



BOWMANS INTERMODAL

Bowmans Intermodal Pty Ltd
ABN 87 105 070 451

Balco Road, Bowmans via Balaklava SA
PO Box 125, Balaklava 5461, South Australia
T (08) 8862 1177 F (08) 8862 1188

Ashley Harbutt
Regulatory Analyst
South Australian Access Regime Review
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

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escosa@escosa.sa.gov.au

Dear Ashley,

Thank you for inviting Bowmans Intermodal (Bowmans) to make a submission in response to the consultation inputs to the Issues paper issued in February 2015.

Our response has adopted the questions guide on page 3 of the guide and Bowmans respond as follows:

Question	Comments
Is there any evidence of misuse of market power by rail operators	While we don't have any evidence of abuse of market power there is a large operator in regional rail in South Australia and Northern Territory that is also a rail infrastructure service provider of regional rail lines and terminals
Has the current Access Regime been successful?	<p>If there have not been any disputes arising or referred perhaps it has been successful.</p> <p>However the level of understanding about the ownership, leases, legislative frameworks and access regimes are very confusing across rail and terminal assets in South Australia and often present a barrier to investigating access.</p> <p>It is not easy to determine who to apply to for access or the application process and what aspects the ROA Act or other legislative frameworks cover what rail and terminal infrastructure.</p> <p>Recently we investigated accessing some non ARTC standard gauge rail in SA and the Rail Policy unit in the Department of Planning, Transport and Infrastructure spent quite some time investigating who the relevant asset lessor and lessee and regulators were. In the meantime the tender closed and we did not bid.</p> <p>The respective roles of the various regulators are complex and not well understood as are the jurisdiction of the ROA Act and the role of ESCOSA and what Acts and Regulators cover other non ARTC rail assets in the state.</p>
How should this success be measured?	Only when knowledge about what rail asset are covered by what leases, Acts and regulatory jurisdictions, could ESCOSA

	properly measure success. At that time measures such as the numbers of dispute referrals and resolutions and the time taken to resolve would be reasonable measures.
What are the benefits of retaining the current Access regime?	To enable Access seekers to be treated fairly and protect the fact that one of the major train operators is also the rail and terminal infrastructure owner.
What would be the risks if it expired?	If it expired it would reduce the remedy for access seekers and increase the risk of the fact that a major asset owner who is also a major operator securing monopoly rights and reducing competition.
Are there alternative approaches available to achieving the intent of the access regime?	Using the ACCC as the sole regulator for the ARTC and other rail and terminals across Australia could be an option.
What are the intentions of rail service providers in the next five years? Are there any key developments that might impact the demand for those services?	Bowmans plans to continue to expand its operations through the development of other terminals to capture other freight that is either currently on road or on rail but using different rail/port nodes. The actual plans are confidential but are looking to utilise a number of terminals and standard gauge rail corridors outside the ARTC network. In almost all of these situations there are key pieces of rail infrastructure and or terminal infrastructure that must be accessed. But it is not clear who the infrastructure owners and relevant regulators are and there is a myriad of regulator jurisdictions covering these rail assets. This evaluation of who owns/controls/regulates these assets is an expensive investigative exercise and this establishes a very expensive and time-consuming process that adversely impacts a competitive. A suggestion is that a geospatial referenced map be available that reveals the name of the asset owner and regulator for the various rail and terminal assets in the state. Much of the data for this is already on the ARTC corridor maps but in the same way that PIRSA have for minerals reserves an electronic map could be developed.
What other issues are relevant to the decision to continue or discontinue the current Access Regime?	<ol style="list-style-type: none"> 1. The potential sale of ARTC by the federal government to potentially a rail operations group could be another reason for the current access regime to continue. 2. Other regulators responsible for local rail assets covered by the Railways Operations and Access Act 1997 (ROA Act) may not be resourced sufficiently to deal with regulating these assets.
Are there other matters that the Commission should consider as a part of the review?	<p>Are the access fees charged for some rail 'golden miles' in accessing critical infrastructure economic?</p> <p>How do rail operators compete pricing these access fees against the owner (large rail operator) of those assets?</p>

We thank you for the opportunity to provide this confidential input and we look forward to having further discussions with you.

In the meantime if you require any additional information or clarification, please contact Scott McKay on 0411 042 130 or smckay@balco.com.au

Yours faithfully



Scott McKay
Business Development Manager

Cc Malcolm May, Matthew Williams