. Temporary and Permanent Variations

We would suggest that WestNet adopt the new definitions used in the Alcoa Draft Access Agreement as the basis for the Sections 3.3 and 3.4 in the TPP. In the rewording proposed by Alcoa, the term "Instructions" became a defined term and included separate clarifying examples of "Instructions" and "Train Control Directions". With these terms defined elsewhere, the definition of temporary variations is simplified and no longer requires the example of instructions that would be considered to be temporary variations.

4. Approach to be taken in the event of a capacity constraint

Alcoa has had several discussions with WestNet over capacity constraints and expansion of the network but we are still not clear on the obligations on WestNet as the monopoly railway owner.

There would appear to be no obligation on WestNet to provide additional capacity if the network is deemed to have reached that point at which other entities are precluded from access. Alcoa considers that WestNet should be obliged to provide additional capacity rather than reject an application for access on the basis that it absorbs or exceeds the remaining capacity on a route.

There may be a valid argument about how the expansion should be funded but we believe that expansion should not be constrained unless there is an obvious physical restriction such as a lack of available rail corridor land.

For these reasons, we would like to see more detail in the TPP on how WestNet will treat an access application that triggers a Section 10 review under the Code and how they will treat an application that requires expansion of the network.

5. On-selling of train paths

We acknowledge and accept the Regulator's views on the on-selling of train paths.

6. Effectiveness of train paths and TPP

We suggest that the review process for train paths needs to be updated to reflect the changed definitions of train paths suggested by WestNet. In particular, a three-month history of train paths will need to take into account the variability of departure and arrival times for flexible scheduled train paths.

Yours faithfully

John Oliver
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Alcoa World Alumina Australia