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Attn: 2020 SA Rail Access Regime Review
ESCOSA
GPO Box 2605
Adelaide SA 5001

Dear Sir / Madam

RE: 2020 SA Rail Access Regime Review Draft Report

On behalf of the South Australian Freight Council's (SAFC) Executive Committee and Membership I thank you for the opportunity to make a submission on the 2020 SA Rail Access Regime Draft Report.

As you may be aware, SAFC is the State's peak, multi-modal freight and logistics industry group that advises all levels of government on industry related issues. SAFC represents road, rail, sea and air freight modes and operations, freight services users and assists the industry on issues relating to freight logistics across all modes.

In general, SAFC supports the recommendations of the draft report, although not always for the same reasons espoused by ESCOSA.

Whilst SAFC is no longer convinced of the need to maintain the regime based on the decline of the rail industry in SA and ever-growing competition from the road transport industry; we are content to see the regime continue for another five years.

Where *'The Commission has not found any evidence in the below-rail and above-rail markets indicating that market power has been used for an improper purpose'*[1], a more stringent regime that would increase costs (from $330,000 to between $700,000 and $2 million per year[2]) is not warranted.

In our opinion, the draft Executive Summary underplays the competitive pressure from the road industry on regional rail operations in SA. In almost every instance (except large scale mining at a very significant distance from port) the road industry provides a highly competitive substitute service.

[1] p1
[2] p19 - 20

On page 12, the draft report states *'One Rail, the SAFC, the ARTC, GPSA and GRA reported that the closure of rail lines transporting grain was evidence of lower prices and higher service quality offered by road transport'*. We note that SAFC made no assertions about 'higher service quality' offered by the road transport industry, only that the heavy road transport industry's competitive advantages have been increased by the expansion of RAV networks. Section 4.1.3 suggests that in the case of GRA's gypsum exports, higher service quality (through *'tight integration'*) is one of the primary reasons that this volume remains on rail, despite road transport providing *'a competitive substitute'*. SAFC's comments relate only to price, not service quality; and we would appreciate it if the final report was edited to reflect this.

SAFC agrees that *'It is difficult to prove conclusively whether or not the regime is effective in meeting its objectives including: promoting contestability in the above-rail market, providing access on fair commercial terms, encouraging investment in and efficiency in use of rail infrastructure, and promoting investment by end-users[3]'*. However, the same has been said in every 5-year review of the regime since it was first instituted, and is likely to be said in every 5-year review going forward.

Proving that the regime is effective in the absence of any official complaints is impossible as it will always be unknown if it is the regime that is restricting the improper use of market power or other factors (such as competition from road transport or good corporate citizenship). It is only possible to prove that the regime is working if official complaints are made and tested for veracity, or if other verifiable evidence of the abuse of market power is found.

Thus, we do not agree that *'the evidence on balance supports continuation of the current regime'*. We do however agree that **the potential risk of falling under a costlier and harsher Commonwealth regime (given the current regime's low costs and no evidence of wrongdoing) on balance supports continuation of the current regime'**.

With regards to the Commission's draft findings on potential improvements to the regime; we note that our initial submission suggested a mechanism for declaring new rail infrastructure, <u>as well as the removal of infrastructure from the scheme</u>. We would like the Commission to consider adding the second element to its recommendation.

SAFC supports the position that there is no need for a standard access agreement and prices, for the reasons outlined in section 5.4 of the draft report. Likewise, we see no need for standard network indicators to be published given the low level of use on these lines. Such a requirement would simply increase costs for the infrastructure owner, without delivering demonstratable benefits to other parties.

SAFC also does not see the need to alter the negotiate-arbitrate framework of the Regime given it does not impose upfront requirements to the infrastructure owner, while allowing for robust commercial negotiations to take place.

We note the following discussion from page 26: *'Competitive substitutes from road transport may be unavailable and capacity at yards and sidings may not be scalable to meet an increase in demand in the short term. Demands for business continuity could therefore limit the access seeker's ability to effectively pursue arbitration and could result in higher prices or lower service quality'*.

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[3] p21

While we note this is plausible from an economic theory perspective, it is extremely unlikely to be the actual case in SA. GRA have already indicated that road transport is a competitive substitute for its mining outputs[4], for example.

Again, I thankyou for the opportunity to submit on this review.

Should you wish to discuss any element of this submission further, please feel free to contact me on (08) 8447 0664 or via email knapp.evan@safreightcouncil.com.au.

Yours Sincerely,

Evan Knapp
Executive Officer, SA Freight Council.

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[4] See above.