



WAFarmers Comment on the Review of the *Railways* (Access) Code 2000

Prepared For

Economic Regulation Authority

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on behalf of Dale Park, President

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The Western Australian Farmers Federation (Inc.) (WAFarmers) welcomes the opportunity to comment on the Review of the *Railways (Access) Code 2000*.

As background, WAFarmers is the state's largest and most influential rural lobby and service organisation. WAFarmers represents around 3,500 Western Australian farmers from primary industries, with the majority being grain growers. Collectively our members are major contributors to the \$5.5 billion gross value of production that agriculture in its various forms contributes annually to the Western Australian economy. As the largest WA rural lobby group, our grains members produce approximately 35% of the total grain production in WA.

As the voice of not only our members, but the wider WA agricultural community, WAFarmers strongly recommends the Economic Regulation Authority (ERA) reaffirm their commitment to govern and administer the *Railway (Access) Code 2000*.

Following findings in the Economics and Industry Standing Committee of the Legislative Assembly, with particular reference to paragraph 5.29 and 5.31, the Code, and therefore ERA was suggested to be "dormant for the majority of its 14 year existence".

The current legislation that governs Brookfield Rail (BR), as the current lessee, and that is administered by ERA, is not transparent to the WA grain industry. The rail network is the key infrastructure available to growers and grain traders to transport grain from farm gate or up-country receival sites, to the port systems for export.

However, given the key function of railway in a low-cost efficient pathway, there is limited transparency with government, the current lessee, and all other access seekers. The transparency includes information provision to growers, including the costs associated with access and utilisation of the railways. WAFarmers calls for ERA to maximise the availability of information and transparency of the rail network to both railway users and industry stakeholders, like WAFarmers and grain growers.

CBH Group represents the best interest of the growers, as both a farmer owned co-operative, as well as an access seeker to the infrastructure governed by the Code. However they are limited with confidentiality to the extent of information they can provide back to the WA grain growers. WAFarmers understands that in some circumstances, a level of confidentiality is required to ensure protection of the businesses financial interests. However, confidential access agreements are not beneficial to the industry or the access seeker. The State-owned rail network is a key national transport infrastructure, and should be managed by government and ERA as such, although a private company leases it.

Access proposals, while under negotiation or having expired, should be able to be extended under like terms, to maintain access while negotiation on the new access terms is underway. WAFarmers encourages ERA to alter the functioning of the code, to allow access arrangements on like terms to expired agreements, while BR and access holders are in access rate negotiations.

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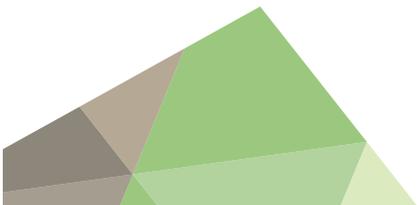
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The operation of the WA Rail Regime, and specifically the floor and ceiling prices set under the Code, are unrealistic to the true value of the rail network. The ceiling prices set are the maximum possible revenue attainable to the lessee, for access fees. The current ceiling price is determined to be the cost to replicate the current network. However, the true value of the network is the gross replacement value. WAFarmers recommends the ceiling prices set by ERA and the Code, should be the gross replacement value of the current infrastructure, as opposed to the cost of replicating the current network.

The process of access negotiation and fees is also unclear to the industry. The ERA's primary role is to govern BR and how access to the rail infrastructure between the lessee and the access seeker is established. However the current legislation enables BR to alter or remove the functioning of the Code, to take away the rights of the access seekers to be governed by the Code and ERA. WAFarmers, as representatives of the users of the line, recommends ERA remove BR's capacity to manipulate aspects of the Code to provide them with flexibility to negotiate access on their own terms. This capacity to negotiate outside of the Code is not in the best interest of stakeholders, and removes the oversight capacity of ERA and government.

WAFarmers, as the voice of WA grains producers, calls for ERA to ensure the lessee and all access seekers negotiations are transparent, with particular reference to any costing that will impact on on-farm profitability and therefore business viability.



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