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General Purpose Standing Committee No 4

Privatisation of FreightCorp

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Terms of Reference

These terms of reference were self-referred by the Committee on 12th October 2000[1]

That General Purpose Standing Committee No. 4 inquire into and report on the privatisation of FreightCorp, and in particular:

1) the economic, social, safety, employment and environmental implications of any privatisation of FreightCorp,

2) the effect on rural and regional New South Wales of any privatisation with respect to:

- (i) rail infrastructure and service improvements including the potential for reopening disused lines,
- (ii) cutbacks in rail services, maintenance and staff,
- (iii) the potential for more freight to be transported by rail and less heavy vehicle use of roads, and
- (iv) the economic and social impacts on country communities,

3) options for achieving fairer competition between road and rail freight transport operators, and

4) the implications of possible monopoly ownership of FreightCorp and Australian National Rail and vertical integration of the freight business.

1 Minutes of the Proceedings of the Committee, No 16, Item 4

Committee Membership

The Hon Jenny Gardiner MLC	**National Party**	*Chair*
The Hon Ian Cohen MLC	**The Greens**	*Deputy Chair*
The Hon Amanda Fazio MLC	**Australian Labor Party**	
The Hon Charlie Lynn MLC	**Liberal Party**	
The Hon Ian Macdonald MLC	**Australian Labor Party**	
The Hon David Oldfield MLC	**One Nation**	
The Hon Janelle Saffin MLC	**Australian Labor Party**	
Other Members who participated in the inquiry		
The Hon Duncan Gay MLC	**National Party**	
The Hon John Hatzistergos MLC	**Australian Labor Party**	
The Hon Tony Kelly MLC	**Australian Labor Party**	

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Figures, Tables and Charts

Chair's Foreword

In a unanimous decision of this bi-partisan committee, Members agreed to self-refer terms of reference to consider the implications of the New South Wales Treasurer's announcement of the Government's intention to privatise FreightCorp.

Some two and a half months later the committee has heard evidence from 27 witnesses over three days of public and private hearings, received 40 submissions from a diverse range of industry groups, other freight operators, government agencies, individuals and community groups and prepared its report containing 15 recommendations.

Although there was a wide cross-section of views on whether or not FreightCorp should be privatised, the committee identified that there was a lack of independent publicly available information. The committee was very concerned about job losses that may flow from privatisation. Hence, the committee's first recommendation was for the Government to commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp, such statement to be tabled in Parliament and made public.

If privatisation proceeds, the committee recommends that 50% of the proceeds from the sale should be directed to upgrading rail infrastructure in rural and regional areas to enable rail to better compete with road freight travel times. Apart from making significant improvements to rail infrastructure, implementation of this recommendation would help offset job losses which may be lost upon privatisation. Further, the committee recommends that a condition of any sale of FreightCorp be that the successful bidder must quarantine, for a minimum of two years, redundancy of any staff who carried over from the Government-owned FreightCorp.

The committee also believes that there is a need to make existing New South Wales Government Community Service Obligation payments to FreightCorp fully contestable over time. The potential effect on competition from FreightCorp and National Rail Corporation being sold to the one bidder was another matter of concern to the committee. The ACCC has informed the committee it shares that concern, concluding that the "sale of both businesses to a single party…clearly raises substantial competition issues that the (Australian Competition and Consumer) Commission will need to investigate fully".

The committee acknowledges that the Commonwealth Government's proposed sale of the NRC is a key element in determining FreightCorp's future and is concerned that a privately owned National Rail Corporation, sold at a 'fire sale' price, could easily out-compete FreightCorp for business in the lucrative coal and other bulk haulage contracts. This would have a negative effect on FreightCorp's business and its employees, most of whom work in country locations.

For this reason, the committee has recommended that, provided the findings of the independent rural and regional impact study referred to in its first recommendation are taken into account, then the New South Wales Government work towards a joint sale of FreightCorp and NRC to the one bidder by 30 June 2001.

The committee has also recommended that the rail access regime in New South Wales should operate in a competitively neutral environment to help ensure that a privatised FreightCorp does not operate like a private monopoly.

On behalf of the committee I wish to express my gratitude to all those who participated in the public inquiry process.

I also extend my appreciation to fellow committee members, all of whom recognised the importance of sticking to a short timeframe for this particular inquiry. Particular thanks go to the Deputy Chair, the Hon. Ian Cohen, MLC, who chaired two public hearings due to my unavoidable absence.

Special thanks go to the committee secretariat for their assistance throughout the inquiry and in the preparation of this report. I particularly note the efforts of the Committee Director, Steven Carr, who coordinated and clerked the committee's activities, Stewart Smith, Senior Project Officer, who drafted the bulk of the report, and Annie Marshall for providing essential administrative assistance and report formatting. Recognition also goes to the Mr Rob Brian, Parliamentary Librarian and Dr David Clune, Manager Library Research Services for allowing Mr Smith to be seconded from the Parliamentary Library.

Hon Jenny Gardiner MLC
Committee Chair

Executive Summary

On 7 September 2000 the Treasurer, the Hon Michael Egan MLC, announced the New South Wales Government's intention to privatise its freight rail operator FreightCorp, in a combined sale process with the Commonwealth's NRC. The committee self referred terms of reference relating to this matter on 12 October 2000 and, by way of press advertisements in major metropolitan and non-metropolitan media, called for public submissions from the 19–26 October 2000. The committee conducted three days of public and private hearings on the 6, 7 and 17 of November 2000 taking evidence from 27 witnesses and receiving 40 written submissions.

Chapter 1 presents the administrative workings of the committee inquiry process including the terms of reference and how the inquiry was conducted. In Chapter 2 the recent Commonwealth and New South Wales Government announcements concerning the privatisation of NRC and FreightCorp respectively are outlined. Substantial consideration of the future of freight rail operations has been undertaken at the Commonwealth level. A major theme emerging from these considerations was the need for a more commercial approach to rail operations. The desire for greater investment in rail infrastructure to enable rail to compete more effectively with road was also highlighted. This background, combined with the improving, but still poor financial record of NRC, the Commonwealth and minority shareholders (the New South Wales and Victorian Governments), agreed to privatise NRC. The Commonwealth intends to finalise the sale of NRC by June 2001.

Chapter 3 canvasses FreightCorp's business operations. FreightCorp's major source of revenue is bulk freight, predominantly in the transport of Hunter Valley coal which comprises around 80% of the organisation's total freight task. Bulk grain transport is FreightCorp's second largest revenue source. Evidence reflected that FreightCorp is an aggressive, strategically aware freight operator, with customer service and operating profits improving over time.

Each of the committee's terms of reference is considered in turn across chapters 4, 5, 6 and 7 of its report. The New South Wales Government provided financial assistance to the Rail, Tram and Bus Union to determine the implications of a privatised NRC on the viability of FreightCorp and its employees. The committee heard evidence that, from the perspective of FreightCorp and the RTBU, the preferred scenario was for FreightCorp to purchase NRC. With the Commonwealth blocking this option, the RTBU has been forced to support the privatisation of FreightCorp in a joint sale with NRC. The sale of the two organisations to the one bidder is likely to result in job losses in the vicinity of 200 – 400. The committee was persuaded by the concerns of FreightCorp and employee groups that the possibility of NRC being sold for an undervalued amount would create operating cost advantages for the new entity, which would lead to cherry picking of FreightCorp's key coal and grain freight contracts. This would lead to significant loss of economic viability for FreightCorp and lead to the loss of up to 600 FreightCorp jobs.

The committee received submissions and heard evidence noting both the positive and negative impacts of the privatisation of rail freight entities in other States. The positive impacts included a greater commercial and customer focus of the newly privatised organisations, generally leading to more freight being moved off the road and carried by rail. Some of the negatives included a reduction in the number of employees, a greater casualisation of the workforce, and a loss of working conditions for employees. However, the committee considers that a privatised FreightCorp, merged with NRC, will lead to greater job security for current employees than the alternative of remaining in government ownership.

The committee is anxious, however, that the privatisation of FreightCorp may have significant implications for rural and regional New South Wales. Sixty seven percent of FreightCorp employees work outside of the Sydney metropolitan area. Any reduction in the FreightCorp workforce may have a disproportionate effect on rural and regional New South Wales. The committee is concerned about the cumulative impact of community services being withdrawn from rural and regional communities.

The committee heard that the rail infrastructure in large parts of rural and regional New South Wales is in a serious state of disrepair. One of the potential advantages identified in any sale of FreightCorp is to use some of the sale proceeds to upgrade this infrastructure. The committee strongly supported this action. The upgrade of rail infrastructure in rural and regional areas has two advantages. Firstly, jobs are created in the upgrade itself, off-setting some job losses if FreightCorp is privatised. Secondly, subsequent rail operations are likely to be more efficient, possibly leading to the greater use of rail in moving freight and in turn leading to more investment in the rail freight industry. The upgrading of rural and regional rail infrastructure has the potential to mitigate any job losses in the rail industry in general associated with the privatisation of FreightCorp. It also contributes to cumulative gains for rural and regional areas.

FreightCorp currently receives a community service obligation payment to operate rural and regional New South Wales freight rail services that would otherwise be uneconomic. In announcing the sale of FreightCorp, the State Government promised that these CSO payments would continue. The committee strongly supports proposals to make these CSO payments transparent and open to contestability from any accredited rail operator. The committee also heard that these CSO operating payments should instead be invested in infrastructure upgrade, and that over time this would improve the efficiency of all rail operators making the need for operating subsidy payments obsolete. The committee notes these arguments but believes that further work needs to be performed to quantify the possible benefits of such an approach.

Due to its dispersed population, Australia is heavily dependent on freight transport. There are three areas of government policy with the potential to affect competitive neutrality between transport modes. These are: infrastructure investment; taxes, government charges and access; and regulations and procedures. It is evident to the committee that: infrastructure investment has favoured road over rail in recent years; that the long term decline in rail's share of general freight is unlikely to change under the current regime of taxes and charges; and that regulatory reform has progressed for road at a greater rate than for rail.

In relation to the implications of monopoly ownership of FreightCorp and NRC, the committee heard conflicting evidence. Some in the industry, notably bulk freight customers, had few concerns with a merged FreightCorp and NRC entity. They considered that there are enough other forces in the market to ensure that the merged FreightCorp and NRC entity remains competitive. In contrast, a private rail company concluded that any merger of FreightCorp and NRC would be against the interests of the industry as a whole, due to their dominance in the marketplace. With any merger, the committee stresses the importance of an open rail access regime, and considers that the regime must present competitively neutral opportunities for any accredited rail operator to enter the rail freight market in New South Wales.

Summary of Recommendations

Recommendation 1 22

That the New South Wales Government commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp. The impact statement should be tabled in Parliament and be made public.

Recommendation 2 28

That upon any sale of FreightCorp, in assessing purchase bids, the Government put a high weighting on each bidder's commitment to the maintenance and procurement of rollingstock in New South Wales.

Recommendation 3 36

That the New South Wales Government act promptly in responding to any recommendations by Acting Justice McInerney relating to rail safety and amendments to the *Rail Safety Act 1993*.

Recommendation 4 36

That upon any sale of FreightCorp, in assessing purchase bids, the New South Wales Government make a demonstratable commitment to safety a key criterion.

Recommendation 5 37

That, given the concern that a stand-alone fire sale of NRC may have adverse implications for FreightCorp and its employees, the New South Wales Government work towards a joint sale of FreightCorp and NRC to the one bidder by 30 June 2001, provided that the findings of the rural and regional impact study referred to in recommendation 1 are firstly taken into account.

Recommendation 6 39

That the New South Wales Government commit 50% of the proceeds of any sale of FreightCorp to improving the rail freight infrastructure in rural and regional New South Wales. The Government should consult with the rail freight industry to establish priority areas to which this investment should be directed.

Recommendation 7 40

That as a matter of urgency, the Department of Transport develop a discussion paper for public comment canvassing the costs and benefits, including the economic and social impacts on country communities, of converting the FreightCorp CSO payments into equivalent dollar amounts for infrastructure upgrade. This should be completed, and a final determination of the provision of CSO payments made, before the sale tender documents for FreightCorp are finalised.

Recommendation 8 41

That all matters relating to the tender documents and sale of FreightCorp should be publicly available. Failing this, the committee recommends that a 'community reference panel' be established to oversight sale contracts to reassure the community that matters are being dealt with appropriately.

Glossary

ACCC	Australian Competition and Consumer Commission
AMWU	Australian Manufacturer's Workers Union
ANTS	Australian New Tax System
ARG	Australian Railroad Group
ARTC	Australian Rail Track Corporation
ATN	Australian Transport Network
AWB	Australian Wheat Board
BTE	Bureau of Transport Economics
CSO	Community Service Obligation
EBIT	Earnings Before Interest and Tax
EBITDA	Earnings Before Interest, Tax, Depreciation and Amortisation
GTK	Gross Tonne Kilometres
NRC	National Rail Corporation
OECD	Organisation for Economic Cooperation and Development
PBS	Performance Based Standards
RAC	Rail Access Corporation
RTBU	Rail, Tram and Bus Union

Chapter 1 Introduction

Self referral of inquiry terms of reference

1.1 General Purpose Standing Committee No.4 ("the committee") met on 12 October 2000 to consider draft terms of reference tendered by the Chair, the Hon Ian Cohen MLC and the Hon David Oldfield MLC relating to the privatisation of Freightcorp. The committee agreed to an amended terms of reference, which is as follows:

> That General Purpose Standing Committee No. 4 inquire into and report on the privatisation of Freightcorp, and in particular:
>
> 1. the economic, social, safety, employment and environmental implications of any privatisation of Freightcorp,
>
> 2. the effect on rural and regional New South Wales of any privatisation with respect to:
>
>   (i) rail infrastructure and service improvements including the potential for reopening disused lines,
>   (ii) cutbacks in rail services, maintenance and staff,
>   (iii) the potential for more freight to be transported by rail and less heavy vehicle use of roads, and
>   (iv) the economic and social impacts on country communities,
>
> 3. options for achieving fairer competition between road and rail freight transport operators, and
>
> 4. the implications of possible monopoly ownership of Freightcorp and Australian National Rail and vertical integration of the freight business.

1.2 In accordance with the powers conferred by the Legislative Council resolution establishing the General Purpose Standing Committees[2], the committee agreed to self refer these terms of reference for its inquiry and report.

Conduct of this inquiry

1.3 The committee agreed to place advertisements in the following national, metropolitan and non metropolitan press calling for written submissions to the inquiry.

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2 *Minutes of the Proceedings of the Legislative Council,* No 3, 13 May 1999, item No 6, paragraph 8.

Table 1 - Publications, position and insertion date of committee's terms of reference

Publication	**Position**	**Insertion date**
National		
The Australian Financial Review	Early General News	Thursday 19 October 2000
Metropolitan		
The Sydney Morning Herald	Early General News	Saturday 21 October 2000
Non-metropolitan		
The Land	Early General News	Thursday 26 October 2000

1.4 The committee disseminated details of inquiry commencement, terms of reference and scheduling of public hearings to numerous media outlets and interest groups across New South Wales during the course of the inquiry.

1.5 Provision was made for visitors to the Parliament of New South Wales' web site www.parliament.nsw.gov.au to generate and forward electronic submissions to the committee.

1.6 The committee received 40 submissions. A list of submissions received appears as Appendix 2. Evidence was heard from 27 witnesses over 12 hours of hearings conducted on the 6, 7 and 17 November 2000. A statistical summary of submitters and witnesses the committee received evidence from is presented in Table 2 and Table 3 respectively. A list of witnesses who appeared before the committee is detailed as Appendix 3.

Table 2 - Number and percentage of total submissions by organisation type [3]

Organisation type	**No. of submissions**	**Percentage of total (%)**
Private citizen	10	25%
Private organisation / interest group	26	65%
Government agency / local Council	4	10%
TOTAL	**40**	**100%**

Table 3 - Number and percentage of witnesses by organisation type

Organisation type	**No. of witnesses**	**Percentage of total (%)**
Private citizen	0	0%
Private organisation / interest group	22	81%
Government agency / local Council	5	19%
TOTAL	**27**	**100%**

1.7 On 16 November 2000, the Legislative Council resolved to conduct an Order for papers with respect to documents in the possession, custody or power of The Treasury, the Treasurer or the Special Minister of State, related to any meetings held in the two months preceding 5 June 2000, concerning the privatisation of Freightcorp. [4] The resolution appears in full as Appendix 1. A response from the Director General, NSW Premier's

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[3] Does not include supplementary submissions

[4] *Minutes of the Proceedings of the Legislative Council*, No 73, 16 November 2000, item No 3.

Department, was tabled by the Clerk of the Parliaments in the Legislative Council on 23 November 2000.[5] All material was made available for Members to review although some documents had a request for privilege to be attached and are not publicly available.

1.8 The committee considered the Chair's draft report at its meeting on 15 December 2000. The Minutes of the Proceedings of the Committee, presented as Appendix 4, detail relevant resolutions and activities of the committee over the inquiry including its deliberations on the draft report.

1.9 Previous publications of the committee are presented as Appendix 5.

1.10 The committee agreed to append additional information provided by New South Wales Treasury relating to a regional impact statement, grain haulage, and correspondence between the Commonwealth and the State. This appears at Appendix 6.

Structure of this report

1.11 The report consists of seven chapters separated into two generic sections. The first section, encompassing chapters 2 and 3, provides a conceptual environment to the FreightCorp privatisation issue by considering the Commonwealth's proposal to privatise NRC and matters leading to the New South Wales Government's announcement to privatise its freight rail agency. Assessment is also made of the operating performance of the FreightCorp business since its corporatisation.

1.12 The second section considers each of the terms of reference in turn across chapters 4, 5, 6 and 7 reflecting the views of various industry, government and community groups. The committee makes 15 recommendations in relation to these issues for the Parliament and New South Wales Government to consider.

5 *Minutes of the Proceedings of the Legislative Council*, No 77, 23 November 2000, item No 5.

Chapter 2 Recent government announcements of rail freight privatisations

There have been three important national rail related reports published over recent years. These include: *Tracking Australia*[6], *Revitalising Rail*[7], and *Progress in Rail Reform*[8]. The committee notes that one of the overwhelming themes of these reports is support for an increase in private sector involvement in the operation of railways. For instance, the *Revitalising Rail* report recommended: "All Commonwealth and State Government rail freight operators should be privatised. Bidders for government rail freight operators should have no government ownership or control."[9] The *Progress in Rail Reform* report recommended: "Governments which own railways should pursue further private sector involvement…. All remaining government-owned freight operations should be privatised…"[10] Whilst *Tracking Australia* noted the potential benefits of private sector involvement in the industry, it concluded that in the end it does not matter whether it is in private or public sector ownership.[11]

It is with this background that the Commonwealth Government has sought to divest itself of its rail operations. Commonwealth rail freight sales include the various components of Australian National in Tasmania and South Australia. Similarly, the Victorian and Western Australian Governments have also privatised their freight rail operations. These privatisations are presented as case studies in Chapter 4. The committee notes that it has been the recent Commonwealth Government announcement of the sale of National Rail Corporation (NRC) that has been the catalyst for the New South Wales Government proposal to sell FreightCorp. This Chapter outlines the proposals for the sale of the two rail freight operators.

The Commonwealth Government announcement of the sale of National Rail Corporation

2.1 In 1991 the National Rail Corporation (NRC) was incorporated to take over interstate rail freight transport. The Shareholders of the Corporation are the Commonwealth (70%), New South Wales (20%) and Victorian (10%) Governments. NRC began trading in April 1993. Upon incorporation, an agreement between the shareholders and the other mainland Australian States specified a five year establishment period during which the company

6 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*. 1998.

7 Commonwealth of Australia, Rail Projects Taskforce, *Revitalising Rail The Private Sector Solution*, April 1998.

8 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6.

9 Recommendation No 27.

10 Recommendations 7.1 and 7.2.

11 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*. 1998, p 64.

would take over all of the interstate rail freight business conducted by the five separate State based rail authorities. During the establishment phase, which concluded on 31 January 1998, the shareholders provided equity worth $406.5 million. The Commonwealth contributed $295.8 million, New South Wales $75.6 million and Victoria $35.1 million. It was planned that after this establishment period the company would be commercially viable without any more 'top-ups' for operating losses from its shareholders.[12]

2.2 In the 1998-99 NRC Annual Report, the Managing Director Mr Vince Graham stated:

> To have taken this business in five years from an operating cash deficit of $260 million to a $4 million operating cash surplus in the 1998/99 year is an achievement for all our employees. Our next objective is to eliminate the 1998/99 $31.5 million operating loss before tax and then to secure adequate return on assets for our shareholders.[13]

2.3 NRC has invested more than $625 million in upgrading locomotive and wagon fleets. It now has total assets of approximately $825 million. A major component of these assets is its 150 locomotives and 4,000 wagons (value $485 million).[14] NRC has a workforce of over 1,200 people, and has an enterprise agreement with its workforce that binds the company and its employees to February 2002.

2.4 In 1998-99 NRC had operating revenue of $417 million. The company is based around four service based profit centres. These are:

- Intermodal – 63% of revenue. This provides linehaul transport and terminal services for domestic and import/export containerised freight between all capital cities

- Industrial and Specialised Services – 29% of revenue. Includes rail logistics services to steel manufacturing, mining, petroleum and customers of other industrial products,

- Bulk Freight Services – 4% of revenue. This provides rail movements for a range of commodities, including non-ferrous ore concentrates from Broken Hill mines to Port Pirie, crude petroleum, coal, stone aggregate and copper,

- Express – 4% of revenue. This unit provides premium freight transport services. Two services are offered – Trailerrail, using bi-modal trailers (turning trucks into trains and trains into trucks) and the Western Sprinter – using intermodal containers on timetables at passenger speeds.[15]

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12 National Rail Corporation, *Annual Report 1997-1998*, p. 6.

13 National Rail Corporation, *Annual Report 1998-1999* p. 7.

14 National Rail Corporation, *Information Brochure*, August 2000, p 11.

15 National Rail Corporation, *Information Brochure*, August 2000, p 3.

2.5 The Articles of Association of NRC allow shareholders to sell their equity in the company upon the expiry of the establishment period. In November 1996 the Commonwealth Government announced its intention to sell its shareholding and appointed consultants to conduct a scoping study, which was completed in September 1997.[16]

2.6 In May 2000 the shareholders of NRC reached agreement to privatise the Company by way of a sale of shares, establishing the following sale objectives:

- to contribute to an efficient and viable domestic freight transport industry…,
- to divest the shareholders of the shares in NRC as soon as reasonably practical …,
- to terminate the continuing responsibilities of the shareholders and minimise any post sale residual risks and liabilities…,
- to ensure fair and equitable treatment of NRC employees, including preservation of accrued entitlements, and
- having regard to the above objectives, to maximise the net sale proceeds.[17]

2.7 In a joint media release, the Hon John Anderson MP, Deputy Prime Minister and Minister for Transport and Regional Services, and the Hon John Fahey MP, Minister for Finance and Administration, said that greater private sector investment and participation was absolutely essential to increasing the competitiveness of the rail industry.[18]

The NSW Government and FreightCorp response to the sale of NRC.

2.8 In order to fully understand the New South Wales Government and FreightCorp response to the sale of NRC, it is important to gain an appreciation of the market in which FreightCorp is operating. FreightCorp defined the national freight market in the following terms:

> There are two national freight markets – bulk freight which is generally unpackaged commodities such as coal and grain, and general freight which is mostly containerised/palletised products.
>
> In the national general freight market, the principal competitor is road, supplemented by rail to rail competition. In the national bulk freight market, rail to rail competition dominates but is complemented by the countervailing power of large, established customers such as the major multi-national mining

16 National Rail Corporation, *Annual Report 1997-1998*, p. 2.

17 National Rail Corporation, *Information Brochure*, August 2000, p 1.

18 The Hon John Anderson, Deputy Prime Minister and Minister for Transport and Regional Services and The Hon John Fahey MP, Minister for Finance and Administration, Joint Media Release, "Sale of National Rail Corporation to Proceed Shortly", 24 May 2000.

> companies. These customers are increasingly demanding national transport solutions.
>
> As operators seek to achieve competitive advantage and to meet the ever increasing expectations of customers, the scope of the rail product is necessarily expanding beyond linehaul. Transport players keen to manage the entire customer service chain are progressively providing integrated logistics solutions. These solutions frequently require significant commitment along the supply chain, including:
>
> - Alliances with other service providers,
> - Supporting e-commerce / IT capability,
> - Commitment of capital for facilities and infrastructure, and
> - Strong supply chain management capability well beyond rail linehaul,
>
> Increasingly these require the breadth of resources only available from major businesses with a national focus.[19]

2.9 Similarly, a report prepared by PricewaterhouseCoopers for the Rail, Tram and Bus Union (RTBU) indicated the following:

> "…the future of freight in Australia would be driven by the following factors: the replacement of traditional monopolies of rail and road through the emergence of logistics companies which offer a seamless service, for example, not moving cotton from Narrabri to Sydney on rail but moving cotton from Narrabri to Tokyo using whatever mode of transport is appropriate at the time and that this technology would be driven largely by e-commerce and consignment tracking developments, resulting in, along with the accumulation of capital, the development of … super transport powers in Australia in which State boundaries become meaningless, traditional monopolies are gone and there is a tendency towards global operations. Indeed, there is already a national freight market in Australia, which is a movement from the old State markets."[20]

2.10 FreightCorp argued that in the future there was likely to be only two or three national rail based freight services, and that it was their vision to be one of them. FreightCorp stated:

> In examining the relative scales of the US and Australian rail industries, however, it would appear that the Australian market does not have sufficient volumes, haulage lengths or margins to sustain more than 2 or 3 large national operators over the long term. These would be complemented by a strong and vibrant network of shortline and regional operators.
>
> In the context of developing its business and national growth strategies, FreightCorp has identified as an absolute priority its objective to be one of these

19 Submission No 15, Mr Di Bartolomeo, Managing Director, FreightCorp, p 4.

20 Evidence of Professor Daryll Hull, consultant to the RTBU, 6 November 2000, p 32.

> national operators. Its vision is to be the premier national rail based freight services company.[21]

2.11 In its submission to the committee, FreightCorp argued that for rail freight companies to focus only on rail line haul was not sustainable. Instead, rail freight companies had to develop and offer customers full logistic services, including warehousing, stockpiling and road transport terminals.[22]

2.12 Further evidence of the requirements for greater logistical solutions and a seamless service were submitted to the committee. Mr Keene, Managing Director of Graincorp, noted:

> We are of the view that as the grain freight business is rapidly changing a greater emphasis needs to be placed on logistics and the provision of a seamless service to New South Wales growers. Cost effective transit of grain by road, rail and shipping to end users and export terminals is paramount for the grain industry to remain competitive in global markets.[23]

2.13 It is apparent that the national freight market is in a state of change. FreightCorp considers it is vital to continue to expand and grow its operations to ensure that it becomes one of the main national rail freight organisations.

2.14 The committee heard evidence from FreightCorp that, in its corporate planning over several years, it had intended to purchase NRC if the opportunity arose. The committee accepts that the announcement of the sale of NRC presented a unique national growth opportunity for FreightCorp. FreightCorp believed an acquisition of NRC was particularly attractive and would provide the following:

- Synergy value,
- An ability to develop a network operation given the complementarity of the two businesses,
- National coverage for customers,
- Strong base in core rail markets,
- Enhanced ability to move beyond linehaul into logistics provision,
- Significant economies of scale, and
- A viable national operator able to more effectively compete with road.[24]

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21 Submission No 15, Mr Di Bartolomeo, Managing Director, FreightCorp, p 6.

22 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 17.

23 Submission No 20, Mr TB Keene, Managing Director, GrainCorp, p 1.

24 Submission No 15, Mr Di Bartolomeo, Managing Director, FreightCorp, p 7.

2.15 However, the Commonwealth Government has excluded FreightCorp and other State owned rail entities from bidding for NRC. In correspondence to the committee, The Hon John Fahey MP, Minister for Finance and Minister for Administration stated:

> Sale management arrangements have been agreed on the basis of the Commonwealth's view that rail reform is best served through the sale of NRC to private sector operators. Accordingly, government-owned rail entities have been excluded from the sale process.[25]

2.16 The committee heard evidence that a representative from New South Wales Treasury, along with representatives from the union movement, met with the Hon John Fahey MP in an attempt to convince him that a FreightCorp purchase of NRC was a good proposition. Mr Lewocki, Branch Secretary of the RTBU, told the committee:

> "My President, Mr Bob Plain, and Michael Costa, the Secretary of the Labor Council, and I, along with a representative of Mr Egan's office, flew to Canberra. We had a two-hour conversation with Minister Fahey explaining the benefits of, first of all, FreightCorp purchasing National Rail. When it became clear that the Commonwealth Government was not to move on that position, we spoke about the alternative of a joint venture proposal purchasing National Rail, indicating what some of the strengths would be in it still partially government owned, the injection of private capital and introducing some of the issues that the Federal Minister indicated were necessary, and that is private management structures. We thought that was a fair compromise.
>
> … the Minister indicated that he was going to move ahead with the privatisation of National Rail, which basically forced us into the position of then looking at the joint sale, the merging of the two organisations for sale purposes and selling them to the one bidder, and we have been negotiating with the New South Wales Government ever since…"[26]

2.17 There was some discussion in the inquiry's public hearings about whether the New South Wales Government should challenge the Commonwealth Government's exclusion of FreightCorp from bidding for NRC. FreightCorp had the following response:

> The Commonwealth Government's decision to exclude wholly or partly government-owned bidders was consistent with the position which has been taken in all other Australian rail privatisations to date. It is understood that the RTBU has obtained confidential legal advice suggesting that the Commonwealth's position could be in breach of competition policy and the Trade Practices Act, and could be challenged. FreightCorp views the value of the advice and the merits of acting on such advice, with great concern. Even if such a legal challenge was successful it would only permit a bid to be made – it would not guarantee the success, or final acceptability of a bid. Such a challenge would not address the Commonwealth's stated sale objectives, one of which is to increase private sector involvement. Nor would it address any other decision criteria to be employed by

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25 Correspondence from The Hon John Fahey MP, Minister for Finance and Minister for Administration, 10 November 2000.

26 Evidence of Mr Nick Lewocki, New South Wales Branch Secretary, RTBU, 6 November 2000, p 31.

> the Commonwealth Government and its advisors. The Commonwealth is at liberty to adopt and apply such objectives and criteria.[27]

2.18 The committee accepts that the purchase of NRC by FreightCorp would have been an important strategic acquisition, and that the exclusion of FreightCorp to bid for NRC presented a significant impediment to its national growth strategy. In response to the Commonwealth Government restrictions, FreightCorp and the New South Wales Government then began to develop the plan to privatise FreightCorp concurrently with NRC, facilitating the opportunity for both organisations to be sold to the one bidder. Expanding on this point, Mr Di Bartolomeo, Managing Director of FreightCorp, told the committee:

> "…The privatisation of FreightCorp was really just that. It was: how do we overcome this particular imposition; how do we ensure that FreightCorp and its value today and its value as we see it going forward can continue to be enhanced and maintained given that we have now got this major hurdle? … We were saying it not in the context of a privatisation but in the context of what is good for FreightCorp going forward."[28]

2.19 It is apparent to the committee that once the New South Wales Government determined that the Commonwealth Government was not going to deviate from its position of prohibiting other State owned rail entities to bid for NRC, it developed the option of privatising FreightCorp in a parallel sale with NRC. In response to a question in the Legislative Council about securing the future for FreightCorp employees, the Hon Michael Egan MLC, Treasurer, stated:

> "That is why I announced today that the Government has decided to sell FreightCorp in parallel with the Federal Government's rail freight business, National Rail. The decision has been prompted by the threat that a privatised National Rail would pose to FreightCorp jobs and the viability of FreightCorp business."[29]

2.20 The Treasurer's announcement of the privatisation of FreightCorp on 7 September 2000 included the following sale conditions:

- Guarantee to maintain Budget subsidies to unprofitable country rail lines,
- Guarantee to maintain community service payments to subsidise the transport of grains, sugar and other goods,
- Provide job guarantees for FreightCorp staff for a number of years, and

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27 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 1.

28 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 22.

29 *New South Wales Parliamentary Debates*, 7 September 2000, p 8742.

- Guarantee to maintain the State's rail lines and passenger services in public ownership.[30]

2.21 The committee heard evidence about the implications of a privatised NRC whilst FreightCorp was kept in public hands. Whilst these issues are further discussed in chapter 4, it was presented to the committee that a privatised stand-alone NRC would attempt to 'cherrypick' FreightCorp's most profitable contracts, and possibly result in a loss of 500 to 600 FreightCorp jobs in the next two years.

2.22 The committee heard that there are still many details to be finalised in regards to a joint or parallel sale of FreightCorp with NRC. Mr Costa of the Labor Council stated his disappointment at the attitude of the Commonwealth Government to date in regards to a joint sale of NRC and FreightCorp. He told the committee:

> "So, in other words, what they are saying is, "You go ahead with your process. We'll go ahead with our process. We'll make it clear in terms of the expression of interests that we are interested in a common purchaser and if it eventuates, it eventuates. If it doesn't eventuate, we're going to go ahead." Now, we have put a lot of effort into trying to get the Federal Government, and I think this is where the effort of New South Wales ought to be focused, on firming up the arrangements in relation to a single purchaser of both entities. If not, we are going to end up in a very difficult situation as the owner of an entity that is threatened by a very aggressive competitor."[31]

2.23 On the other hand, the committee heard evidence about the Commonwealth's flexible approach. Mr Ronsisvalle, Executive Director, New South Wales Treasury told the committee:

> "We have had discussions with the Commonwealth. The Commonwealth is also interested in selling their NRC to the same bidder as FreightCorp and they are prepared to be flexible about the timetable that they were originally going to the market place. They have got requirements that they want to sell National Rail by 30 June next year and when you work back from that timetable, selling FreightCorp and National Rail is possible within that time frame."[32]

Other reasons to privatise FreightCorp

2.24 Whilst the committee was presented with the above evidence that the sale of NRC, and the exclusion of FreightCorp to bid for it, was the catalyst for the announcement of the sale of FreightCorp, the committee also heard from New South Wales Treasury on some other

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30 Hon Michael Egan MLC, Treasurer of New South Wales, Media Release "New South Wales Government moves to protect rail freight jobs." 7 September 2000.

31 Evidence of Mr Michael Costa, Secrtary, Labor Council of New South Wales, 7 November 2000, p 9.

32 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 6.

reasons why the Government wanted to exit from the rail freight industry. For instance, Mr Ronsisvalle stated:

> "I think it is fairly well established now that the rail freight and, generally, freight industries have become increasingly competitive over time and the need for the Government to own a rail operator is less apparent these days. I think that given the Government's other priorities of where it could put its money, the Government has taken a decision that it would be best to exit that industry, at least from the Government's perspective, and use that money for other priorities within the public sector."[33]

2.25 Mr Ronsisvalle also stated:

> "… I think the issue is: given the limited use of capital that the Government has actually got, is that the sort of business that the Government should actually be in? That highly competitive environment is more suited to private owners risking their capital than the Government risking funds it has raised from taxation."[34]

2.26 The committee also heard argument that government ownership of entities such as FreightCorp impose some restrictions on the flexibility of management to operate in an increasingly competitive environment. There are, for example, formal procedures which need to be followed that make it harder for a government entity to compete in an industry that is highly dynamic.[35] Mr Ronsisvalle of New South Wales Treasury, continued:

> "I think the need to seek approvals for investment proposals may be something which results in potentially business opportunities being missed. There are restrictions on the investment of capital within businesses. You really need to go through a process to have that approved by Treasury. Those restrictions can at times produce less flexible responses to decisions which need to be made fairly quickly."[36]

2.27 In response to questioning whether FreightCorp had suffered any flexibility because it has been in public ownership, Mr Di Bartolomeo, Managing Director of FreightCorp replied:

> "The general answer to that question is I do not believe that we have been in any significant way hindered in pursuing a commercial successful outcome for FreightCorp. It is true, for instance, that one of the conditions of our employment is that we do not have forced redundancies of our employees, but we have been able to manage our downsizing, …

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33 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 1.

34 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 14.

35 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 3.

36 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 3.

> …There is one area I do want to put on the record that has impeded our opportunity as a commercial operator and, I guess, it is really at the heart of the imposition that we face today and that is that we could not bid and acquire other government assets when they came on the market."[37]

2.28 Mr Ronsisvalle of New South Wales Treasury also put forward the following:

> **"…** the sale of FreightCorp and National Rail to one bidder if that occurs, the Government certainly has a desire to try to bring to Australia one of the larger US freight rail operators, what they call class 1 operators. If we can do that, that will be bringing a very substantial US company to Australia to help run the freight industry and that is certainly the Government's intention."[38]

2.29 The 'inefficient' allocation of capital expenditure by governments was also highlighted as a possible reason why government should leave the industry. For instance, Mr Keogh, Policy Director, New South Wales Farmers' Association noted:

> "The dilemma that has been pointed out in a number of situations is that it tends to happen in that situation that the budget pressures on government seem to mean that the level of investment in the infrastructure and in upgrading, et cetera, is constrained by budget cycles and electorate cycles."[39]

2.30 In conclusion, the committee notes that one of the main reasons put forward by the New South Wales Government for FreightCorp to be privatised is the competitive threat of a 'stand-alone' privatised NRC. This threat may be exacerbated by the possibility of NRC being sold cheaply, in a business where the cost of capital is one of the major cost factors.

37 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 18.

38 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 11.

39 Evidence of Mr Michael Keogh, Policy Director, New South Wales Farmers' Association, 7 November 2000, p 16.

Chapter 3 The FreightCorp business

FreightCorp

3.1 FreightCorp is a State owned corporation. Section 19H of the *Transport Administration Act 1988* defines the objectives of FreightCorp. These are:

(1) (a) to operate efficient, safe and reliable rail freight services, and

(b) to be a successful business and, to this end:

(i) to operate at least as efficiently as any comparable businesses, and

(ii) to maximise the net worth of the State's investment in the Corporation, and

(c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and

(d) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*, and

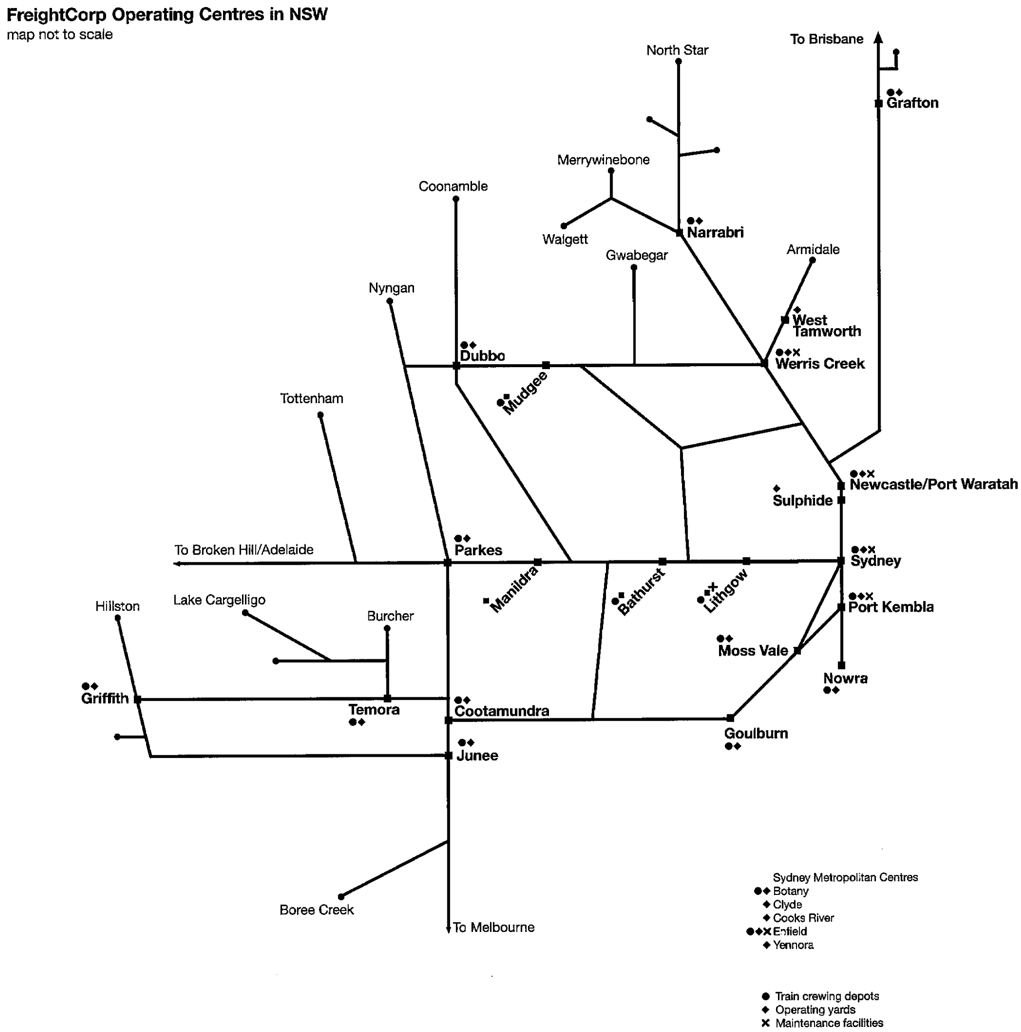
(e) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.

(2) Each of the principal objectives of Freight Rail Corporation is of equal importance.

3.2 The committee notes the objectives of FreightCorp to exhibit a sense of social responsibility to the communities in which it operates and towards regional development. These issues are at the core of many of the arguments against privatisation, and the committee is aware that a privatised FreightCorp may have different business objectives as to those above.

3.3 Figure 1 is a map showing the network in which FreightCorp operates across rural and regional New South Wales.

Figure 1 - FreightCorp operating centres in New South Wales



Source: FreightCorp Annual Report 1998-99.

3.4 FreightCorp's principal coal services in the Hunter Valley carry coal for thirteen customers from 20 loading points an average distance of 120 kilometres to the Port of Newcastle. The Southern and Western coal fields centred on Lithgow are serviced at six loading points, for delivery to Port Kembla. The South Australian operation hauls domestic coal for power generation from the coal fields of Leigh Creek to Port Augusta. FreightCorp also has an extensive grain network incorporating terminals and sub-terminals. The major sub-terminals are located at Werris Creek, Narrabri, Moree, Parkes, Temora and Junee, leading to the main terminals at Newcastle and Port Kembla. FreightCorp also provides services to, and manages intermodal terminals across, regional New South Wales and metropolitan Sydney for containerised freight. In Sydney, terminals are located at Clyde, Cooks River, Yennora, St Marys and Minto. Regional terminals are located at Moree, Wee Waa, Narrabri, Tamworth, Kempsey, Casino, Newcastle, Port Kembla, Dubbo, Parkes, Blayney, Griffith and Bomen (Wagga Wagga).[40]

3.5 The location of FreightCorp staff reflects their operating environment. Table 4 below shows the location and employee number of FreightCorp staff. The committee notes that 67 percent of FreightCorp employees work outside of the Sydney metropolitan area.

Table 4 - Location and number of FreightCorp staff[41]

Location	Number of employees	% of total FreightCorp employees
Hunter Valley	624	28
North Coast	25	1
North West	176	8
West	114	5
Central West	179	8
South West	212	9
Illawarra	148	7
Metropolitan	461	21
Head Office	271	12
South Australia	7	1
	2217	100

Source: FreightCorp, 2000

3.6 FreightCorp has 292 locomotives and 5614 wagons.[42]

3.7 The FreightCorp operating profit before interest and tax and cash returns to Government for the last four years are shown in figures 2 and 3 respectively.

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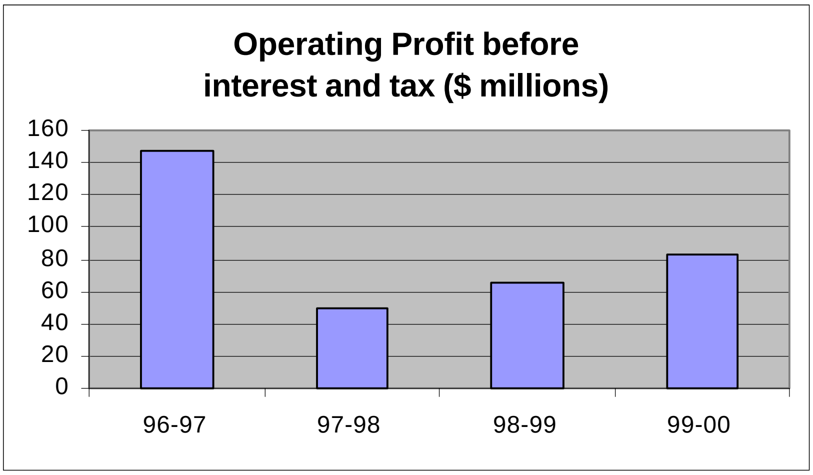
40 FreightCorp Annual Report, 1998-99, p 4.

41 Correspondence from Mr Di Bartolomeo, Managing Director, FreightCorp, in response to request for information, 29 November 2000.

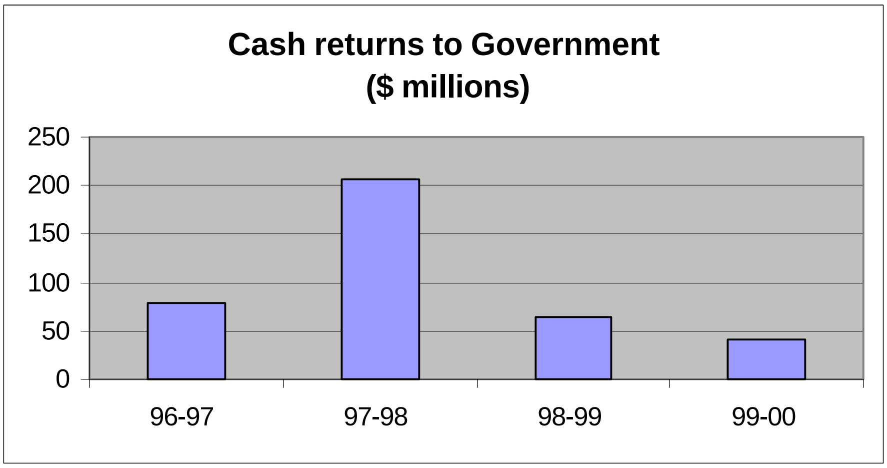
42 FreightCorp *Annual Report 1999-00.* p 13.

Figure 2 - FreightCorp Operating Profit before interest and tax ($ millions)



Source *Graphs adopted from FreightCorp Annual Report 1999-00. p 4.*

Figure 3 - FreightCorp Cash Returns to Government



Source *Graphs adopted from FreightCorp Annual Report 1999-00. p 4.*

3.8 The operating revenue and tonnes from the various components of FreightCorp haulage are shown in Table 5.

Table 5 – FreightCorp operating revenue and tonnes hauled 1999-00 and 1998-99

	1999 – 00		1998 - 99	
	Revenue ($m)	**Tonnes('000)**	Revenue ($m)	Tonnes('000)
Coal	**304.6**	**70.7**	366.4	72.5
Grain & other bulk	**194.2**	**12.4**	33.4	10.8
General freight/intermodal	**35.6**	**2.4**	33.4	2.1
Non-freight services	**16.4**	**n/a**	18.6	n/a
CSO payments	**76.5**	**n/a**	80.0	n/a
Other operating revenue	**11.2**	**n/a**	17.7	n/a
Total operating revenue	**638.5**	**85.5**	688.0	85.5
Interest received	**4.8**	**n/a**	17.7	n/a
Other non-operating revenue	**11.1**	**n/a**	10.4	n/a
Total revenue from ordinary activities	**654.4**	**n/a**	701.4	n/a

Source: FreightCorp Annual Report 1999-2000, p 15.

3.9 The top ten customers of FreightCorp provide 70% of revenue. These comprise eight coal contracts and two grain contracts. FreightCorp noted that its contracts with customers are generally non-exclusive. This means that the business, either all or in part, could be transferred to another operator at any time. The business which is under contract arrangement expires at various times ranging from immediately to ten years.[43] FreightCorp noted:

> …the combination of some significant contracts expiring in the near term and customer ability to transfer business represent a significant issue for FreightCorp.[44]

3.10 The committee received considerable evidence as to the increased efficiency of FreightCorp since corporatisation in 1996. For instance, upon incorporation on 1 July 1996, employee numbers stood at 3959. Employee numbers are now approximately 2,200.[45] The New South Wales Treasury submission noted:

> Since corporatisation there have been significant improvements in FreightCorp's operating efficiency. Improvements of 26%, 52% and 128% have been achieved

43 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 4.

44 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 4.

45 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 4.

> respectively in wagon, locomotive and employee productivity over the last four years. The workforce has been reduced by 43%, without resorting to forced redundancies and average payroll payments per employee have risen by 28%.[46]

3.11 FreightCorp stated that as a result of these productivity improvements the following outcomes have been achieved:

> [there] has been an improved level and expanded scope of service for customers at substantially reduced prices (average reduction of 25%). FreightCorp's freight task has grown by over 30% during the same period with much of this freight transferring from road. Import and export container traffic in particular has grown from 80,000 containers per annum four years ago to 180,000 containers today.[47]

3.12 It is evident to the committee that the objectives of corporatising FreightCorp, such as increasing its efficiencies and commercial focus, have been achieved. FreightCorp is, in essence, performing like a privatised rail freight operator.

Recent regulatory reform

3.13 In 1996 the *Transport Administration Amendment (Rail Corporatisation and Restructuring) Act* was passed by the New South Wales Parliament. The reforms separated the State Rail Authority into four independent agencies. These were:

- State Rail Authority, including the CityRail and Countrylink business units,
- Railway Services Australia, responsible for supplying goods and services to the rail industry,
- Rail Access Corporation, which has ownership of the public rail infrastructure such as tracks and signalling equipment, and is responsible for providing open access to accredited rail operators under the Rail Access Regime, and
- Freight Rail Corporation, trading as FreightCorp, to operate rail freight, as an above rail operator removed from the ownership and management of below rail infrastructure.

3.14 Since the above organisations were formed, and in response to the recommendations of the Special Commission of Inquiry into the Glenbrook Rail Accident, recent legislative amendments have changed some of the above structures. On 1 December 2000 the Hon Eddie Obeid MLC, Minister for Mineral Resources, and Minister for Fisheries, introduced into the Legislative Council the *Transport Administration Amendment (Rail Management) Bill.* [48]

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[46] Submission No 26, Mr John Pierce, Secretary, New South Wales Treasury, p 3.

[47] Submission No 15, Mr Di Bartolomeo, Managing Director, FreightCorp, p 3.

[48] *New South Wales Parliamentary Debates*, Transport Administration Amendment (Rail Management Bill), 1 December 2000, p 11,475. The Hon Carl Scully MP, Minister for Transport and Minister

The Bill has passed through both Houses of Parliament and is now awaiting assent. The main purpose of the Act is to:

- Merge the Rail Access Corporation and Rail Services Australia into a new organisation called the Rail Infrastructure Corporation,
- Provide for the legislative formalisation of the Office of the Co-ordinator General for a transition period lasting approximately 12 months, and
- Provide for the establishment of a Rail Regulator, to coincide with the termination of the Office of the Co-ordinator General.

3.15 The Rail Regulator's task will be to develop performance standards for passenger and freight services and rail infrastructure. Matters such as on time running and reliability will be addressed in the performance standards. These performance standards will be considered, and endorsed if appropriate, by the portfolio Minister and published for the community's benefit. While the performance standards will regulate passenger services and infrastructure, the Act also provides for performance standards to be set for freight services.[49]

3.16 In his Second Reading Speech the Minister stated that it was not the Government's intention to regulate generally the performance of freight, as this is primarily an issue for the customers of the freight services. However, the Act permits performance standards to be set for freight services to the extent that they may affect the safety or reliability of the New South Wales rail network or may affect the ability of others to comply with performance standards.[50]

for Roads, introduced into the Legislative Assembly the *Transport Administration Amendment (Rail Management) Bill* on 15 November 2000.

49 *New South Wales Parliamentary Debates*, Transport Administration Amendment (Rail Management Bill), 1 December 2000, p 11,477.

50 *New South Wales Parliamentary Debates*, Transport Administration Amendment (Rail Management Bill), 1 December 2000, p 11,477.

Chapter 4 The economic, social, safety, employment and environmental implications of any privatisation of Freightcorp.

In Chapter 3, the committee noted that FreightCorp has increasingly operated like a private company. Actual privatisation of FreightCorp would have further implications for its employees and the communities in which it operates. The committee heard evidence pointing to both positive and negative implications for a privatised FreightCorp.

This Chapter is in two parts. The first part, by way of case studies, looks at the effect of the privatisation of other Australian government owned rail freight operators, and from this analysis makes some predictions about what would most likely happen to FreightCorp if privatised. The second part looks at the general implications of any privatisation of FreightCorp. Chapter 5 analyses the implications of privatising FreightCorp from a rural and regional New South Wales perspective.

The lack of publicly available independent information about the implications of any privatisation of FreightCorp

4.1 The committee's inquiry confirms that there is a lack of publicly accessible information or analysis of the possible effects of the privatisation of FreightCorp. As will be evidenced throughout this chapter, a report commissioned by the RTBU has, by default, become the leading analysis of the privatisation of FreightCorp. Even the consultant who coordinated the preparation of the RTBU report noted:

> "I find it unusual that we now find ourselves with what appears to be one of the more substantial analyses of the situation when it was merely designed to help the union to work out what its position should be in terms of privatisation."[51]

4.2 Other interested parties also submitted evidence to the committee about the lack of information available to help determine their position in relation to the privatisation of FreightCorp. For instance, Mr Bastian of the AMWU had the following comments:

> "We are concerned that there is only the one report and that most of the information that was derived is in confidence. We do not think there has been enough discussion, public debate or consultation over its [privatisation's] economic impact."[52]

4.3 Mr O'Brien, of the Association of Mining Related Councils, told the committee:

> "I think what we want or what the association is recommending is that there be a halt put on the privatisation of Freight Rail until such time as a comprehensive

51 Evidence of Professor Daryll Hull, consultant to the RTBU, 6 November 2000, p 35.

52 Evidence of Mr Paul Bastian, State Secretary, AMWU, 6 November 2000, p 48.

> study of the social impacts throughout regional and rural New South Wales has been undertaken, and a true, comprehensive report provided."[53]

4.4 Similarly, the New South Wales Parliamentary National Party called for a regional impact statement to be prepared:

> Given that the bulk of FreightCorp business is in rural and regional areas, it is imperative an impact statement into the economic, employment and environmental consequences is conducted in rural New South Wales and tabled in Parliament before any final decision is made to privatise FreightCorp.[54]

4.5 The General Council of the New South Wales Farmers' Association passed the following resolution:

> That New South Wales Farmers' Association seek that any proposal for the privatisation of FreightCorp should be the subject of an independent Rural and Regional impact study before final decisions are contemplated including consultations with community members.[55]

4.6 Another commentator was slightly more forgiving of the lack of information about any impacts with the privatisation of FreightCorp. Associate Professor Laird told the committee:

> "I believe in New South Wales the case has not been made or, if it has been made, I do not think it is well communicated to the interested public."[56]

4.7 In response to a question on notice, the New South Wales Treasury later advised the committee that a regional impact statement was submitted to Cabinet, but is subject to Cabinet Confidentiality.

Recommendation 1

That the New South Wales Government commission an independent rural and regional impact statement before any final decision is made on the privatisation of FreightCorp. The impact statement should be tabled in Parliament and be made public.

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53 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 31.

54 Submission No 25, Hon George Souris MP, Leader, New South Wales Parliamentary National Party, p 2.

55 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 21.

56 Evidence of Associate Professor Philip Laird, 7 November 2000, p 38.

The effects of privatisation of other Australian government owned rail freight companies

4.8 The committee is aware that Australia-wide since November 1997 there have been four government-owned freight companies sold to the private sector.

4.9 These are:

- The 'Australian National' South Australian operation, sold to Genesse and Wyoming (now ASR) in November 1997 for $54.7 million (debt free),
- The Commonwealth Government vested Tasrail assets sold to Australian Transport Network (ATN – owned by Wisconsin Central) in November 1997 for $22 million (debt free and no ongoing community service obligation),
- In March 1999 the Victorian Government sold V-Line Freight (now Freight Australia) to Rail America for $163 million,
- In October 2000 the West Australian Government sold the Westrail freight business for $585 million.

4.10 The following case studies show what has happened to each of these rail freight companies after privatisation, in order to predict possible impacts of privatising FreightCorp. Material is sourced from the PriceWaterhouseCoopers report to the RTBU.

The Victorian privatisation of V-Line Freight[57]

4.11 In March 1999 the Victorian Government sold V-Line Freight (now Freight Australia) to Rail America for $163 million. This sale included a fifteen year lease of the track (plus two fifteen year options). Rail America undertook to spend $36 million in capital expenditure over the first two years. Bidders specified the number of employees required, hence redundancies were offered selectively. Redundancy costs were met by the Government and these were deducted from bids to assess a net sale price. At privatisation 55 percent of staff were re-hired. Freight Australia still receives a fixed Community Service Obligation payment for the Fast Track small parcel unit delivery service – the amount of which is confidential. They also receive an access fee to cover track use by rural passenger trains.

4.12 Freight Australia owns 107 locomotives, 2,800 wagons and leases 4,760 km of track.

4.13 Freight Australia won from FreightCorp an Australian Wheat Board contract for 0.3 million tonnes of grain per annum for haul to Port Kembla, and has also won a contract for hauling timber from Queanbeyan and Bathurst to Port Kembla.

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57 The information in this section is taken from: PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice,* Prepared for the Rail, Tram, Bus Union (New South Wales Branch), July 2000, p 29.

4.14 In 1998-99 revenue was $139 million, total costs were $137 million and total tonnage was 8 million (2.6 million was grain). Freight Australia has achieved a large profit turnaround from an earnings before interest, tax, depreciation, and amortisation (EBITDA) of $-1.9 million in 1998-99 to $34.5 million in 1999-2000.

4.15 Over the twelve months to June 2000, the workforce expanded by approximately 100 full time equivalent (FTE) positions (to 700 FTE positions) following the winning of new business and bringing locomotive maintenance in-house. Employment conditions are preserved under an agreement with the Victorian Government.

The Commonwealth privatisation of Tasrail[58]

4.16 The Commonwealth Government sold Tasrail to ATN in November 1997 for $22 million, debt free and with no ongoing community service obligation payments. ATN committed themselves to $20 million expenditure by 2001, including expenditure on locomotives, terminals and track upgrades. In 1998 ATN purchased Emu Bay Rail from Pasminco for $7.8 million.

4.17 ATN has recently announced it will make its first ever profit in 1999-2000 of $7 million. This has been achieved by securing new tonnage, re-opening two branch lines and reducing costs. ATN has 730 km of track, 38 locomotives and 600 active wagons.

4.18 At privatisation all employees were retrenched with redundancy packages met by the Commonwealth Government. Sixty-five percent of employees were rehired. ATN uses individual employment contracts and Australian Workplace Agreements which exclude union involvement. ATN offered wages rates 15.6 percent above Tasrail but reduced access to overtime and leave entitlements.

The Commonwealth privatisation of Australian National South Australian operation[59]

4.19 The South Australian operations of Australian National were sold by the Commonwealth Government to Genesee and Wyoming (now ASR) in November 1997 for $57.4 million, debt free. ASR committed to $52.3 million of capital expenditure by the end of 2002, although apparently completion of this has been delayed by ASR. The business comprises four separate networks and some support facilities. ASR also obtained a 50 year lease of intrastate track, and interstate track is leased to the Australian Rail Track Corporation (ARTC).

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58 The information in this section is taken from: PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice*, Prepared for the Rail, Tram, Bus, Union (New South Wales Branch), July 2000, p 30.

59 The information in this section is taken from: PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice*, Prepared for the Rail, Tram, Bus, Union (New South Wales Branch), July 2000, p 31.

4.20 ASR performance is described as being mixed, after losing the Leigh Creek coal haulage contract to FreightCorp. This comprised 42 percent of ASR's revenue and its only coal haul.

4.21 At privatisation all employees were retrenched and redundancies were paid for by the Commonwealth. ASR uses a higher proportion of casual employees than FreightCorp, especially for grain. One third of all ASR staff are casual. However, employment has grown under ASR compared to pre-privatisation days. Full time equivalent staff numbers have increased from approximately 150 at privatisation to approximately 200 FTE at 30 June 2000. In 1996-97 EBIT was $0.1 million, yet has recorded a strong EBIT turnaround to $13 million.

The West Australian privatisation of Westrail Freight

4.22 On October 30 2000 the West Australian Government announced the sale of the Westrail freight operations business to the Australian Railroad Group for $585 million, together with a commitment by the Group to invest a further $400 million in the State's rail system over the next five years. The ARG is a consortium which includes Wesfarmers Limited and the international rail operator Genesee and Wyoming Inc, which also owns the South Australian rail freight operations ASR.

4.23 The Australian Railroad Group has now emerged as the largest privately owned railway group after Genesee and Wyoming folded its existing Australian operations into the new joint venture as part of the deal.[60] ARG Chief Executive Mr Chuck Cabot was reported as flagging national expansion for the new group, with particular interest in the eastern States' coal fields. Mr Cabot was reported to have said: "While initial efforts will be focussed on ensuring a smooth transition from government to private ownership of the Westrail business and merging it with the South Australian operations, we look forward to expanding the business in WA and developing a strong, national rail freight enterprise."[61]

4.24 Key points of the sale included: Westrail's rollingstock, terminals and customer contracts were sold; the track network itself remains an asset of the State and was leased to ARG for 49 years; all net sale proceeds will be used towards retiring Westrail debt.[62]

4.25 No redundancies were on offer before the sale. A sale condition was that the purchasers must retain all staff who wished to remain with the privatised entity. Staff also had the option of remaining with the Westrail Commission and being deployed to new roles. More than 90 percent of employees accepted the offer to transfer to the new group, ARG.[63]

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60 "Chaney lines up Westrail winner" in *The West Australian*, 31 October 2000.

61 "Chaney lines up Westrail winner" in *The West Australian*, 31 October 2000.

62 The information in this section is taken from: PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice*, Prepared for the Rail, Tram, Bus, Union (New South Wales Branch), July 2000, p 25.

63 "Government announces winning bid for Westrail freight business." Media Statement, Hon Murray Criddle MP, Minister for Transport, October 30 2000.

Submissions to the inquiry regarding other Australian rail freight privatisations

4.26 In addition to the above analysis, several submissions and evidence to the committee made reference to the effect of the above privatisations. For instance, Associate Professor Philip Laird, a representative of the Railway Technical Society of Australasia, noted:

> "It is fair to say that the Railway Society has watched with interest the progress of the other privatisations. We are favourably impressed with what has happened with Freight Australia, it has been able to grow traffic in Victoria. But we are dealing with something much different here. Part of the reason for that is the Hunter Valley. In Victoria, there is nothing equivalent to the Hunter Valley. Here there are basically two separate systems. There is very intense bulk haulage in the Hunter Valley…and then there is the rest."[64]

4.27 The AWB annually carries approximately 12 million tonnes of grain on rail. AWB has experience with the private rail freight operators and, in its submission to the committee, concluded:

> In our experience, service levels have not generally suffered through the introduction of private rail operators and in some cases, improved.[65]

The experience of the private rail freight operators' sourcing of rollingstock, parts and maintenance

4.28 In evidence before the committee, Mr Bastian of the Australian Manufacturer's Workers Union highlighted the job losses associated with the rail freight privatisations to date. He also made extensive reference to the potential for job losses 'downstream' of the freight rail industry itself, including in the areas of maintenance and procurement. In reference to the recent rail freight privatisations as listed above, Mr Bastian told the committee:

> "We already know that … one of the major players at least that may be a potential bidder in FreightCorp, Chicago Freight Car Leasing Company and ATN recently bought 94 wheat and flat top wagons in Shanghai and Outer Mongolia. We are also seeing an increased rate of importation of used parts for FreightCorp. They have demonstrated that the likely buyers, foreign, have no commitment to jobs, local industry, particularly in the rollingstock or the skills base in the industry."[66]

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64 Evidence of Associate Professor Philip Laird, Railway Technical Society of Australasia, 7 November 2000, p 40.

65 Submission No 37, Mr John Crosbie, Manager Supply Chain, AWB Limited, p 1.

66 Evidence of Mr Paul Bastian, State Secretary, Australian Manufacturers Workers Union, 6 November 2000, p 47.

4.29 With respect to rollingstock procurement, Mr Di Bartolomeo, Managing Director of FreightCorp, testified:

> "Certainly in my recent past all of our wagons have been built in Australia, largely New South Wales. Our last wagons that we bought were some coal wagons in the Hunter Valley. They are our newest fleet, largely manufactured in Newcastle and/or Wollongong. Our last batch of locomotives, we bought 89 of them, 55 were manufactured here in Australia, 33 were brought in from Canada."[67]

4.30 In response to questions about where the private rail freight operators in Australia had sourced their rollingstock so far, Mr Di Bartolomeo responded:

> "In terms of where the private sector gets it from, I guess we do not have a lot of history because it is only in the last two or three years that the private sector has come into this business and to date you would have to say there has been a mixture; some built in Australia and more recently we had the example of ATN buying some Chinese grain wagons."[68]

4.31 In relation to maintenance, Mr Di Bartolomeo told the committee:

> "At the moment we do some maintenance ourselves in our own workshops and much we contract in. We have contractors located in Newcastle and Sydney and RSA, which is the Rail Services Australia business, does some of our maintenance in some of its country facilities like Goulburn and Bathurst to a lesser degree. Some of those contracts are long-term contracts for maintenance and will largely continue by the very nature of the contract terms."[69]

Conclusion of privatisation case studies

4.32 It is difficult to draw firm conclusions on what will happen if FreightCorp is privatised. However, the following generalisations, as indicated by what has happened with other recent Australian rail freight privatisations may be tentatively made:

- Employment levels of FreightCorp will continue to fall, with potential for an increase in the casualisation of the workforce, especially in relation to the grain sector,

- Although FreightCorp has to date sourced a large proportion of its rollingstock and maintenance within New South Wales, employment downstream of FreightCorp is likely to be affected as private operators continue to source rollingstock and components from the cheapest sources possible, including overseas. Whilst FreightCorp has long term maintenance contracts with State Government-owned organisations like Rail Services Australia, the committee is

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67 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 25.

68 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 25.

69 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 25.

aware that over time, these contracts have potential to be awarded to other private industry participants,

- Privatisations so far carried out have included the vertical integration of track (leased) and freight operations. This means that the privatised operators have greater control over the infrastructure on which they are reliant for efficiency gains,

- In general, each of the rail freight privatised entities so far has become more profitable,

- The committee was presented with no evidence that in the above case studies the new private operators were less safe than government-owned operators. However, important issues of safety arose from many submissions and these will be discussed in the next section.

Recommendation 2

That upon any sale of FreightCorp, in assessing purchase bids, the Government put a high weighting on each bidder's commitment to the maintenance and procurement of rollingstock in New South Wales.

General discussion on the economic, social, safety, employment and environmental implications of any privatisation of FreightCorp.

The RTBU / PricewaterhouseCoopers report

4.33 The only detailed analysis of the sale of FreightCorp available to the committee was that done by PricewaterhouseCoopers, commissioned by the RTBU with funding from the New South Wales Government.

4.34 Some of the major concluding comments of the PricewaterhouseCoopers report were:

- The Australian rail industry is undergoing a dramatic phase of reform and change,

- The key emerging rail freight industry dynamics include: - a new level of intense service and price competition typified by the emergence of 'logistics and customer care entities'; reduced number of large rail freight operators; a shift toward Australia-wide service provision; a lack of support for rail from Commonwealth freight transport initiatives,

- The growth in competition is increasing business risks, thus the long term viability of FreightCorp is less certain, and

- Given the dynamic evolution in the freight market, government-owned entities, without a series of effective strategic alliances, may face greater difficulties in retaining customers which places viability and employment levels at greater risk.[70]

4.35 The PricewaterhouseCoopers report developed five scenarios and then assessed the likely employment, financial and viability impact on FreightCorp under each of them. The scenarios were:

- Scenario 1: Stand and fight – FreightCorp stays 'as is' and competes mainly against a privately owned NRC,
- Scenario 2: FreightCorp is privatised shortly after NRC and competes mainly against a privately owned NRC,
- Scenario 3: Take over NRC – FreightCorp bids for NRC whilst remaining government owned,
- Scenario 4: FreightCorp enters a 50:50 joint venture with a 'friendly' rail operator and the joint venture vehicle purchases NRC, and
- Scenario 5: Conjunctional sale – FreightCorp and NRC offered for sale as one 'unmerged' business.[71]

4.36 Each of these options were further discussed in evidence presented to the committee by Professor Daryll Hull, consultant to the RTBU:

> "The scenarios are three-to-five-year time frames. They have been developed around a fairly sophisticated transactions model developed by PricewaterhouseCoopers. …
>
> Stand and fight [Scenario 1]; National Rail Corporation is sold to a larger operator at the lower end of the market, goes in for cherry picking and price discounting. It was the view of consultants and some people in the industry that FreightCorp would lose contracts next year. If that were to happen, it is likely to have a domino effect on their contracts in the Hunter Valley and [the effect] was that you would probably see 12 per cent of jobs go in the first 12 months, mostly in the Hunter Valley, with possibly up to a total of about 500 to 600 jobs within the next 24 months as that domino effect takes hold.
>
> "Scenario 2 was "hold on and see what happens and sell off in 12 months". If scenario one is valid, and we believe that it has some validity, in 12 months time if you were a competitor you would not want to pay anything for FreightCorp; you would want to sell it for a fire sale, perhaps even break it up. We are aware already

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70 PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice*, Prepared for the Rail, Tram, Bus, Union (New South Wales Branch), July 2000, p 48.

71 PriceWaterhouseCoopers, *Future Directions of the Australian Freight Industry and the Likely Viability of FreightCorp. Economic and Commercial Advice*, Prepared for the Rail, Tram, Bus, Union (New South Wales Branch), July 2000, p 42.

> that at least one agency has approached the New South Wales Government to break up FreightCorp and to let it run the less profitable parts of the business itself. Employment security is definitely not secure for members of the union in that situation."
>
> "…three, four and five were the other scenarios. The model suggested that the commercial outcome for all three scenarios was about the same.
>
> …Having said that, it was clear that the takeover option [Scenario 3] would provide for those who had a sense of public ownership economies of scale; … It was suggested employment would still drop as the rationalisation of these two agencies occurred, but that the numbers were significantly lower and over a longer period, possibly 300 positions over a three-year period which could be covered by natural attrition in both agencies.
>
> The joint venture [Scenario 4] was similar, bringing in a new private partner and diversified management—in fact, many of the members, particularly in National Rail, urged the union to consider this seriously; their view was that the sooner they had private management in the better—some equity sold for cash and a continuing sense of public ownership.
>
> Parallel sale [Scenario 5], which is the New South Wales Treasury option … good sale price, viable organisation, most importantly, no further risk to the New South Wales Government because the asset is moved off the books completely."[72]

4.37 The RTBU concluded, as did the Labor Council of New South Wales, that their favoured scenario was for FreightCorp to purchase NRC, and for the merged entity to remain in New South Wales Government hands. However, as noted in Chapter 3, this option has been ruled out by the Commonwealth Government, as has the next favoured Union option of a FreightCorp joint venture with a private operator. Given the highly undesirable outcomes of scenarios of one and two, as presented in the PWC report, the committee acknowledges that the RTBU has somewhat reluctantly been left with no option but to support the sale of both NRC and FreightCorp to the one buyer.

4.38 The committee notes that job losses are evident for each of the above five scenarios. However, in assessing the RTBU evidence, the committee concurs with their views that the most appropriate option for FreightCorp is scenario five.

4.39 The Hunter Valley coal industry is FreightCorp's largest customer sector. Coal Operations Australia, one of FreightCorp's major coal customers, submitted to the committee:

> [Coal Operations]…supports the sale of FreightCorp by tender, as we believe that the introduction of a private rail operator will help to further drive costs down and improve efficiency.[73]

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72 Evidence of Professor Daryll Hull, consultant to the RTBU, 6 November 2000, p 34-35.

73 Submission No 19, Mr Anthony Haraldson, Executive Chairman, Coal Operations Australia Ltd, p 1.

4.40 However, the following provisos were necessary to ensure that cost reductions continue:

- The successful tenderer needs to be a large, reputable and experienced rail operator,
- The continuation of provision of Community Service Obligations to FreightCorp for grain etc need to be carefully defined to ensure that the coal industry does not 'cross subsidise' other freight traffic,
- The sale is at a 'fair' price and not at an inflated price. If the sale is not at a 'fair' price this could lead to the new owner seeking increased rail charges from the coal industry to secure adequate returns on the inflated price,
- The New South Wales Government not hold over-optimistic expectations of the price it might receive for FreightCorp,
- The Hunter Valley coal rail system remains open to competition and subject to National Competition Principles and an agreed New South Wales Rail Access Regime.[74]

4.41 In its submission, the New South Wales Farmers' Association noted that the vast bulk of grain produced in the State is destined for export markets, or is subject to returns based on international grain prices. As a result of this, post-farm freight costs have a critical impact on the competitiveness of grain farmers and the returns they are able to generate. The Association noted:

> Research has shown that farm returns have a multiplier effect estimated at between four and six times within regional communities, so consequently, the competitiveness and profitability of the grains industry in New South Wales has a major impact on the viability of rural communities.[75]

4.42 With this background highlighting the importance of minimising costs for grain producers, the Association stated:

> Privatisation is certainly not seen as some sort of magic bullet that will dramatically transform the performance of the State's rail system, in the absence of other changes.
>
> Nevertheless, privatisation of FreightCorp, in conjunction with increased investment in rail infrastructure in rural New South Wales, competition in the provision of services such as track maintenance, and a transparent and equitable rail access regime are all likely to contribute to a more productive and efficient rail freight system in New South Wales.[76]

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74 Submission No 19, Mr Anthony Haraldson, Executive Chairman, Coal Operations Australia Ltd, p 2.

75 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 1.

76 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 12.

The view of another private rail operator

4.43 The committee heard from Austrac Rail Ltd, a private rail business which operates on the extreme ends of the branch network linking to the major New South Wales ports and Melbourne. Austrac Rail focuses on containerised agricultural outputs and inputs to producers, with products carried including grains, fibres, fuel, packaging, chemicals and tyres and other general freight. Austrac Rail supports the privatisation of FreightCorp on the basis that an effective privatisation with competitive neutrality will lead to new entrants and increased investment in the rail freight sector. Austrac Rail argued the following reasons why privatisation is good for the industry:

> - In privatisation, the subsidy structure that presently acts to prevent new entrants to the rail industry will be rationalised to provide a level playing field…,
>
> - New entrants (and a plurality of suppliers) bring innovation and new service initiatives to service customers in new ways. Conversely, without new entrants and new capital, the rail share of the total freight task will continue to decline…,
>
> - New entrants and the privatisation of FreightCorp and NRC will bring better market knowledge and competitive pressure to bear on the infrastructure provider and provide a commercially disciplined view of investment in new infrastructure and maintenance. This should reverse the present spiral of infrastructure decline and improve economic returns on the existing stock of locomotive and rail car assets,
>
> - Innovation and a reliable customer focussed private sector can deliver the return of processing functions toward the regional origins of, in particular, agricultural production….,
>
> - New transport industry entrants and new capital will bring new internal and external relationships with other transport modes and operational systems leading to better overall integration…,
>
> - If the disinvestment cycle can be reversed, (and given the necessary efficiency gains), direct employment in the sector should be approximately maintained. But to not undertake the revitalisation of the rail system is to stymie the potential of the producers that could obtain new markets if the transport system were more affordable, more reliable and with better linkages to global markets.[77]

The potential negative impacts of privatisation

4.44 The committee also received submissions opposing the privatisation of FreightCorp on a variety of grounds. For instance, the Australia Institute argued that privatisation and

77 Submission No 28, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 9.

competition do not automatically lead to optimum economic welfare for the nation. The Institute stated:

> One of the major objectives of privatisation, and National Competition Policy more broadly, is to reduce the cost of production of goods and services in Australia. The rationale for such an approach has been that allocative efficiency in the macro economy can be improved if inputs such as electricity, water and transport can be produced at lower cost. Lower input costs, it is argued, will result in lower prices for final goods and services, increased exports and increased employment.
>
> The notion that reduced production costs lead to an increase in allocative efficiency, and in turn welfare, is explicitly based on the assumptions of the perfectly competitive model, including the assumption that there are no externalities present in either the production or consumption of goods and services.[78]

4.45 The Australia Institute then argued that there are significant externalities in the use of road freight, and that organisations such as the Productivity Commission, in recommending that freight rail services be privatised, have failed to take into account these road freight externalities. See Chapter 6 for a greater discussion on the impact of transport externalities.

4.46 The Australia Institute also argued that another problem with assuming that privatisation will always lead to increases in efficiency is associated with the theory of second best. This theory can be explained as:

> In general, if government policy can alter the behaviour of only one sector of the economy, making that sector follow the perfectly competitive rule of price equals marginal cost may raise the economy's overall efficiency or lower it or leave it unchanged. The basic reason is that the policy affects not only the behaviour of that sector but of all other sectors as well and in each of the other sectors, where perfect competition does not rule, the changes can improve or worsen efficiency.[79]

4.47 In their submission the Australia Institute concluded:

> The general conclusion of the theory of second best is that such an approach to enhanced competition in one sector may result in an overall reduction in the welfare of society. The privatisation of rail is a prime example of the implications of the theory of second best.[80]

4.48 From this theoretical analysis, the Australia Institute concluded:

> The likely outcome of privatisation of Freightcorp is that there will be an increase in some rail freight charges and a reduction in some freight services. An increase

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78 Submission No 38, Dr Clive Hamilton and Mr Richard Denniss, The Australia Institute, p 1.

79 Lindsay, R, Langley,P, Mahoney,D, *Positive Economics for Australian Students*, Second Edition, Weidenfeld and Nicolson London, 1985, p 499.

80 Submission No 38, Dr Clive Hamilton and Mr Richard Denniss, The Australia Institute, p 3.

> in rail freight charges will lead to greater reliance on road transport on those routes and a subsequent increase in depreciation of roads and bridges, increased road injuries, increased CO_2 emissions and urban air pollution, increased road congestion and greater noise pollution. None of these costs will be captured by any subsequent analysis of the 'efficiency' of the rail system after reform, but all of these costs will effect the wellbeing of NSW taxpayers.
>
> The economic arguments that are typically used to justify privatisation are simplistic and take little or no account of the existence of externalities or the theory of second best. The adoption of recommendations based on such dubious foundations has lead to numerous problems across Australia and around the world.[81]

4.49 Potential negative implications of a sale of FreightCorp are further developed in terms of rural and regional areas in Chapter 5. However, an overwhelming response from those opposing privatisation reflected concern that a private rail freight operator is accountable to its shareholders rather than the community. For instance, Ms Bev Smiles of the Central West Environment Council stated:

> A private company must be accountable to its shareholders with the aim of producing a profit. This responsibility does not necessarily translate into social and environmental benefits for the wider community.[82]

The safety implications of a privatised FreightCorp

4.50 The submission from the AMWU noted strong concerns about the impact of privatisation on standards of maintenance in FreightCorp, and gave examples of 'inappropriate' pressures applied to maintenance staff caused by privatisation, corporatisation and contracting out.[83]

4.51 Mr Trevillian, private citizen and an employee of the New South Wales railways for 38 years, noted:

> If you want to learn from history when Railways first started in New South Wales they were privately owned. They were taken over by the government due to their appalling safety record.
>
> During most of my career the emphasis was on safety. However, in the last ten years, and especially in the time since corporatisation, the whole emphasis has been on monetary objectives, to the detriment of safety and other concerns.[84]

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81 Submission No 38, Dr Clive Hamilton and Mr Richard Denniss, The Australia Institute, p 5.

82 Submission No 29, Ms Bev Smiles, Secretary, Central West Environment Council, p 1.

83 Australian Manufacturing Workers' Union (New South Wales Branch), Interim Submission to the Legislative Council General Purpose Standing Committee No 4, Inquiry into the Privatisation of FreightCorp, November 2000, p 17.

84 Submission No 23, Mr J. Trevillian, p 19.

4.52 The committee is aware that there are also safety concerns in relation to the working hours and employee conditions of FreightCorp. Mr Roger Hall, a FreightCorp train driver, submitted to the committee the following comments in relation to any privatisation:

> [There] should be a standard set of rules regarding shift limitations, driving of …vehicles etc, to prevent fatigue and accidents after being on duty for long hours. This should be a government rule for all rail operators throughout the State.[85]

4.53 Mr Hall continued:

> We need fair working conditions so as not to be abused by any new owner, ie, cannot be discriminated against for refusing duty due to fatigue or safety concerns. After driving a train all night we should not be expected to drive a car for hour(s) to get home.[86]

4.54 Associate Professor Laird of the Railway Technical Society made the following comments in relation to the safety standards of privately operated railways overseas:

> "From the United States and Canada we have seen good private operation of railways for years. They give attention to safety standards. One gets the impression that there has been more confidence to invest in rail in America by the private sector than here, the exception being the iron ore railways in the Pilbara region, which are the world's most efficient rail freight operations. …. They are efficient and they are safe."[87]

4.55 The committee acknowledges that there are important safety implications in regard to the operation of railways and in particular, employee working conditions and hours. As discussed in Chapter 2, the *Transport Administration Amendment (Rail Management) Act* was passed through both Houses of Parliament in early December 2000, as part of the New South Wales Government's response to improving the safety and reliability of the rail network.

4.56 The committee notes that the New South Wales Government has commissioned Acting Justice McInerney to conduct a special commission of inquiry into the Glenbrook rail accident. The final report of that inquiry is due to be delivered to the Governor on 31 December 2000. In regard to railway safe working rules and rail safety in general, the committee acknowledges the comments in the Legislative Council of the Hon Eddie Obeid MLC, Minister for Mineral Resources, Minister for Fisheries:

> "…In accordance with Acting Justice McInerney's recommendations, the Government will not deal with safety regulatory functions until the final report is handed down on 31 December 2000. However, the Rail Access Corporation is currently leading a rail industry project to rewrite the existing safe working rules to ensure that they underpin all decisions and actions by rail workers. Safety will

85 Submission No 14, Mr Roger Hall, FreightCorp Employee, p 1.

86 Submission No 14, Mr Roger Hall, FreightCorp Employee, p 1.

87 Evidence of Associate Professor Philip Laird, 7 November 2000, p 38.

> continue to be the highest priority for the New South Wales Government and rail agencies."[88]

4.57 On balance, the committee finds that there are no significant implications in relation to safety specific to a privatised FreightCorp. However, safety is an issue that demands constant vigilance from both rail operators and regulators. In a fiercely competitive commercial environment, it may be easy for safety to be neglected or treated as a secondary concern after profit. With a privatised freight rail scheme, and an open and competitive rail market with the potential for numerous different organisations to operate trains on New South Wales tracks, it becomes increasingly important for the Government to strengthen its rail safety regulation procedures.

Recommendation 3

That the New South Wales Government act promptly in responding to any recommendations by Acting Justice McInerney relating to rail safety and amendments to the *Rail Safety Act 1993*.

Recommendation 4

That upon any sale of FreightCorp, in assessing purchase bids, the New South Wales Government make a demonstratable commitment to safety a key criterion.

Implications of an independent NRC sale

4.58 As noted in the RTBU report, if NRC is privatised as a stand alone entity, FreightCorp is likely to lose key Hunter Valley coal contracts and potentially result in up to 600 staff being made redundant.

4.59 In response to questioning about what would happen if NRC and FreightCorp were privatised into two separate entities, Mr Di Bartolomeo, Managing Director of FreightCorp, had the following response:

> "The outcome of that, of course, would be that we would be seeing our business eroded. Our response to it, and we would have to respond, is that we would be seeing further job losses. The net position of us not acquiring NRC is that we would see more job losses than us acquiring NRC and putting it together."[89]

4.60 The committee is concerned any privatisation of NRC, under conditions where the new operator acquires assets significantly below full replacement value, and in a process which excludes FreightCorp from bidding, may place in jeopardy the ability of FreightCorp to

88 *New South Wales Parliamentary Debates*, 1 December 2000, p 11,495.

89 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 27.

effectively compete in the freight market. FreightCorp summarised the scenarios of an independent standalone NRC as follows:

> …The exclusion of FreightCorp from the process is likely to see a lower acquisition price given the additional value which FreightCorp would see in NRC. …A purchaser of NRC would be capable of competing within the national bulk market - the acquisition of NRC's locomotive fleet at significantly below full replacement value would enable the new owner to price at uneconomic and unsustainable levels compared to competitors required to account for full replacement value for assets.[90]

4.61 Mr Di Bartolomeo added:

> "National Rail could be made profitable if for no other reason simply by paying an appropriately low price. Not only could it be made profitable, but the corresponding dimension of that is it could be made competitive. It would come into the market place with assets at a notionally lower value, just as good an asset or better asset than some of ours. So a capital cost is a significant cost of all operators' cost. So someone who could buy National Rail at significantly below book value would, on day one with no other reforms in place, have a significant capital advantage over FreightCorp and, for that matter, other existing players in the market place."[91]

4.62 The committee is concerned that any 'stand alone' fire sale of NRC may have significant implications for FreightCorp and its employees.

Recommendation 5

That, given the concern that a stand-alone fire sale of NRC may have adverse implications for FreightCorp and its employees, the New South Wales Government work towards a joint sale of FreightCorp and NRC to the one bidder by 30 June 2001, provided that the findings of the rural and regional impact study referred to in recommendation 1 are firstly taken into account.

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90 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 1.

91 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 18.

Chapter 5 The effect on rural and regional New South Wales of the privatisation

As noted in Chapter 3, a large proportion of FreightCorp's customers and workforce is located in rural and regional New South Wales. Any reduction of FreightCorp services and employee numbers may, therefore, have a disproportionate effect on rural and regional New South Wales.

This chapter focuses on the effect of the privatisation of FreightCorp on rural and regional New South Wales and is divided into four sections:

- rail infrastructure and service improvements including the potential for reopening disused lines,
- cutbacks in rail services, maintenance and staff,
- the potential for more freight to be transported by rail and less heavy vehicle use of roads, and
- the economic and social impacts on country communities.

Rail infrastructure and service improvements including the potential for reopening disused lines

5.1 A recurring message presented to the committee was that a potential benefit of any sale of FreightCorp was that at least some of the money raised from the sale may be reinvested back into rural and regional railway infrastructure. For instance, Mr Watsford of the Railway Technical Society in New South Wales stated:

> "If the sale happens to go through, we believe that some of the funds should find their way to improving the infrastructure of the railway in New South Wales to make it more efficient—faster trains, less fuel consumed, great environmental benefits."[92]

5.2 The New South Wales Farmers' Association also called for a significant increase in investment in track infrastructure with any privatisation of FreightCorp:

> The Association believes that rather than maintain existing line and infrastructure standards, a significant amount of upgrading is required in many areas. Accordingly the Association is seeking that as part of the sale of FreightCorp, the State Government commit to a doubling of annual funding for rail line infrastructure maintenance over the next five years, meaning an annual investment of around $350 million per year.[93]

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92 Evidence of Mr Watsford, Railway Technical Society of New South Wales, 7 November 2000, p 37.

93 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 12.

5.3 The AWB submission stated:

> The track impediments represent a significant long term threat to the viability of rail in New South Wales, as the road industry threatens to move forward with reforms that result in reduced haulage costs.
>
> Reopening closed New South Wales branchlines to current standards will not necessarily improve the market share of rail, given the relatively poor condition of the New South Wales branchline network. Rather, improvement of the existing network to more contemporary standards is considered to generate more significant benefits for the rail industry and its customers.[94]

5.4 The committee is concerned that, so far, the New South Wales Government has not made its position clear as to where the funds raised from any sale of FreightCorp will be allocated.

Recommendation 6

That the New South Wales Government commit 50% of the proceeds of any sale of FreightCorp to improving the rail freight infrastructure in rural and regional New South Wales. The Government should consult with the rail freight industry to establish priority areas to which this investment should be directed.

Community service obligation payments and rural track infrastructure

5.5 As noted in Chapter 3, the Rail Access Corporation presently owns the track and other essential infrastructure in New South Wales. RAC charges rail operators to use this infrastructure. In addition, RAC receives community service obligation payments maintaining and keeping open rural track that would otherwise be uneconomic to remain open. Mr Ronsisvalle of New South Wales Treasury stated:

> "I think the Government made clear as part of the announcement that it did not see the sale of FreightCorp as the Government withdrawing from the rail industry. It made very clear that the track would be maintained in public ownership and that it would continue to subsidise some of the rural tracks. The Government currently puts in about $170 million a year into subsidising the rural track and it also subsidises certain classes of freight, around $70 million a year. Those subsidies would continue in the new environment. There is no intention of the Government to resile from providing those subsidies. It is simply that we will change the ownership of the operator of the system."[95]

5.6 FreightCorp also receives CSO payments for the carriage of some freight. In regard to these CSO payments to FreightCorp or its successor, Austrac suggested the following:

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94 Submission No 37, Mr John Crosbie, Manager, Supply Chain, AWB Limited, p 3.

95 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 4.

> … the need for subsidies would disappear if the track standards were sufficiently improved…for example, over a five year period the infrastructure could be enhanced to a standard at which operating efficiency was improved by about 30%. This would negate the need for subsidies, provide a sound economic basis for road/rail neutrality and be neutral across operators.[96]

5.7 Austrac argued that the most effective use of any CSO payments to FreightCorp for carrying freight would be for it to be spent on upgrading the infrastructure. It was argued that this would also improve the sale price because it will enhance the value of the business by improving the efficiency of the system in which FreightCorp's assets operate.[97]

Recommendation 7

That as a matter of urgency, the Department of Transport develop a discussion paper for public comment canvassing the costs and benefits, including the economic and social impacts on country communities, of converting the FreightCorp CSO payments into equivalent dollar amounts for infrastructure upgrade. This should be completed, and a final determination of the provision of CSO payments made, before the sale tender documents for FreightCorp are finalised.

5.8 Further discussion on CSO payments to FreightCorp is presented later in this chapter.

5.9 The committee heard many arguments about the need to upgrade track infrastructure, and this issue is more fully canvassed in chapter 6. However, from a rural and regional perspective, one argument presented to the committee favoured expenditure on upgrading infrastructure currently in operation rather than re-opening closed lines. For example, in response to questioning whether any currently closed rail lines should be opened, from 'a grain point of view', Mr Dalton, Director of Grains, New South Wales Farmers' Association noted:

> "We have not had strong pressures from our members in recent times, although we did several years ago when some of the services were first withdrawn. We have not had strong pressures to reopen lines, and I believe that our thrust and the thrust of growers is to get better track and better investment in the lines that we have operating now. Some of the lines I have just spoken about [eg, Walgett, Gwabegar, Coonamble and southern lines in general] were under threat of closure, and if they were closed that would be a huge blow to the industry. We are pretty conscious of that and fairly anxious to maintain where we are at."[98]

5.10 The effect on rail infrastructure provision in New South Wales of any FreightCorp privatisation is not entirely clear. As indicated in Chapter 3, rail freight privatisations in

96 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 3.

97 Evidence of Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, 17 November 2000, p 14.

98 Evidence of Mr Glenn Dalton, Director of Grains, New South Wales Farmers' Association, 7 November 2000, p 13.

other States have also included a long term lease of the track. New South Wales is the first State to propose privatising its rail freight operations whilst maintaining ownership of the track in separate, public hands.

5.11 However, it is evident to the committee that it is difficult for FreightCorp to 'pressure' the RAC and Government to increase its spending on infrastructure provision because it is also an arm of government. In contrast, an independent private owner of FreightCorp would have no such inhibitions. It is, therefore, entirely possible that a privately owned FreightCorp may be able to more successfully convince the New South Wales Government to spend more money on infrastructure provision.

5.12 The committee notes that the New South Wales Farmers' Association also had some interesting comments concerning the transparency of the sale process. For instance, the Association suggests that any guarantees that are provided to tenderers in relation to the CSO payments, the access regime, and requirements to continue providing certain services should be subject to public scrutiny. The Association argues that this will give confidence to the community about proposed future arrangements, and do much to alleviate any community and political opposition that may arise to the sale.[99] However, the Association states:

> If the Government has good reason not to make all these matters transparent, then the Association believes that a community reference panel should be established, whose role it would be to oversight or audit these aspects of sale contracts, and to reassure the community that the matters are being appropriately dealt with, before sale contracts are finalised.[100]

Recommendation 8

That all matters relating to the tender documents and sale of FreightCorp should be publicly available. Failing this, the committee recommends that a 'community reference panel' be established to oversight sale contracts to reassure the community that matters are being dealt with appropriately.

Cutbacks in rail services, maintenance and staff

5.13 Once FreightCorp is privatised, it is more difficult for the New South Wales Government to influence the provision of rail freight services. Mr O'Brien, Manager, Association of Mining Related Councils noted the following concerns:

> "Of major concern if FreightCorp is privatised is that the new owners will be compelled by the dictates of the market to cut less profitable freight services, particularly in more remote rural areas."[101]

99 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 19.

100 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 19.

101 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 27.

5.14 Mr O'Brien continued:

> "There is a very real threat of withdrawal of rail freight and passenger operations from these non-viable routes that service the regional and rural areas once an assessment of their financial performance has been carried out. Without Government involvement market forces cannot be guaranteed to supply adequate levels to all regions. This will leave business and communities with fewer transport options. What will happen to those reliant on the industry for employment directly and through related industries? How will the sale impact on those isolated small rural communities, and promote the social objectives of the State and Federal governments? Competitive tendering and the threat of competition do not automatically guarantee efficient cost levels—direct costs, all costs will be passed onto the users."[102]

5.15 The New South Wales Government, through its agency the NSW Department of Transport, provide CSO payments to FreightCorp to maintain freight services in rural and regional areas that otherwise would not be commercially viable. FreightCorp CSO payments for 1996-97 to 1999-00 are outlined in table 6.

Table 6 - NSW Government CSO payments to FreightCorp (actual) 1996-97 to 1999-00 ($m)

	1996-97	*1997-98*	*1998-99*	*1999-00*	*Average*
CSO payments ($m)	60.6	90.0	80.0	76.5	76.7

Table derived from FreightCorp Annual Reports 1997-98 (p 18, p 33), 1998-99 (p 26) and 1999-00 (p 13).

5.16 The committee notes the intentions of the New South Wales Government to continue to make these payments to a privatised FreightCorp so as to maintain these commercially unviable services.

5.17 FreightCorp noted in its submission:

> Part of the CSO is paid to FreightCorp to ensure the provision of services to grain branchlines and to general freight customers. However, the other component of the CSO payment is to ensure FreightCorp maintains capacity to service the highly variable grain task. This involves maintenance of a level of assets above that which a commercial operator would maintain. The grain task has fluctuated between 2 and 8 million tonnes per annum since 1995/96 and carries significant costs and logistical challenges in terms of asset management.[103]

5.18 Austrac Rail argued that the provision of CSO payments to FreightCorp had resulted in it subsidising freight in a manner designed to eliminate other rail competitors, and provided the following evidence.

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102 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 27.

103 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 3.

For example, the price to transport 27 tonnes, or twenty foot containers, of export grain from Moree to Sydney is:

Container by road	$1,500
Road bulk	$1,000 - $1,300
Container by rail – Austrac	$700 - $800
Container by rail – FreightCorp rate card	$520

This example, one of many, clearly indicates that FreightCorp uses its exclusive subsidy to lower prices below the level required to keep freight off the road, one of the stated purposes of the subsidy. In fact, the subsidy is used to exclude the private sector companies from the market.[104]

5.19 Austrac Rail also presented to the committee the following allegation in relation to current CSO payments to FreightCorp:

> It has been revealed, however, that no guidelines exist in relation to CSO payments made to FreightCorp and in fact, no written contract exists. Furthermore, it has been confirmed by Booz Allen Hamilton, authors of a report commissioned by the New South Wales Department of Transport in 1999, that the structure used for determining the level of CSO payments tends to encourage anti-competitive behaviour and discourage efficient cost levels by providing the difference between customer revenue and long run costs.[105]

5.20 The committee notes with concern any abuse of the current CSO payments in regard to rail to rail competition. It is clearly not the intention of the CSO payments for this to occur. Whilst the committee did not investigate this issue further with FreightCorp, the following comments from New South Wales Treasury may indicate a more rigorous and open approach from now on. In regard to the payment of CSOs, Mr Ronsisvalle of New South Wales Treasury told the committee:

> "Certainly those CSOs in the long run would be likely to be made in some form contestable. Exactly how that will occur is yet to be determined. What the Government is seeking to do is produce a level playing field between operators in the long run but the mechanism by which we get there needs to be worked through. The nature of those CSO payments has currently been more tightly defined in the sense that they are being allocated to specific commodities and specific lines in a much more rigorous way at the moment."[106]

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104 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, Aspects of market power and competitive neutrality, p 3.

105 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, Aspects of market power and competitive neutrality, p 3.

106 Evidence of Mr Ronsisvalle, Executive Director, New South Wales Treasury, 6 November 2000, p 5.

5.21 The NSW Farmers' Association also noted the importance of CSO payments being made open to contestability. Ms Jordan, Economist, of the Association told the committee:

> "…one thing we are particularly interested in is maintaining the effective commitment to funding services on rural branch lines in a way that both maintains the service and also does not limit the ability for other providers to compete and to provide those services if they are in a position to do so efficiently and effectively. Obviously that presents some challenges."[107]

5.22 Ms Jordan continued:

> "We are concerned that that be structured in a way that relates to the freight task and in a way that effectively guarantees the provision of the service into the affected areas. We would also be looking for that to be coming with some flexibility both in terms of providing the service and in terms of providing the funding where the major freight task occurs."[108]

5.23 However, Mr O'Brien of the Association of Mining Related Councils noted:

> "…but I think everybody knows by now that you cannot impose community service obligations on the private organisation. With private organisations the board is answerable to its shareholders. It does not have an interest with the community."[109]

5.24 Mr O'Brien continued:

> "I think we can use the privatisation of Telstra and also the banks. There were numerous community service obligations guaranteed there. I think numerous Ministers actually guaranteed communities around Australia that there would be community service obligations put in place to ensure that there was a level of banking, or a level of whatever maintained in rural areas. But we have continually seen the further withdrawal of these particular services in New South Wales without consideration given to the communities. Yet at the end of the day, bank profits actually spiral upwards. No concession has been given back to rural communities. …"[110]

5.25 It is evident to the committee that the payment of CSOs to FreightCorp has not to date been sufficiently transparent or clear. The committee notes with interest the intentions of New South Wales Treasury to reform the CSO payment system, basically in line with the suggestions of other commentators as noted above. Concerns regarding the effectiveness

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107 Evidence of Ms Beverley Jordan, Economist, New South Wales Farmers Association, 7 November 2000, p 12.

108 Evidence of Ms Beverley Jordan, Economist, New South Wales Farmers' Association, 7 November 2000, p 12.

109 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 34.

110 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 34.

of offering CSO payments to private industry are acknowledged. The committee considers that application of an appropriate CSO framework in the current competitive rail freight environment will ensure that any freight services that the Government wishes to remain operating will continue.

Recommendation 9

That in the event that community service obligation payments remain with the freight operator, these payments be transparent and open to contestability according to specific commodity type and rail line.

Cutbacks in staff

5.26 The core issue for many of the respondents to the committee was the potential for rural and regional communities to be 'devastated' by the loss of FreightCorp jobs. For instance, Mr Bastion of the Australian Manufacturers' Workers' Union argued against privatisation because of the loss of employment in rural and regional areas. He told the committee:

> "We say that rural communities, as a result of any privatisation, will be hardest hit. An example of that is Werris Creek where 120 jobs are sustained by FreightCorp. Any sale will see the rationalisation of services and that, in our view, has always led to closure of some services. Clearly, if that were the go, that would have a devastating effect on the economy of Werris Creek."[111]

5.27 A submission from the Lachlan Regional Transport Committee noted the large staff reductions of FreightCorp since corporatisation, and argued:

> Staff and families have left regional centres – [and the] consequent loss in services to these communities has been devastating. A private operator after FreightCorp would consolidate to mainline operations further destroying New South Wales regional centres where FreightCorp still maintains a presence.[112]

5.28 In response to concerns about jobs in the Hunter Valley with a privatised NRC, Mr Costa, Secretary of the New South Wales Labor Council, noted that it was across a range of areas that there are potential job impacts. However, he noted:

> "The areas of more concern are the marginal freight operations. We have some intrastate general freight and some of the grain areas that are likely to go. It is the cherry-picking that would occur through a smaller, low cost entity strategically looking for profitability out of a number of contracts. So, I think it is a myth to say that people in the Hunter Valley would be the most affected. It seems more

111 Evidence of Mr Paul Bastian, State Secretary, AMWU, 6 November 2000, p 47.

112 Submission No 5, Lachlan Regional Transport Committee, p 1.

> likely that they would be relatively the most secure. The people most likely to be affected are the more marginal businesses, and that would be of concern."[113]

5.29 Mr O'Brien of the Association of Mining Related Councils outlined the impacts of job losses in rural and regional New South Wales:

> "There is also concern regarding changes of wages, employment conditions, and bargaining rights of rail workers under privatisation. This has the potential to cause lower wages and conditions, and erosion of job security, which will result in a lower standard of living for families, reduction of employment opportunities for regional New South Wales and place pressure on other community services such as schools, hospitals, banks, etcetera. The Association of Mining Related Councils knows what happens when jobs are lost to a town: the town's growth slows, it stagnates and then there is pressure on the town to maintain infrastructure services where they may be in demand to go to perimeter areas of capital cities, for example, hospital beds. There is often a casualisation of the work force and disastrous employment conditions for women and other disadvantaged groups. Then factor into the equation job security, professional development, and worker morale, all of which have a much broader social impact, particularly on family life."[114]

5.30 The committee is aware that FreightCorp and the rail freight industry have undergone significant changes over recent years, and especially since corporatisation in 1996. The committee was presented with evidence that this has adversely affected morale of the FreightCorp workforce.

5.31 For instance, Mr Lewocki told the committee:

> "You need to understand that we are working in an industry that is continually downsizing, is continually rationalising, is continually having the economic ruler passed over it. We have seen continued restructure of management; we have seen outside management come in, a break with old railway cultures, going down paths which the membership does not understand. Morale is fairly low. The question of job security is a concern. The National Rail sale has been hanging over their heads for some time. …They just feel the industry is on a treadmill of continued rationalisation, continued change, and new management faces they just do not have confidence in."[115]

5.32 In assessing the future of FreightCorp, and its impact on staff, the committee does not foresee morale improving in the near future. If FreightCorp is retained in public hands, the management of FreightCorp will continue to strive for efficiency gains with all the attendant staff morale problems that this may include. In addition, it is likely that the spectre of privatisation will always be in the back of employees' minds. However, if

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113 Evidence of Mr Michael Costa, Secretary, Labor Council of New South Wales, 7 November 2000, p 3.

114 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 28.

115 Evidence of Mr Nick Lewocki, New South Wales Branch Secretary, Rail, Tram, Bus Union, 6 November 2000, p 36.

FreightCorp is privatised, employees will have to adapt to a new management regime completely, potentially leading to further staff morale problems. Ultimately, the committee considers that staff morale in FreightCorp will not improve until the business starts to employ more people rather than reducing its workforce.

5.33 The committee regrettably acknowledges that if the privatisation of FreightCorp goes ahead, it will result in the loss of employment in rural and regional areas. However, the converse is that, as shown in the RTBU report, if FreightCorp remains in public hands with a privatised NRC even more job losses may result.

Recommendation 10

That a condition of any sale of FreightCorp be that the successful bidder must not make redundant any staff who carried over from the Government-owned FreightCorp for a minimum of two years.

The potential for more freight to be transported by rail and less heavy vehicle use of roads

5.34 Each year more than 500 million tonnes of freight are transported in New South Wales. The committee notes that a seamless statewide rail, road and port freight network is essential for business, especially for communities from rural and regional areas. Currently, about 75 percent of freight goes by road in New South Wales.[116] In 1998, the New South Wales Government released the document *Action for Transport 2010. An Integrated Transport Plan for New South Wales.*

5.35 In this document, the Government foreshadowed the development of a *Freight 2010* strategy, and stated:

> The New South Wales Government's Freight 2010 strategy which will follow this Plan sees road and rail as complementary as well as competitive. The strategy emphasises the need for road freight and rail haulage to be integrated to provide seamless road, rail and port interchanges. This is vital to ensure quick and easy transfers.[117]

5.36 The committee understands that to date, the Government's Freight 2010 strategy has not been released. The submission of the Railway Society of Australia recommended that prior to the approval of the sale of FreightCorp, the New South Wales Government release its Freight 2010 strategy.

5.37 In response to questions about this from the committee, Mr Di Bartolomeo, Managing Director of FreightCorp said:

116 New South Wales Government, *Action for Transport 2010. An Integrated Transport Plan for New South Wales*. 1998, p 20.

117 New South Wales Government, *Action for Transport 2010. An Integrated Transport Plan for New South Wales*. 1998, p 20.

> "There is a broader government strategy, where the focus is more on the infrastructure. ... I also know there is a more detailed freight strategy document being developed, but its focus is not on what FreightCorp will do; it is about what the network in New South Wales longer term will look like and how it is going to be maintained, and we will operate over that."[118]

5.38 The committee is concerned about the delay in the production of the New South Wales Government's Freight Strategy, as foreshadowed in the *Action for Transport* document in 1998. However, the committee accepts the reasoning of Mr Di Bartolomeo that FreightCorp works as an above rail operator and that the production of the strategy is independent of FreightCorp itself. Nonetheless, the finalisation of the strategy is an important public policy initiative to demonstrate Government support for the rail freight industry. In addition, it would be of considerable interest to the bidders of FreightCorp.

Recommendation 11

That the New South Wales Government finalise and publish by 30 June 2001 the *Freight 2010* strategy.

5.39 As one of the main rail freight operators in New South Wales, FreightCorp has significant opportunities to influence the movement of freight off road and onto rail. Mr Di Bartolomeo explained some of the current operations of FreightCorp in regard to moving freight containers off road and onto rail. He stated:

> "It is part of what we call our Portlink business, and our Portlink business has been attempting to do just that: try to get as many of the rural container export containers obviously going by road to a regional hub. We have been developing facilities on the North Coast, Taree and Grafton, Tamworth, Dubbo, Parkes, Griffith, Wagga Wagga, or Bowman, Albury, Blayney, a number of facilities where we can transfer containers off-road, so there is some road movement obviously to get to the rail head, and then put it on rail and have full container trains coming into Sydney and taking them to export. What is more, we have been attempting to grow our business, particularly in metropolitan Sydney in moving a lot more of the containers with not only the exports going out but the imports from road on to rail to metropolitan sites.
>
> We are building two container terminals, for instance, at the moment at Minto and St Marys in west and south-west Sydney, where there is significant industrial growth occurring, and we are looking at running small shuttle trains between the port and those two centres. These are the sorts of opportunities that have really opened up to us as we have attempted to think of our business this [sic] a different way and the competitive pressures we have been facing."[119]

5.40 The committee is aware that there are significant issues raised in relation to rail and road competition. These issues are more fully discussed in Chapter 6. However, in relation to

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118 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 22.

119 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 20.

the rural and regional focus on roads and the potential impact of the privatisation of FreightCorp, the submission from Weddin Shire Council noted the following:

> Council has incurred significant damage to its roads through the closure of the Greenethorpe-Grenfell railway line and the inability to haul grain by rail, and also because of decisions to use road transport from silos located at rail terminals. The Council, in conjunction with the Lachlan Regional Transport Committee, has been lobbying the State Government to reopen the closed branch line and to look at ways of ensuring all possible grain is transported by rail.
>
> Council believes that the privatisation of FreightCorp would result in a profit-based organsisation without regard to social or community obligations, and would not be responsive to public pressure. It is considered imperative that public ownership be retained so that all implications of road vs rail freight can be considered in decision-making, not just the economic bottom line.[120]

5.41 Dr Cook, General Manager (NSW) of Blue Circle Southern Cement provided the committee with an example of how the increasing commercial focus of FreightCorp has enabled the company to transport more cement by rail rather than road. He said:

> "With respect to our other movements which would basically be movements of cement throughout New South Wales, over the last five years with the trending of FreightCorp or its predecessors to corporatisation, we have been moving quite an amount of material away from road transport onto rail. We have found that the commercial focus and the customer focus of FreightCorp enabled us to do that. In terms of our movement of cement, it is imperative that it reaches particular destinations at particular times. A lot of the locations where we send cement have very poor or quite low storage. It is imperative that FreightCorp provide a customer focus in terms of meeting its on-time deliveries. We have seen a trend towards that and, as a consequence, we are moving more material by rail than we ever have."[121]

5.42 From these statements by Dr Cook, it could easily be extrapolated to say that a privatised FreightCorp will increase its commercial and customer focus, and hence the potential to move more freight by rail is increased. However, Dr Cook also went on to say:

> "We would be quite concerned about how the rationalisation or the amalgamation of National Rail and FreightCorp would continue that process. We have seen certain instances where we have been uncomfortable with National Rail in terms of things that they have done. I guess the general move is, we believe, a cultural change and we are concerned about whether over a period of cultural change that customer focus will continue.
>
> "I suppose the other concern we have is that we are reasonably aware that the return on assets provided by both rail operators is really quite below what would be regarded as satisfactory from a commercial viewpoint. Again, how that

120 Submission No 16, Mr TV Lobb, General Manager, Weddin Shire Council, p 1.

121 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 20.

> dichotomy between return on assets and customer service plus maintaining of assets would be maintained is something that is of concern to us."[122]

5.43 In response to questioning from the Hon Ian Cohen MLC, Dr Cook stated that FreightCorp has been very responsive to technological innovation.[123] However, when asked if he could see any jeopardy of this if FreightCorp is privatised, he replied:

> "It is an interesting point. It relates to the focus of the new organisation in terms of what it believes its mandate or charter is. It will also depend very much on the individuals who are going to carry it out. Certainly in terms of the relationship that we have to FreightCorp we have over a period of a number of years employed experts in logistics and in terms of their interaction with FreightCorp it has been—they have been receptive, understood where the industry is coming from, where the world is going, I suppose, in terms of the sorts of things you have raised."[124]

5.44 Dr Cook, again responding to questions, agreed that FreightCorp management has been modern, aggressive and improving its service to customers in the market. However, he noted that this was something that did not start too well, but improvements have been due, in part, to the restructuring in the 1990s.[125] It could be argued that because FreightCorp is 'modern and aggressive', it doesn't need to be privatised. Conversely, it also shows that a commercially driven organisation is likely to improve its customer focus – in order to retain or develop clients. The committee notes that ultimately, a privatised FreightCorp is more likely to have a commercial focus than a government owned rail entity.

5.45 The New South Wales Treasury also argued that a more efficient and viable rail freight operator will be better able to win market share from road freight. The New South Wales Treasury submitted:

> …a more efficient and viable rail freight operator will be better able to win market share from road freight and so arrest the current decline in rail as a means of freight haulage. This will require significant ongoing capital expenditure which, if FreightCorp remains government owned, will mean foregoing public expenditure on other State priorities.[126]

5.46 Austrac Rail highlighted the concern that without new investment in the rail freight industry, road will continue to take freight from the rail sector. For instance, Mr Buckland of Austrac Rail stated:

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122 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 20.

123 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 23.

124 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 24.

125 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 24.

126 Submission No 26, Mr John Pierce, Secretary, New South Wales Treasury, p 5.

> "Until the Government gets out of the sector it will be unable to attract new capital to fund innovation, new service methods, better integration with other transport nodes…
>
> Austrac, for example, has introduced innovation in grain markets, increasing the density of grain packing in the order of 15%…That would lead to a three percent to five percent saving in the grain haulage task from that small innovation alone. But without a level playing field, we will not continue to invest and cannot invest and cannot survive in these markets. It is only those kinds of innovation that will bring reversal in the decline of the road/rail modal shift."[127]

5.47 The committee received one submission from the road freight transport industry, being the Livestock Transporters' Association. Mr Gunning, Executive Director, supported the privatisation of FreightCorp if it incorporated the following elements:

- the rail network being provided by a focussed agency,
- any government subsidies being revealed,
- an independent expert safety body surveying all modes of transport and working to develop the best compliance and regulatory system,
- commercial above rail operators being able to enter the New South Wales system subject to safety tests.[128]

5.48 Mr Gunning concluded:

> Ironically, a system of this kind is likely to produce the most competitive and effective rail industry which offers the greatest challenge to road transport – apart from legitimate road transport business knocked out of the marketplace through direct rail subsidies with all the waste and human costs that involves.[129]

5.49 The committee finds that, apart from issues such as competitive neutrality between transport modes, the key to moving more freight by rail than road is to improve the commercial and customer focus of the rail freight industry. The committee considers that a privately owned rail freight industry is more likely to achieve this than a government owned industry.

The economic and social impacts on country communities

5.50 As noted, FreightCorp's customers are predominantly located in rural and regional New South Wales. As the following submission from Ms Diane King, private citizen, states:

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127 Evidence of Mr Andrew Buckland, Director, Austrac Rail Limited and Capricorn Capital Limited, 17 November 2000, p 4.

128 Submission No 33, Mr Robert Gunning, Executive Director, Livestock Transporters Association (New South Wales), p 2.

129 Submission No 33, Mr Robert Gunning, Executive Director, Livestock Transporters Association (New South Wales), p 2.

> FreightCorp's business is primarily generated in the rural and regional areas of New South Wales where the company's major customers are situated. As a result FreightCorp has been a major employer and contributor to the viability of many of these towns and communities throughout rural and regional New South Wales.[130]

5.51 The committee is aware that rural and regional areas have suffered a loss of community services over the last decade or so. These include services such as banking and telecommunications.

5.52 The submission from Ms King alludes to these problems and argues:

> Consequently any further loss of services or increased unemployment within these communities could be the final setback in their long-term viability.[131]

5.53 Mr O'Brien of the Association of Mining Related Councils commented on the cumulative effect of community services being withdrawn:

> "We have gone through the reform process with power and other things in New South Wales. We have had the withdrawal of banks. Basically what I am saying is that these services are withdrawn continually. So, somebody has to turn the lights out at the end of the day …. But if everybody keeps taking the vital services and links that are out there away from us, we have not got any opportunity to grow. We have not got any opportunity just to sustain the position we are in now."[132]

5.54 Other groups also noted the potential problems of 'cumulative losses' to rural and regional New South Wales. For instance, the Combined Pensioners' and Superannuants' Association of New South Wales stated:

> If FreightCorp is privatised we fear that there will be a loss of jobs, particularly in rural and regional areas in New South Wales. Business in rural towns and centres will drop and some services, including banks, pharmacies and health services will close. It will, in a lot of cases, destroy the social fabric and socio-economic structure of country and rural towns.[133]

5.55 The committee is concerned that the cumulative effect of the loss of these services is not being sufficiently taken into account. The committee notes that whether or not FreightCorp is privatised, there are likely to be more job losses in the rail freight industry. In fact, arguments have been presented to the committee that job losses would be greater if FreightCorp is left in government ownership. This concern about job losses is why the committee considers it vital that in any sale of FreightCorp, the Government uses much of the sale proceeds to invest in track infrastructure in rural and regional areas. Infrastructure

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130 Submission No 6, Ms Diane King, private citizen, p 2.

131 Submission No 6, Ms Diane King, private citizen, p 2.

132 Evidence of Mr Noel O'Brien, Manager, Association of Mining Related Councils, 7 November 2000, p 324.

133 Submission No 21, Mr Ray Merchant, State Secretary, Combined Pensioners and Superannuants Association of New South Wales Inc, p 1.

investment has two main benefits. The employment it directly creates may help mitigate job losses in the rail freight industry. Secondly, it will help make rail freight more efficient, leading to more freight being carried on rail and potentially leading to greater investment in the rail freight industry. Investment in infrastructure contributes to cumulative gains for rural and regional areas.

Chapter 6 Options for achieving fairer competition between road and rail freight transport operators

Australia's geographical isolation from overseas markets and dispersed population contribute to its reliance on freight. Australia is reported to be up to three times more dependent on freight for economic development than is the average figure for OECD countries.[134] This chapter outlines the role of government in the competitive environment between road and rail freight transport as it currently stands and makes recommendations for improving the competitiveness of rail transport.

6.1 The committee notes that the Productivity Commission in its report, *Progress in Rail Reform*, examined "competitive neutrality" as a core element of the Competition Principles Agreement. The Commission identified neutrality issues in government policies and processes that may favour one mode of transport over another.[135] The Commission pointed to the following three key areas of government policy with potential to affect competitive neutrality:

- infrastructure investment,
- taxes, government charges and access, and
- regulations and procedures.

6.2 This chapter is separated along these three key areas of government influence and discusses opportunities available to both the Commonwealth and New South Wales Governments to provide fairer competition between road and rail transport. Examination of the considerable research undertaken by Commonwealth government agencies and evidence received by the committee during its inquiry indicate that:

- the Commonwealth and State Governments need to coordinate their approach to infrastructure investment to develop a strategy that provides for adequate investment in rail,
- the Commonwealth Government has primary responsibility for competitive neutrality in regards to the provision of taxes and government charges for freight, and
- a lower standard of working conditions faced by drivers in road transport provide a cost and temporal edge to road freight.

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134 Based on tonne-kilometres/GDP, National Road Transport Commission, *Performance Based Standards Policy Framework for Heavy Vehicle Regulation, Discussion Paper*, 2000, p 9.

135 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 232.

Infrastructure investment

6.3 The scale and frequency to which investment in infrastructure occurs is driven by the owner(s) of the asset. Road freight relies on the National Highway system which is owned in a financial context by the Commonwealth Government. Ownership, construction and maintenance of rail track assets in New South Wales reside with the New South Wales Government under the auspices of the Rail Access Corporation and Rail Services Australia.

6.4 The committee received little evidence on the advantages or disadvantages of divesting ownership of rail infrastructure to the private sector. The clear intention of the New South Wales Government is not to take such an approach. Freight operations in other States that have been privatised such as Australian Southern Railroad, Freight Victoria, Westrail and Tasrail are vertically integrated.[136] Overseas rail examples are not uniform with rollingstock ownership and track, where separated, owned by either private or public sectors.[137]

6.5 The Productivity Commission found that the role of government in ownership and management of railways had the potential to distort operations and the ability to raise funds for investment purposes.[138] The Commission went on to make the following recommendation:

> Governments should adopt a more commercial approach to railways and road provision. This will involve:
>
> …
>
> applying competitive contracting out, franchising or full privatisation to railways…[139]

6.6 The NSW Farmers' Association, in identifying the importance of improving the competitiveness of rail freight, did not rate asset ownership as a key to achieving that outcome:

> "Basically, from the perspective of most of our members, the competitiveness of rail freight particularly versus road is a critical issue that they obviously want to see improved and that is their main interest. Whether that occurs under privatised ownership or statutory ownership is not high on the agenda."[140]

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136 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 101.

137 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p E2.

138 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 243.

139 Recommendation 10.2, dot point two, Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 243.

140 Evidence of Mr Michael Keogh, Policy Director, NSW Farmers' Association, 7 November 2000, p 10.

6.7 Investment in road and rail infrastructure has historically been provided by the public sector as owners of the infrastructure in New South Wales. Whilst there has been an emergence of private sector investment in road, for example the Eastern Distributor, M5, M4 and M2, and to a lesser extent rail (Airport Link), it has largely featured in the Sydney metropolitan area.

6.8 Construction and maintenance of the National Highway system, upon which road freight relies, is funded by the Commonwealth and distributed to New South Wales as tied grants. Commonwealth funding for construction and maintenance of National Highways in New South Wales is outlined in table 7.

Table 7 - Commonwealth Department of Transport and Regional Services funding for construction and maintenance of National Highways in New South Wales (actual) 1995-96 to 1999-00 ($m)

	1995-96	*1996-97*	*1997-98*	*1998-99*	*1999-00*	*Average*
Construction ($m)	181.8	91.3	103.0	93.0	85.8	111.0
Maintenance ($m)	129.5	137.8	140.9	152.4	124.8	137.1
TOTAL	**311.3**	**229.1**	**243.8**	**245.4**	**210.5**	**248.0**

Table derived from Standing Committee on State Development, Inquiry into Road Maintenance and Competitive Road Maintenance Tendering, Submission No.43, Commonwealth Department of Transport and Regional Services.

Note: Columns may not sum to total due to rounding.

6.9 The Commonwealth Department of Finance and Administration detailed road and rail related expenses including construction, maintenance and operation of government administration entities outlayed by the Commonwealth over the twenty year period 1977-78 to 1996-97. The department recorded that Commonwealth Government funding was eight times larger for road ($31.5 billion) than for rail ($3.9 billion).[141]

6.10 The House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform report *Tracking Australia*, noted the reliance of rail on State Government funding. The Report referred to a Bureau of Transport Economics estimates that around 90% of total public sector expenditure on new fixed rail assets was derived from the States.[142]

6.11 Construction and maintenance expenditure on the entire New South Wales rail network by the Rail Access Corporation is presented in table 8:

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141 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, pp 234 – 235.

142 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, 1998, *Tracking Australia*, 1998, p 116.

Table 8 - Rail Access Corporation expenditure for construction and maintenance of the New South Wales rail network (actual) 1995-96 to 1999-00 ($m)

	1995-96	*1996-97*	*1997-98*	*1998-99*	*Average*
Construction ($m)	N/A	153.1	64.6	117.6	111.7
Maintenance ($m)	N/A	425.2	492.3	522.5	480.0
TOTAL	**N/A**	**578.4**	**556.9**	**640.0**	**591.7**

Table derived from Rail Access Corporation Annual Reports 1996-97(p 42) and 1997-98 (p 34).

Note: Columns may not sum to total due to rounding. RAC inaugural annual report was 1996-97 thus 1995-96 figures are not available.

6.12 The New South Wales Government provides RAC with CSO funding to cover the cost of maintaining the non-commercial lines operated by the Corporation. CSO payments for the period 1996-97 to 1999-2000 are outlined in table 9:

Table 9 - NSW Government CSO payments to Rail Access Corporation (actual) 1996-97 to 1999-00 ($m)

	1996-97	*1997-98*	*1998-99*	*Average*
CSO payments ($m)	177	177	172.5	175.5

Table derived from Rail Access Corporation Annual Reports 1996-97(p 42) and 1997-98 (p 34).

6.13 The bulk of RAC's revenue (63% in 1998-99) is derived from access fees applied to rail operators. Using GTK (Gross Tonne-Kilometre) as an access measure, RAC estimates that freight comprises 75% of the network usage (comprising coal 32%, interstate freight 24% and intrastate freight 19%).[143] RAC has elected not to separate rail access revenue beyond an aggregate figure to ensure that confidentiality of commercial contract agreements between operators is maintained, particularly as there are only a small number of operators in the market. Consequently, there is no evidence to indicate the proportion of RAC's construction and maintenance costs attributable to freight. Indicatively, electrified track used in metropolitan areas is considerably more expensive to maintain per kilometre than non-electrified track.

6.14 The Productivity Commission has stated that government expenditure on road and rail infrastructure over time is not sufficient to establish whether under or over investment in infrastructure had occurred.[144]

> Investment may be driven by factors which differ in importance across modes and time, so investment levels need not be similar.[145]

6.15 The Bureau of Transport Economics, in its working paper *Competitive Neutrality Between Road and Rail*, contends that transport modes (for passenger and freight services) develop and

143 Based on 1998-1999 GTK usage, Rail Access Corporation, *Annual Report 1999*, p 15.

144 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 235.

145 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 235.

mature to a saturation level over time, only to lose dominance with the introduction of new technology that is more efficient or flexible.[146] In support of this view, the BTE notes that since World War II rail has steadily lost market share to road as the preferred mode of transport.[147] Further, that while road has increased in market dominance, air transport is becoming increasingly competitive and is winning market share over long distances.[148] The Bureau concludes that the re-emergence of rail as a dominant transport mode is most likely to be achieved through the introduction of new rail technology or an alternative transport mode that blends advantageous aspects of rail and other transport modes.[149]

6.16 The Department of Transport and Regional Services in its submission to the Productivity Commission's *Progress in Rail Reform Inquiry* recognised that the differing maturity of the rail and road networks has lead to disproportionately high levels of funding being provided by the Commonwealth to road for infrastructure development compared with rail:

> The rail network was largely developed before the advent of heavy vehicles on roads. Consequently the rail network represents a mature network with the focus of works on maintenance and realignments, while the road network has until recently been under development to meet current demands…[150]

6.17 Conversely, the *Tracking Australia* report identified the disparity in infrastructure funding between rail and road as contributing to the diminished capacity of rail to effectively compete with road transport in all markets.[151]

Track and control infrastructure

6.18 The committee received considerable evidence from disparate sources identifying track and control infrastructure improvement as the key to placing rail on a level playing field with road in the timely transport and delivery of freight.

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146 Bureau of Transport Economics 1999, *Competitive Neutrality between Road and Rail*, Working Paper 40, p 31.

147 Bureau of Transport Economics 1999, *Competitive Neutrality between Road and Rail*, Working Paper 40, p 4.

148 Bureau of Transport Economics 1999, *Competitive Neutrality between Road and Rail*, Working Paper 40, p 4.

149 Bureau of Transport Economics 1999, *Competitive Neutrality between Road and Rail*, Working Paper 40, pp 3-4.

150 Submission to the Productivity Commission, Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 235.

151 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*, 1998, p 121.

6.19 Mr Keogh, Policy Director, NSW Farmers' Association stated:

> "…that infrastructure investment, that is investment in the rail track network, will be the key to increasing the competitiveness of rail as a means of hauling freight within New South Wales. We will be looking for commitment from government in relation to the level of infrastructure investment we believe is necessary in the future as part of this sale."[152]

6.20 Mr Keogh elaborated further:

> "…that this whole issue is immaterial if the rail infrastructure is not significantly upgraded. There has been under-investment for several decades in that infrastructure, and unless it is upgraded you will not be able to get a rail service that is more competitive, particularly for these bulk freight tasks,…"[153]

6.21 The National Secretary of the Railway Technical Society of Australasia, a technical society of the Institution of Engineers Australia, with over 600 members, made the following comments:

> Track straightening is an area where NSW is at least a decade behind Queensland. The Society recognises that Action for Transport 2010 provides for track straightening on the Short North line, but we are yet to see firm plans announced for the work to proceed. In addition, Action for Transport 2010 does not encompass track straightening on the important Main South Line.[154]

6.22 A number of submissions discussed improvements in rail competitiveness by upgrading both track infrastructure and rollingstock. Note was made of the interrelationship between the two assets, inferring that overall benefits were limited by upgrading one asset without making simultaneous improvement to the other.

6.23 The Australian Wheat Board (AWB), with sole export rights to market Australian wheat internationally until 2004, outlined the interrelationship between track and rollingstock investment in comments made about FreightCorp's lack of competitiveness with road and other private rail operators. Particular note was made of the lack of investment in branch lines as a constraint to axle loads and speed of freight.

> On a $/tonne basis, Freightcorp has traditionally been AWB's highest cost rail operator.
>
> There are a number of factors that have generated this result, including those beyond FreightCorp's control, such as haulage distance and gradients.

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152 Evidence of Mr Michael Keogh, Policy Director, NSW Farmers' Association, 7 November 2000, p 10.

153 Evidence of Mr Michael Keogh, Policy Director, New South Wales Farmers' Association, 7 November 2000, p 13.

154 Submission No 13, G C Venn-Brown, National Secretary, Railway Technical Society of Australasia, p 4.

> However, the lack of investment in either rollingstock or branchline track upgrades over the last 15 years has locked FreightCorp into a high operating cost environment that now reduces its competitiveness in the marketplace.
>
> For example, a typical FreightCorp export grain train will carry approximately 1,900 tonnes of product. The new AWB/ATN service can haul 2,720 tonnes from mainline locations – a 43% improvement over FreightCorp.
>
> However, operation of the fully loaded ATN train are *(sic)* restricted in many parts of New South Wales, due to the poor condition of the track network. Typically, the network is characterised by lightweight track, minimal ballast and wooden bridges.
>
> The track impediments represent a significant long-term threat to the viability of rail in New South Wales, as the road industry continues to move forward with reforms that result in reduced haulage costs.[155]

6.24 Mr J R Watters, a private citizen, noted the limits infrastructure was placing on freight:

> As an example, the rail line from Lithgow to Orange, built in the 1870's, is 165 kms and takes 3 hours … compared with road 122 kms and 1½ hours.[156]

6.25 Austrac Rail in its submission to the committee provided a detailed analysis of regulatory, track and control infrastructure impediments on the Walgett to Narrabri and Narrabri to Newcastle freight line. The submission noted that part of this line, between Narrabri and Muswellbrook, is among the most heavily trafficked in New South Wales, handling around 2 million tonnes per annum.[157] Austrac Rail contended:

> The average transit speed derived in the actual rail operations is not much faster than a running man [26 kms/hour Walgett to Narrabri, 31 kms/hour, Narrabri to Newcastle]
>
> Some of the control technology still in use on the branch lines was first used in the 19th century.
>
> Congestion is substantially caused by the inadequate overall level of investment in the infrastructure, both track and signalling.
>
> The regulatory environment is complex and imposes a heavy burden of administrative cost on operators.
>
> Modern control infrastructure would provide higher efficiency of network usage, potentially better information to train operators and lower network control costs.
>
> The infrastructure imposes varied power and mass constraints leading to lower than optimum internal efficiency in rail operations.

155 Submission No 37, Mr John Crosbie, Manager Supply Chain, AWB Limited, p 3.

156 Submission No 11, Mr J R Watters, private citizen, p 2.

157 Submisson No 28, Mr Andrew Buckland, Director Capricorn Capital, on behalf of Austrac, p 7.

By comparison, road enjoys:

1. Relatively low levels of congestion.

2. Transit times close to 6 hours, ie average speeds of about three times those achieved by rail.

3. Relatively uniform horsepower and load limitations.

4. Light-handed system of traffic regulation. [158]

6.26 The committee considered evidence that conveyed the difficulties faced in maintaining track access and standards on some branch lines. The NSW Farmers' Association discussed the 114 kilometre Gwabegar line:

> "If you were to have a look at the Gwabegar line, you would be horrified to see the state of the sleepers under that line. We have not had a serious incident or an accident up until now, I think because of fairly rigidly applied speed limits. But certainly you could not in a month of Sundays argue that it was a well-maintained and proper track."[159]

6.27 The committee notes that where rail traffic volumes have decreased on a number of branch lines, there will be an increased reliance on government support through CSO payments to keep these lines in operation. For instance, in relation to the Gwabegar line Mr Dalton stated:

> "Yes. I think historically what we have to remember is that this is a rail system that was built for a variety of traffic, and we have now got to the point where grain is the sole traffic on many lines and the majority of traffic on others. We have lost wool, we have lost livestock, and we have lost people. Lots of things that used to go by rail do not go by rail, so the grain industry finishes up bearing the cost of it, the cost of the track, and you cannot do that altogether without some community support."[160]

6.28 Mr John Watsford, Chair, Sydney Division, Railway Technical Society of Australasia, discussed the advantages of updating rail control and signalling equipment:

> "The modern systems are so much more efficient and safer than the old system, but that is not to say the current system is unsafe. Far from it—I believe it is quite safe. It has stood the test of time for 100 years or more but there are far more efficient methods now, modern communications, satellite tracking and all sorts of things, whereas the old block telegraph arrangement was a click-click on the key. It is a thing of the past. We have reversed. I think it is more a case of updating the equipment to more modern equipment, rather than pouring good money after bad

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158 Submisson No 28, Mr Andrew Buckland, Director Capricorn Capital, on behalf of Austrac, pp 6-7.

159 Evidence of Mr Glenn Dalton, Director of Grains, NSW Farmers' Association, 7 November 2000, p 14.

160 Evidence of Mr Glenn Dalton, Director of Grains, NSW Farmers' Association, 7 November 2000, p 14.

> into the old equipment, which invariably only looks at a particular area, whereas with more modern equipment you can handle a lot longer track with signalling systems, compared with the old ones."[161]

Rollingstock

6.29 Austrac Rail indicated that poor productivity of infrastructure had lead the rail system, in aggregate, to over invest in rollingstock and under invest in infrastructure.[162]

6.30 However, the AWB detailed the following suggestions for improving the competitiveness of freight rail rollingstock:

> Increasing axle loads from 19 to 23 tonnes across the branchline network.
>
> Attain average speeds that allow reasonable utilisation of train crew and rollingstock. The target speed for each line section will vary, but as a guide 80 kilometres/hour empty and 60 kilometres/hour loaded would be an ideal result.[163]

6.31 In overviewing FreightCorp's operation of its rollingstock, Mr Di Bartolomeo, noted some locomotives and wagons were aged and lacking modern efficiency:

> "Notional asset life for a locomotive is 25 years. The reality is that we are seeing a lot of old locomotives sort of being dragged out long beyond 25 years at the moment in the Australian rail industry, so 35 years is not necessarily uncommon. They are not necessarily the most efficient locomotives of that type. Wagons—it depends a lot on wagons and how they have been used. Coal wagons after 15 to 20 years, if they have been used intensively like we use them in the Hunter Valley, are pretty well life-expired, while we have got some wagons that were sort of from the 1950s in grain and they are sort of still running around. They are not necessarily the most efficient wagons but they are doing the job nevertheless."[164]

6.32 Mr Di Bartolomeo also discussed FreightCorp's plan for upgrading its locomotives:

> "When would we be seeing any significant asset renewals? I suggest not for a little while yet. At the moment, with our older locomotives we are looking at doing what we call a component change out [CCO] and effectively extending life. That is another way to extend the life of locomotives other than actually buying new ones. If you have a reasonably good base you can upgrade the locomotive, and we have plans right now in our forward capital program to upgrade two of our classes—our 48 locomotives and 81 class. So I do not think we are going to be in the marketplace for new locos for some time yet. If we were to merge with NRC, it has actually got a lot of good new locos that it bought only four or five years

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161 Evidence of Mr John Watsford, Chair, Sydney Division, Railway Technical Society of Australasia, 7 November 2000, p 38.

162 Submisson No 28, Mr Andrew Buckland, Director Capricorn Capital, on behalf of Austrac, p 12.

163 Submission No 37, Mr John Crosbie, Manager Supply Chain, AWB Limited, p 4.

164 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 28.

> ago. I think some of those locos are actually spare, so we would actually have the opportunity to maybe save on some of the upgrades, use those and just put in storage for a later date some of the older locos."[165]

6.33 In highlighting potential for productivity improvements in rollingstock, Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, noted that investment in track infrastructure would be necessary to achieve such objectives and raised concern as to whether the private sector would find adequate returns in such activities.

> From a Blue Circle point of view, some of the trends that we see overseas in rail movements identify that bigger wagons and bigger tankers will be used. As to the availability of the current rail network to handle that, that is something we are aware of. It would probably require some additional investments. For example, some of the wagons that we are currently using could probably be increased by about another 30 tonnes. We could use longer rakes. These are issues that will require, in our view, investment over a period. Whether in the private sector these are likely to be viable in terms of adequate returns is something that we think would be quite questionable.[166]

Taxes and charges

6.34 *Tracking Australia* concluded that the existence of a disparity in prices charged for the use of infrastructure between road and rail favoured heavy road vehicles.[167] The House of Representatives Committee made the following recommendation:

> The committee recommends that the Commonwealth develops a more consistent, equitable approach to transport infrastructure charges to ensure competitive neutrality between modes.[168]

6.35 A number of witnesses and submissions received by the Legislative Council's FreightCorp inquiry committee referred to the BTE working paper *Competitive Neutrality Between Road and Rail* as a basis for commenting on the effect of government taxes and charges in creating level playing field.

6.36 The BTE's working paper examined the competitive neutrality of Commonwealth Government taxes and charges for non-bulk road and rail freight transport. Previous infrastructure expenditure and current government funding for construction, maintenance of assets and operation of government agencies were not considered. The working paper incorporated an assessment of the impact on rail and road transport from the introduction

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165 Evidence of Mr Lucio Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 28.

166 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 22.

167 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*, 1998, p 124.

168 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*, 1998, p 125.

of the Commonwealth Government's new tax system (ANTS) and associated legislation such as the Diesel and Alternative Fuels Grants Scheme Act 1999. Major findings of the report included:

- Trucks overall are undercharged for their use of the road system. Moreover, larger, more heavily laden vehicles and those travelling longer distances are charged the least (per tonne kilometre) while smaller, less heavily laden vehicles and those travelling shorter distances cross-subsidise them.[169]

- Neither road nor rail pays for externalities such as noxious emissions, congestion and noise.[170]

- Introduction of ANTS lowered average input costs for interstate non-bulk freight by an estimated 8% for rail and 15% for road. Greater savings for road freight are attributable to a relative higher usage of diesel fuel and receiving sales tax exemptions for trucks where rail already received such an exemption.[171]

- To achieve competitive neutrality for road involves removing the fuel excise, including a mass distance charge, increasing the infrastructure use charge (by 67%) and including costs for externalities.[172]

- To achieve competitive neutrality for rail involves the exemption on tariffs for locomotives, stamp duty being removed and including costs for externalities.[173]

- The effect of applying a more competitively neutral approach to Commonwealth Government charges, including charges for externalities, on pre ANTS environment, resulted in freight rates for rail increasing by 4% and road 12%. With the effects of the ANTS incorporated, implementation of competitive neutrality lowered both rail and road input costs by 5%. The BTE noted that under these circumstances the long term decline in rail's share of non-bulk freight is unlikely to change.[174]

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169 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p x.

170 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 16.

171 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 18.

172 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 23.

173 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 23.

174 Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p ix.

6.37 Evidence provided to the committee from FreightCorp confirmed that while the Commonwealth Government's introduction of a diesel fuel rebate had benefited rail transport, road transport had received greater benefits. Mr Di Bartolomeo explained to the committee:

> On 1 July our 36.7 cents a litre fuel excise was removed and, as you are aware, we were compelled to totally pass that back on to our customers and in fact our customers received significant reductions on 1 July.[175]

6.38 Mr Di Bartolomeo went on to elaborate:

> It was a fantastic result to get the diesel fuel excise removed entirely. The diesel fuel excise removed for road, which went from 43 cents down to 20 cents, if you take into consideration the far higher overall cost component of fuel for a road operator versus a rail operator, actually road gained about a 7 per cent to 8 per cent overall improvement on rail.[176]

Accounting for externalities[177]

6.39 The BTE working paper detailed that road transport emits more than three times the greenhouse gases emitted by rail. However, greenhouse gas costs were not calculated in its analysis because of the large degree of uncertainty associated with estimating both climate change and the costs associated with ameliorating or adapting to this change.[178]

6.40 The BTE study used six axle articulated trucks as the basis for its analysis. Austrac Rail argued that B doubles and B triples, for which the road damage would be significantly higher, were the most relevant comparison to rail freight.[179]

6.41 The *Tracking Australia* report pointed to a fundamental difference in the way benefits and costs of road and rail projects were assessed as a reason for road attracting a disproportionately large share of investment.[180] Likewise, the Productivity Commission

175 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 24.

176 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 24.

177 An externality can be defined as existing where the activities of one party impose costs or benefits on another. In the road transport industry, direct external costs include damage and wear caused to roads and bridges, whereas indirect external costs encompass pollution, congestion and accident costs. See Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 249.

178 71g of CO_2/ntkm for road compared to 23g of CO_2/ntkm for rail, Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 23.

179 Submisson No 28, Mr Andrew Buckland, Director Capricorn Capital, on behalf of Austrac, p 8.

180 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia*, 1998, p 120.

considered this issue and recommended that externalities be taken into account in cost benefit analysis of major road and rail projects.[181]

6.42 The committee recognises that rail, when compared to road, is an environmentally preferred transport mode using around one third less fuel,[182] and lower pollution and greenhouse gas emissions. These features, combined with the benefits of causing less accidents and fatalities, provide important public benefits. Associate Professor Phillip Laird, Chairman, Government Relations Committee, Railway Technical Society of Australasia, in his submission to the committee, noted a number of beneficial aspects of rail compared to road transport:

> Road freight also incurs road safety risks. On non-urban sections of the National Highway System within NSW, Roads and Traffic Authority data from 1988 to 1999 show a loss of 578 lives from fatal crashes involving articulated trucks; also, such fatalities accounted for about 36% of all fatalities on these non-urban highways.
>
> …
>
> Both road and rail freight have environmental impacts which are more noticeable in urban areas. However, rail freight impacts, including noise and air pollution, are generally much less than road freight impacts.
>
> Rail freight is generally three times more energy efficient than road freight.[183]

6.43 In response to recommendations from a number of reports including those of the House of Representatives Committee and the Productivity Commission, the Department of Transport and Regional Services, on behalf of the Commonwealth Government, made the following comments in relation to competitive neutrality:

> The Commonwealth supports a consistent, equitable approach to transport infrastructure charges…
>
> The Government supports the principle of competitive neutrality between modes of transport. However, the road and rail sectors have different usage, charging and funding structures. Road sector charges include registration charges, sales taxes, tolls, local government rates, parking charges and fuel excises. Rail charges include accreditation charges, access charges and fuel excises.
>
> Different aspects benefit different modes. For example, rail has tax advantages over road, while road has access charge benefits over rail…Roads tend to be budget funded while access charges are charged directly by rail track management authorities and are reinvested directly into the track. This expenditure does not

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181 Refer to recommendation 10.2, Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 240-241, p 260.

182 Notes C6 and D6, Bureau of Transport Economics, 1999, *Competitive Neutrality Between Road and Rail*, Working Paper 40, p 59.

183 Submission No 12, Associate Professor Phillip Laird, Chairman, Government Relations Committee, Railway Technical Society of Australasia, p 2.

> show up in government budget allocations…While commercial benefits accrue from investment in both rail and road infrastructure, private motorists also benefit from road investment. Thus revenue and funding arrangements for roads are difficult to directly compare with those for rail and particular aspects of the arrangement should not be considered in isolation…
>
> Following discussion at the ATC meeting on 12 November 1999, Transport Ministers voted on a revised schedule of heavy vehicle charges prepared by the NRTC. It is proposed that the new charges be implemented by 1 July 2000.[184]

6.44 The committee is aware that heavy vehicle truck pricing is now controlled by the Australian Transport Council[185], and that it would be difficult for New South Wales to 'go it alone' and price heavy vehicles trucks differently to other States. Professor Laird stated:

> Fairer competition between road and rail transport operators for freight will also require improved road pricing for heavy trucks. When New South Wales was all but forced by the Competition Principles Agreement to adopt, in 1996, "truck friendly" National Road Transport Commission (NRTC) charges, several set backs occurred.
>
> - Mass-differentiation was lost in annual charges,
> - The heavier semitrailers had annual charges halved from about $8,000 to just $4,000,
> - B-Double charges were slashed from over $12,000 to under $6,000,
> - It cost the New South Wales Government about $60 million a year.[186]

6.45 Associate Professor Laird concluded:

> It is appreciated that increasing road pricing for heavier long distance trucks will take some time. Until this is addressed, there will be a need to upgrade mainline rail track. The committee may care to recommend that if part or all of FreightCorp is sold, some of the proceeds be allocated to track and signal upgrading.[187]

6.46 The Productivity Commission also concluded that the existing National Road Transport Commission (NRTC) road user charging system afforded road freight cost advantages over rail. The Productivity Commission recommended that:

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184 Department of Transport and Regional Services, 2000, *Response of the Federal Government to reports of the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform 'Planning not Patching' and 'Tracking Australia'; report of the Rail Projects Taskforce 'Revitalising Rail'; report of the Productivity Commission 'Progress in Rail Reform,* pp 21-22.

185 The Council is comprised of Transport Ministers of the Commonwealth and State and Territory Governments.

186 Submission No 12, Associate Professor Philip Laird, p 5.

187 Submission No 12, Associate Professor Philip Laird, p 5.

> The National Road Transport Commission should prepare — and recommend to the Ministerial Council for Road Transport for adoption — a revised schedule of heavy vehicle charges which ensures that each class of vehicle pays the full cost of its road use.[188]

6.47 The committee is of the understanding that the Australian Transport Council has yet to approve an increase in heavy vehicle charges as stated by the Commonwealth Department of Transport and Regional Services. The Council is expected to vote on whether heavy vehicle charges should be indexed to the Consumer Price Index in early 2001.[189] However, in a Communique of 19th May 2000, the Council approved the third heavy vehicle reform package. As part of this package, in November 2000 the NRTC released for public comment its discussion paper *Performance-Based Standards Policy Framework For Heavy Vehicle Regulation*. The discussion paper seeks to establish performance based standards (PBS) for heavy vehicle regulation that augments existing prescriptive standards.[190] A primary feature of PBS is to apply vehicle specific assessment of impacts on infrastructure under various circumstances in different sections of the road network.[191] This revised regulatory approach aims, among other things, to achieve full cost recovery for road repair by vehicle type. Public comment on the PBS proposal is sought by 5 February 2001.[192]

6.48 In support of achieving fairer competition between road and rail, the Mudgee District Environment Group made the following point:

> Fairer competition between road and rail freight transport operators will only be achieved when the road transporters are required to pay the costs of the road repairs caused by heavy vehicles.[193]

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188 Productivity Commission 1999, *Progress in Rail Reform*, Inquiry report no 6, p 249.

189 Australian Transport Council, *Communique*, 19 May 2000, p 3.

190 National Road Transport Commission, 2000, *Performance-Based Standards Policy Framework for Heavy Vehicle Regulation*, Discussion Paper, p 6.

191 National Road Transport Commission, 2000, *Performance-Based Standards Policy Framework for Heavy Vehicle Regulation*, Discussion Paper, p i.

192 National Road Transport Commission, 2000, *Performance-Based Standards Policy Framework for Heavy Vehicle Regulation*, Discussion Paper, p i.

193 Submission No 8, Mudgee District Environment Group Inc, p 2.

Regulations and procedures

Employment conditions

6.49 Mr Costa of the Labor Council tendered the view that road has been more competitive because of the erosion of truck driver working conditions:

> "One is that we are also concerned, as a union movement, that much of what is being moved on the road is only competitive because of the erosion of working conditions and working requirements of truck drivers—and I refer to long hours and inappropriate working arrangements. Even though this area is regulated, there are constant breaches of regulations in regard to drivers' conditions.
>
> Also, in regard to wage rates there is constant undermining of the appropriate industry rates, award and enterprise, because of competition in that area."[194]

6.50 Mr Trevillian, currently an employee of FreightCorp, and an employee of the New South Wales railways for 38 years, notes:

> The road industry drivers are allowed to drive legally, ludicrously long hours. To make matters worse, the majority of the work of the most at risk section, the long distance drivers, is at night, which is an almost impossible task to stay awake, even working normal hours.[195]

Reform and innovation

6.51 Mr Andrew Buckland, representing Austrac Rail, highlighted aspects of innovation in the road industry and corresponding adjustments to the regulatory framework that have permitted productivity and competitiveness of road freight to increase:

> "The thing which has precluded the rail system from performing and competing effectively is that the road system has effectively moved its regulatory boundaries higher, every month it seems to us, B-doubles, B-triples and the efficiency of the road network has continued to increase. You see transit times Sydney/Melbourne now for heavy trucks in the order of 10 to 11 hours, whereas the rail system has actually gone backwards in terms of transit times and has not moved in regulatory terms since the 1950s."[196]

6.52 The committee also heard details from Professor Hull, consultant to the RTBU, about the impact of regulatory reform in transport modes alternate to rail:

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194 Evidence of Mr Michael Costa, Secretary, Labor Council of New South Wales, 7 November 2000, p 5.

195 Submission No 23, Mr J Trevillian, p 9.

196 Evidence of Mr Andrew Buckland, Director, Capricorn Capital, representing Austrac Rail, 17 November 2000, p 11.

> "The introduction of B-doubles and B-triples on the road is now making road approximately 40 per cent more efficient over the same haulage than it was prior to the introduction of this technology. The Federal Government's introduction of single-ticket, port-to-port shipping for foreign shipping lines now means that foreign shipping companies can do one-way journeys with freight between capital cities in Australia, from which they were excluded. While rail has an advantage over road in cost up above about 500 kilometres, sea has an advantage over rail above about 1,000 kilometres. Consequently, rail is being squeezed at both ends."[197]

6.53 One of the objectives outlined by the NRTC in PBS for heavy vehicle regulation is to increase productivity and innovation in vehicle design.[198] The NRTC noted PBS encourages greater flexibility in vehicle design and the way they are used, identifying possible areas of innovation including coupling designs, axle arrangements, vehicle configurations and superior systems for load restraint, braking and suspension.[199] This has the potential to further improve the competitiveness of road freight over rail.

6.54 *Tracking Australia* identified the benefits of NRTC as a national administrative body overseeing, among other issues, reform and innovation in road transport. The House of Representatives Committee recommended the establishment of a National Land Transport Committee that would advise on preferred road and rail expenditure based on cost benefit analysis that incorporates all externalities. It was also envisaged that the National Land Transport Committee would advise on a 'whole of land transport approach', incorporating both road and rail, as distinct from existing circumstances where road and rail strategies are conducted in isolation.[200] The Commonwealth Government did not support this recommendation considering that the establishment of the Australian Rail Track Corporation (ARTC) in 1998 and benefits achieved through a more commercial approach to rail infrastructure development and management was the most appropriate approach.[201]

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197 Evidence of Professor Daryll Hull, consultant to the RTBU, 6 November 2000, p 32.

198 National Road Transport Commission, 2000, *Performance-Based Standards Policy Framework for Heavy Vehicle Regulation,* Discussion Paper, p 8.

199 National Road Transport Commission, 2000, *Performance-Based Standards Policy Framework for Heavy Vehicle Regulation,* Discussion Paper, p 8.

200 The Parliament of the Commonwealth of Australia, House of Representatives, Standing Committee on Communications, Transport and Microeconomic Reform, *Tracking Australia,* 1998, pp 132-133.

201 Department of Transport and Regional Services, 2000, *Response of the Federal Government to reports of the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform 'Planning not Patching' and 'Tracking Australia'; report of the Rail Projects Taskforce 'Revitalising Rail'; report of the Productivity Commission 'Progress in Rail Reform,* pp 14-15.

Recommendation 12

That the New South Wales Government ensure that economic appraisal of major road and rail infrastructure projects incorporate, to the fullest extent possible, public externalities with appropriate weighting and quantification. Externalities may include, but are not to be limited to: fossil fuel use, greenhouse gas emissions, other airborne pollutants, noise, traffic congestion, and social and economic loss incurred by accidents and fatalities.

Recommendation 13

That in instances where rail and road freight are in direct competition, the New South Wales Government ensure that track infrastructure is of sufficient standard to permit rail operators to achieve, as a minimum, comparable travel times with road.

Recommendation 14

That the New South Wales Government lobby the Commonwealth Government and other States and Territories to support the establishment of a national organisation for rail transport with similar objectives as the National Road Transport Commission.

Chapter 7 The implications of possible monopoly ownership of FreightCorp and Australian National Rail Corporation and vertical integration of the freight business

One of the overwhelming themes submitted by FreightCorp during the inquiry was that to remain competitive, it had to grow and become a national organisation, offering more than just the linehaul of goods. This chapter assesses some of the implications of FreightCorp merging with NRC to achieve just that. The major concern of some other witnesses/submitters, as presented to the committee, was that the diminished competition between the separate rail entities would have a negative effect on the rail freight market, and that it would lock up infrastructure such as terminals to prevent new operators entering the market.

It is interesting to note that Queensland Rail will still have a larger freight task and revenue base than a combined National Rail and FreightCorp. A merged FreightCorp-NRC entity would become the second biggest rail freight company; the now merged Westrail-ASR-South Australia, would be the third, and Freight Australia would be the fourth.[202]

Arguments supporting the notion that a merged FreightCorp/NRC entity would have few ramifications for competition

7.1 In its submission, FreightCorp addressed this issue by restating what the freight market currently looks like. As noted below, it discussed the market from both a bulk and general freight perspective:

> - National Bulk Freight Market
>
> Bulk material contains generally unpackaged commodities such as coal and grain. The national bulk freight market is characterised by large, typically multi-national customers. They have the financial capacity and the industry knowledge to foster competition by: transferring their business to another operator; and/or providing the service themselves.
>
> This is easily facilitated by the purchase of wagons, a step which some existing FreightCorp customers have undertaken.
>
> The provision of transport services is transferable throughout Australia, a fact which has been proven by FreightCorp and other operators such as Australian Transport Network (ATN) and Freight Australia in their expansion beyond traditional state boundaries. It is irrelevant to consider the share of task held within a particular state given the ease of entry for another operator.

202 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 20.

- National General Freight Market

> General freight contains mostly containerised / palletised products. The national general freight market is contested between road and rail. Road in fact holds the greater share of this market.
>
> There is also some limited rail to rail competition in this market.[203]

7.2 The committee recognises that there are two distinct national freight markets – bulk and general. The implications of a merged FreightCorp and NRC entity may be quite different for each of these markets. For instance, as will be shown in this chapter, the majority of the bulk freight customers were quite satisfied with a merged entity. This is possibly because the bulk customers may have greater opportunities to purchase their transport requirements elsewhere. In contrast, Austrac Rail, a general goods rail freight carrier, was concerned that a merged FreightCorp and NRC would place it in a position of strong market power, and this would be contrary to the interests of all users of the system.

7.3 Having said this, it is also recognised that rail freight is a high fixed cost business, which depends on large volumes to reduce costs. For instance, the AWB noted:

> Rail is a high fixed cost business that generally requires large volumes to generate sufficient economies of scale. If Australia has a large number of small operators, there is likely to be insufficient critical mass with any player to facilitate the investment necessary for long term industry viability.[204]

7.4 In replying to questioning about their view of FreightCorp and NRC being bought by the one entity, Mr Porter of the New South Wales Minerals Council stated:

> "We would not have great concerns if the National Rail Corporation and FreightCorp were purchased by the same company. Our concern is to ensure that certain obstacles and difficulties within the current access regime are fixed. If they are fixed we think that, in a sense, it is not that relevant for us anyway whether you have a combined body or whether the National Rail Corporation and the new FreightCorp become separate. To us those other issues are more important."[205]

7.5 Mr Clacher of the Hunter Rail Access Task Force also commented:

> "National Rail only hauls a couple of per cent of the coal haulage in New South Wales at the moment. Other operators have been showing an interest. We think there are enough of those with heavy bulk haulage experience, apart from National Rail, to maintain competitive pressures."[206]

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203 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 2.

204 Submission No 37, Mr John Crosbie, Manager, Supply Chain, AWB Limited, p 3.

205 Evidence of Mr Denis Porter, Executive Director, New South Wales Minerals Council, 7 November 2000, p 17.

206 Evidence of Mr Kenn Clacher, Engineer, Hunter Rail Access Task Force, 7 November 2000, p 22.

7.6 In the New South Wales Minerals Council submission, Mr Porter concluded:

> Since the coal operations are the core of FreightCorp's operations, it would be expected that the new owner would be keen to retain as much of the coal business as possible. Any attempt on the part of FreightCorp, either separately or as part of a merged FreightCorp / National Rail, to act like a monopolist could be able to be met by customers seeking alternative operators. The NSW Minerals Council believes that there are sufficient credible potential competitors to FreightCorp to discourage such action by FreightCorp.
>
> Similarly, any attempt by FreightCorp's new owner to increase charges to recover any premium that it might pay in purchasing the business could be expected to be countered by the entry of new operators. [207]

7.7 The committee acknowledges the views of the above bulk freight industry participants with interest. However, in relation to general freight the committee is aware that road is a major competitor to rail. In response to questioning about the impact of a merged FreightCorp with NRC, and what effect this may have on competition, Mr Di Bartolomeo replied:

> "…I think, more importantly—and it is a very important issue that always needs to be considered—if we focus only on rail-to-rail competition, then we only have part of the story. To someone who has been in the rail industry for the last 23 years, one of the sad indictments has been the poor performance of rail vis-a-vis road. I think one of the pluses that has come out of bringing about rail-to-rail competition is that we are going to have a stronger rail industry and, importantly, a stronger rail industry that will not just see freight swapping between one rail company to the next rail company but, in fact, a rail industry that can capture far more freight off road and bring it onto rail and get a far better balance than we have had over the last two or three decades."[208]

7.8 The RTBU and the Labor Council also strongly supported the amalgamation of NRC and FreightCorp into the one entity, for the following reason:

> "From the union's point of view, if the Federal Government has made a decision to sell National Rail, the most desirable outcome is to have a joint purchaser of both organisations. The reason I say that is that our prime interest is employment security and to be a viable competitor to the road industry."[209]

Arguments against a merged FreightCorp / NRC

7.9 The committee received a number of submissions that argued that FreightCorp has not serviced the grain industry very well.

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207 Submission No 24, Mr Denis Porter, Executive Director, New South Wales Minerals Council, p 5.

208 Evidence of Mr Di Bartolomeo, Managing Director, FreightCorp, 6 November 2000, p 20.

209 Evidence of Mr Michael Costa, Secretary, Labor Council of New South Wales, 7 November 2000, p 8.

7.10 For instance, Mr Barry Holland, a grain grower of 50 years experience and a member of the Grain Growers' Association noted:

> FreightCorp has failed the grain industry very badly in that they have not kept pace with the rapidly expanding developments throughout rural and regional New South Wales.[210]

7.11 Mr Holland supported the privatisation of FreightCorp with the following conditions:

> (1) That the New South Wales Government control all rail infrastructure and line maintenance and more staff be employed in country areas,
>
> (2) That FreightCorp not be sold to only one company as the system needs competition for better service,
>
> (3) That Graincorp, with over 12,000 active grower members be given the opportunity to run the bulk grain haulage of all grain as they have been very successful in transporting grain west of the Newell Highway. There is no reason why they cannot continue this operation statewide.[211]

7.12 The committee notes that it is not the Government's intention to split FreightCorp up into business units and sell these separately. On the contrary, the plans are to sell FreightCorp to the same bidder as NRC, making it a much larger organisation.

7.13 As noted, most of the bulk freight customers supported a merged NRC and FreightCorp entity. However, this view was not universal. Dr Cook of Blue Circle Southern Cement told the committee:

> "In terms of the movements down the corridors where the majority of our material is transported—this is limestone from Marulan to Berrima and limestone from Marulan down to Port Kembla which would be nearly two million tonnes a year all up—in the past we have seen significant competition between National Rail and FreightCorp in terms of both those corridors. We would be much concerned in terms of a single entity whether that competition would still be in the system. Quite clearly, in terms of how a single entity would be established, we would have to identify how that would be appropriately managed. I suppose that IPART could have some part to play there."[212]

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210 Submission No 9, Mr Barry Holland, Committee of Advice Member, Grain Growers' Association Ltd, p1.

211 Submission No 9, Mr Barry Holland, Committee of Advice Member, Grain Growers' Association Ltd, p1.

212 Evidence of Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, 7 November 2000, p 19.

7.14 In its submission to the committee the New South Wales Parliamentary National Party noted:

> Of major concern to the National Party is the possibility of a foreign-owned private East Coast rail monopoly emerging from the privatisation of FreightCorp and the impact this could have on employment, and in particular, the future of rail freight which provides a direct link between rural producers and the coal, wool and grain commodity markets.[213]

7.15 Austrac Rail noted the following concerns in regard to a combined NRC and FreightCorp merger:

> If NRC and FreightCorp were allowed to be in common ownership, this would provide the combined entity with approximately 95% share of both the non-coal and the coal haulage markets in New South Wales.
>
> The combined entity would have a lock on substantially all Sydney metropolitan service and terminal assets and the great majority of reasonable quality standard gauge locomotive and rollingstock.
>
> This is a situation of strong market power, given that the substitutability of road and rail (in significant markets) is relatively low. This would be contrary to the interests of all users of the system and therefore also unlikely to be permitted by the ACCC.[214]

7.16 In a supplementary submission, Austrac Rail concluded that, on a national basis, a merged FreightCorp and NRC entity would control about 75% of all standard gauge locomotives and 80% of all standard gauge railcars. On a New South Wales basis, the merged entity would control about 85% of all standard gauge locomotives and 93% of all standard railcars.[215]

7.17 The committee notes the above market share of a merged FreightCorp and NRC entity, and considers that this highlights the need for an effective, contestable implementation of CSO payments and an open access regime.

The importance of an open rail access regime

7.18 An open access regime is a set of procedures for allowing a third party to use services provided by significant infrastructure facilities owned or operated by another party on fair

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213 Submission No 25, the Hon George Souris MP, Leader, New South Wales Parliamentary National Party, p 3.

214 Submission No 28, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 11.

215 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 8.

terms.[216] Section 19B of the *Transport Administration Act 1988* defines the meaning of the NSW Rail Access Regime as follows:

> NSW Rail Access Regime means an access regime established from time to time by the Minister and approved by the Premier for the purpose of implementing the Competition Principles Agreement in respect of third party access to the NSW rail network by the prescribed corporation or by persons as rail operators or access purchasers, including the use of such rail infrastructure facilities that are vested in or owned by Rail Access Corporation as are necessary for the safe operation of rollingstock on that network.

7.19 The committee firmly believes that an open and transparent rail access regime is essential for the rail freight transport sector in this State to be competitive. The committee understands that to date, the private rail freight sector has only managed to gain about five percent of the rail freight market in New South Wales, while the remainder lies with government owned rail freight entities. Mr Porter of the New South Wales Minerals Council stated in his submission some of the possible reasons why no new competitors have so far entered the export coal haulage market:

- uncertainties surrounding the NSW Rail Access Regime, which was not certified as effective under the provisions of the *Trade Practices Act 1974* (Cth) until November 1999, with the certification expiring on 31st December 2000,

- concerns on the part of potential operators that the wide discretion that RAC enjoys under the Regime to discriminate in its access charges could be used in favour of FreightCorp,

- FreightCorp control over rail freight movements in Newcastle, through its subsidiary Hunter Bulk Terminals, under contract to RAC. FreightCorp also controls infrastructure in Newcastle under lease from RAC, which could otherwise be used by competitors to FreightCorp,

- rail operators have little control over the utilisation of their locomotives and rollingstock, which are their key assets, because passenger traffic has priority over freight traffic under the Transport Administration Act 1988 (NSW) and under the terms of the Regime; traffic control is carried out by the State Rail Authority (under contract to RAC); there are no publicly available Operations Protocols to define the rights of track users in relation to each other. In the absence of these protocols there is a concern that one operator could be favoured over another in provision of access,

- the Regime does not provide for a regulator to oversee rail access charges or the rights of access seekers. It does provide for arbitration, which may be considered a slow, cumbersome and costly process.[217]

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216 Independent Pricing and Regulatory Tribunal of New South Wales, *Aspects of the New South Wales Rail Access Regime*, *Final Report*, April 1999, p 5.

217 Submission No 24, Mr Denis Porter, Executive Director, New South Wales Minerals Council, p 4.

7.20 The committee notes these comments of the Minerals Council with interest. For effective competition to exist in the rail transport sector, many of the above concerns need to be addressed. The development of competition policy and open access to New South Wales railway infrastructure is, relatively speaking, still in its infancy. FreightCorp noted:

> …The development of access regimes throughout Australia has been inconsistent. As a result the operation of an effective access regime in NSW, with vertical separation in place, has meant that entry into NSW has been substantially easier than into other states. This is demonstrated by the number of operators competing on the NSW network.[218]

7.21 Not withstanding FreightCorp's comments above, the committee was presented with a considerable amount of evidence supporting the view that an effective rail access regime would help safeguard against any monopolistic behaviour from a merged FreightCorp and NRC. Mr Crosbie of the AWB noted:

> AWB contends that providing there is an adequate track access regime in existence, the negative aspects of market power associated with a large operator can be minimised.[219]

7.22 Mr Keogh of the New South Wales Farmers' Association stated:

> "The difficulty with rail, and everyone accepts this, is that the extremely high dead weight capital costs involved creates a situation with natural monopolies. It is difficult to see how that could be avoided other than doing as much as possible to make sure the access arrangements, for example, leave the potential for competition open. We are already seeing that in some areas. For example, in Western Australia the minerals companies are taking over and starting to become operators. In a number of other cases, for example the AWB, they are taking that same approach. There is the potential, at least at the margin, for some competitors to come in. That makes the access arrangement absolutely critical.
>
> …the Productivity Commission has noted that on the lower volume freight lines it is simply not viable to have two operators running on the one line. You would have a lot of branch networks with monopolies anyway. Getting that access right and getting the CSO and contractual arrangements right is the key to keeping the productivity pressure on whoever the operator is."[220]

7.23 However, it is evident to the committee that the rail access regime currently operating in New South Wales can be improved.

7.24 In its submission, the New South Wales Farmers' Association indicated that it is imperative that an open access regime exists in the future, and stated:

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218 Submission No 15, Supplementary Submission, Mr Di Bartolomeo, Managing Director, FreightCorp, p 2.

219 Submission No 37, Mr John Crosbie, Manager, Supply Chain, AWB Limited, p 3.

220 Evidence of Mr Michael Keogh, Policy Director, New South Wales Farmers' Association, 7 November 2000, p 16.

> If the sale of FreightCorp goes ahead, the government must ensure that the current uncertainties surrounding the access regime are resolved and that a transparent and certain process is put in place. This is an absolute necessity to provide insurance against the sale of FreightCorp amounting to a move from a public monopoly to a private monopoly – a move that would ensure that monopoly benefits are captured by a few and that the potential efficiency gains from moving freight services into a competitive market environment are never realised.[221]

7.25 Mr Porter of the New South Wales Minerals Council stated:

> "Coal operations on the rail network in the Hunter are complex. However, we believe there is still room for competition in rail haulage of coal in New South Wales. For this competition to be realised, however, improvements must be made to the New South Wales rail access regime. In this regard we note that the Glenbrook commissioner recommended that a regulator be appointed.
>
> The New South Wales Minerals Council has consistently sought the appointment of a regulator for the regime since it was first established. In addition to the tasks identified in the commission's report, however, the regulator will need to be concerned with questions of access regulation and pricing."[222]

7.26 Mr Porter, commenting from a Hunter Valley viewpoint, also highlighted some of the actions that could be taken to reduce the risk of a combined FreightCorp/National Rail acting like a monopoly. These included:

- provide for a regulator in the NSW rail industry, who can ensure that there are no artificial barriers to entry of new competitors,
- require RAC to make Operations Protocols publicly available. These Operations Protocols should clearly set out the priorities that different types of traffic, and trains within any one type of traffic, have in relation to each other and would reduce uncertainty on the part of potential new operators on the degree of asset utilisation,
- RAC should implement its Capacity Transfer Policy, which would help new entrants to coal haulage to optimise asset utilisation,
- access pricing should be made more transparent so that all operators can be assured that there is no unwarranted discrimination in favour of their competitors,
- review RAC's contract with Hunter Bulk Terminals, and leases to FreightCorp of yards and terminals around Newcastle, to ensure that these do not act as artificial barriers to entry of new coal haulage competitors,

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221 Submission No 39, Mr Mick Keogh, Policy Director, New South Wales Farmers' Association, p 15.

222 Evidence of Mr Denis Porter, Executive Director, New South Wales Minerals Council, 7 November 2000, p 18.

- the Hunter coal industry can negotiate an access agreement directly with RAC, making it easier for new rail operators to enter the industry.[223]

7.27 The committee is aware that in order for effective competition between rail operators to occur, access to essential infrastructure such as terminals is of paramount importance. The committee was presented with evidence that NRC and FreightCorp have effective exclusive control of terminals in the Sydney metropolitan area, and that this has hindered other rail operators from competing effectively. Austrac Rail noted in its submission that the disaggregation process of FreightCorp and NRC provided no mechanism for private operators to access essential terminal infrastructure in the Sydney metropolitan area. The history and current arrangements at the Enfield terminal is especially disturbing to the committee. The committee heard that the Enfield site was to be separated into two equal parts, one to be vested in FreightCorp and the other to NRC. NRC removed the existing tracks, and then subsequently decided to establish Chullora terminal as its major Sydney depot. Control of the NRC's unwanted land at Enfield was passed back to the State Rail Authority, but is notionally under transfer to the Sydney Ports Corporation. The terminal has been unused since 1996, and Austrac Rail has been unable to obtain even a temporary use of the site.[224] Austrac Rail tendered the following photograph to the committee as an example of the state of the unused Enfield terminal (figure 4).

223 Submission No 24, Mr Denis Porter, Executive Director, New South Wales Minerals Council, p 5.

224 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 5.

Figure 4 - Tracks filled with waste and disappearing into undergrowth at Enfield site with abandoned overhead electrification standard.[225]

7.28 Austrac Rail concluded in its submission:

> In totality, apart from a small pre-existing lease to TNT/Toll at Enfield, the Government owned businesses in the sector have preferential access to all the metropolitan terminal sites; whilst a private operator is completely denied any equivalent.
>
> This example is unfortunately more than characteristic of the network as a whole. In addition, FreightCorp has enjoyed privileged and first choice access at locations outside of Sydney and throughout the State. It has secured exclusive use of major facilities at Port Kembla, Lithgow, Cootamundra, Goulborn [sic], Griffith and Werris Creek.[226]

225 Tabled document number 11, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, 17 November 2000.

226 Submission No 28, Supplementary Submission, Mr Andrew Buckland, Director, Capricorn Capital on behalf of Austrac Rail Limited, p 5.

Recommendation 15

That before any privatisation of FreightCorp can proceed, the New South Wales Government review, by an independent process, its Rail Access Regime to ensure that it presents competitively neutral opportunities for any player to enter the rail freight market in New South Wales. This includes access to terminal facilities in both metropolitan and rural and regional areas of New South Wales. This review should include opportunities for interested parties to present submissions, and be publicly available upon completion.

The Australian Competition and Consumer Commission response

7.29 In response to an invitation to appear before the committee, the Australian Competition and Consumer Commission (ACCC) wrote to the committee, stating that the proposed merger between NRC and FreightCorp raises two main questions:

> Whether or not the joint acquisition of both businesses by any party would give rise to competition concerns pursuant to section 50 of the Trade Practices Act 1974, because of any lessening of competition caused by the amalgamation of National Rail and FreightCorp.
>
> Whether or not the joint acquisition of both businesses by particular parties already operating in the Australian transport industry, or a consortium of such parties, would give rise to competition concerns.[227]

7.30 The ACCC concluded:

> Thus, the sale of both businesses to a single party, and particularly to any party currently operating in the Australian transport industry, clearly raises substantial competition issues that the Commission will need to investigate fully.[228]

7.31 Professor Bob Baxt, adviser to Austrac Rail, summarised to the committee a possible response by the ACCC in regard to permitting NRC and FreightCorp to merge as the one entity:

> “However, if it's in the public interest for those two bodies to be merged and for someone to buy them and run them in a manner that might be envisaged, the ACCC can authorise that particular arrangement on the basis of public interest, public benefits, but in doing so would want to impose very significant conditions on the ownership of that body and the running of it. And those sorts of terms and conditions might well equate to the kind of initiatives that Austrac has put to the New South Wales Department of Transport and others in relation to aspects of

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227 Correspondence from Professor Allan Fels, Chairman, Australian Competition and Consumer Commission, dated 15 November 2000.

228 Correspondence from Professor Allan Fels, Chairman, Australian Competition and Consumer Commission, dated 15 November 2000.

> sharing the subsidies and ensuring that the issues of competitive neutrality are adequately addressed."[229]

7.32 In conclusion, the committee is concerned that the level of investment required in the industry may be thwarted by a lack of critical mass in a separately privatised FreightCorp and NRC. The clear majority of the submissions to the committee argued that as long as a fully functional open access regime was operating in New South Wales, a merged FreightCorp and NRC entity was unlikely to act like a monopolist.

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229 Evidence of Professor Robert Baxt, Advisor to Austrac Rail Limited, 17 November 2000, p 6.

Appendix 1

Privatisation of FreightCorp

Legislative Council Order for Papers

December 2000

Order for Papers

Minutes of the Legislative Council – Thursday 16th November 2000

3 ORDER FOR PAPERS—FREIGHTCORP (Formal Business)

Ms Rhiannon moved, according to Notice, as by leave amended: (See entry No. 11.)

1. That, under Standing Order 18 there be laid on the table of the House by 5.00 pm Wednesday 22 November 2000, and made public without restricted access, any document in the possession, custody or power of The Treasury, the Treasurer or the Special Minister of State, related to any meetings held in the 2 months preceding 5 June 2000, concerning the privatisation of Freightcorp.

2. That anything required to be laid before the House by this resolution may be lodged with the Clerk of the House if the House is not sitting, and is deemed for all purposes to have been presented to or laid before the House and published by authority of the House.

3. Where it is considered that a document required to be tabled under this Order is privileged and should not be made public or tabled:

   (a) a return is to be prepared and tabled showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege, and

   (b) the documents are to be delivered to the Clerk of the House by 5.00 pm Wednesday 22 November 2000, and:
      (i) made available only to Members of the Legislative Council, and
      (ii) not published or copied without an Order of the House.

4. That in the event of a dispute by any Member of the House communicated in writing to the Clerk as to the validity of a claim of legal professional privilege or public interest immunity in relation to a particular document:

   (a) the Clerk is authorised to release the disputed document to an independent legal arbiter who is either a Queen's Counsel, a Senior Counsel or a retired Supreme Court judge, appointed by the President, for evaluation and report within 5 days as to the validity of the claim, and

   (b) any report from the independent arbiter is to be tabled with the Clerk of the House, and:
      (i) made available only to Members of the Legislative Council, and
      (ii) not published or copied without an Order of the House.

Question put and passed.

Appendix 2

Privatisation of FreightCorp

Submissions

December 2000

Submissions

Number	Name and Organisation	Date Received
1	COOK Dr David (Blue Circle Southern Cement)	*13/11/2000*
2		*01/11/2000*
3	COSTA Mr Michael (NSW Labour Council)	*01/11/2000*
4	NICHOLSON Mr Michael B	*01/11/2000*
5	BARWOOD Mr William (Lachlan Regional Transport Committee)	*03/11/2000*
6	KING Ms Diane	*02/11/2000*
7	LAURENCE Ms Christine (Nature Conservation Council of NSW)	*03/11/2000*
8	HULME Ms Jocelyn (Mudgee District Environment Group Inc)	*03/11/2000*
9	HOLLAND Mr Barry (Prime Wheat Association)	*03/11/2000*
10	COFFEY Ms Anne (NSW Farmers' Association Condobolin Branch)	*03/11/2000*
11	WATTERS Mr J R	*03/11/2000*
12	LAIRD Assoc Prof Phillip (Railway Technical Society of Australasia)	*03/11/2000*
13	VENN-BROWN G C (Railway Technical Society of Australasia)	*06/11/2000*
14	HALL Mr Roger	*03/11/2000*
15	DI BARTOLOMEO Mr Lucio (FreightCorp)	*03/11/2000*
S S	DI BARTOLOMEO, Mr Lucio (FreightCorp)	*10/11/2000*
16	LOBB Mr T V (Weddin Shire Council)	*03/11/2000*
17	MAURO Ms Margaret (Bathurst Public Transport Initiative)	*03/11/2000*
18	MOFFITT Mr V	*03/11/2000*
19	HARALDSON Mr Anthony (Coal Operations Australia Ltd)	*03/11/2000*
20	KEENE Mr T B (GrainCorp)	*06/11/2000*
21	MERCHANT Mr Ray (Combined Pensioners and Superannuants Association of New South Wales Inc)	*07/11/2000*
22	TAYLOR Mr D (Combined Pensioners and Superannuants Association of New South Wales Inc)	*03/11/2000*
23	TREVILLIAN Mr Jan	*03/11/2000*
24	PORTER Mr Denis (NSW Minerals Council)	*07/11/2000*
25	SOURIS MP The Hon George (NSW Parliamentary National Party)	*03/11/2000*

Number	Name and Organisation	Date Received
26	PIERCE Mr John (New South Wales Treasury)	*03/11/2000*
27	GREENTREE Mr Ron (Grain Growers Association Limited)	*03/11/2000*
28	BUCKLAND Mr Andrew (Capricorn Capital Limited)	*03/11/2000*
SS	BUCKLAND, Mr Andrew (Capricorn Capital Limited)	*21/11/2000*
29	SMILES Ms Bev (Central West Environment Council)	*06/11/2000*
30	SPEARS Mr S E	*07/11/2000*
31	BASTIAN Mr Paul (Australian Manufacturing Workers' Union)	*08/11/2000*
32	MACDONALD-HILL Ms Margaret (Association of Mining Related Councils Inc)	*08/11/2000*
33	GUNNING Mr Robert (LTA (NSW))	*13/11/2000*
34	FERGUSON Mr Alex S (Inland Marketing Corporation)	*13/11/2000*
35	FOZZARD Mr Robert	*13/11/2000*
36		*16/11/2000*
37	CROSBIE Mr John (AWB Ltd)	*16/11/2000*
38	DENNISS Mr Richard (The Australia Institute)	*16/11/2000*
39	KEOGH Mr Mick (NSW Farmers' Association)	*17/11/2000*
40	WEATHERBY Dr Robert (Southern Cross University)	*20/11/2000*

Note **SS** stands for Supplementary Submission

Submissions numbered 2 and 36 are private and confidential

Appendix 3

Privatisation of FreightCorp

Witnesses Appearing before the Committee

December 2000

Witnesses

Date of appearance	Witness Name	Representing
6th November 2000	BASTIAN, Mr Paul	Australian Manufacturing Workers' Union
	WALLACE, Mr Tim	Australian Manufacturing Workers' Union
	SARGENT, Mr Gary	Australian Services Union
	DI BARTOLOMEO, Mr Lucio	FreightCorp
	KEARNEY, Mr Terry	FreightCorp
	PEDERSEN, Mr Gary	FreightCorp
	BARWOOD, Mr William	Lachlan Regional Transport Committee
	DUFFEY, Mr Max	Lachlan Regional Transport Committee
	STANDEN, Mr Greg	Lachlan Regional Transport Committee
	TREVASKIS, Mr Paul	Lachlan Regional Transport Committee
	GRAINGER, Mr James	New South Wales Treasury
	RONSISVALLE, Mr Mark	New South Wales Treasury
	LEWOCKI, Mr Nick	Rail, Tram and Bus Union
	HULL, Dr Daryll	University of New South Wales
7th November 2000	COOK, Dr David	Blue Circle Southern Cement
	CLACHER, Mr Kenn	Hunter Rail Access Task Force
	MACDONALD-HILL, Ms Margaret	NSW Association of Mining Related Councils Inc
	O'BRIEN, Mr Noel	NSW Association of Mining Related Councils Inc
	DALTON, Mr Glenn	NSW Farmers' Association
	JORDAN, Ms Beverley	NSW Farmers' Association
	KEOGH, Mr Mick	NSW Farmers' Association
	COSTA, Mr Michael	NSW Labour Council
	PORTER, Mr Denis	NSW Minerals Council
	LAIRD, Assoc Prof Phillip	Railway Technical Society of Australasia

Date of appearance	Witness Name	Representing
17th November 2000	BAXT, Prof Bob	Capricorn Capital Limited
	BUCKLAND, Mr Andrew	Capricorn Capital Limited
	LEWOCKI, Mr Nick	Rail, Tram and Bus Union

Appendix 4

Privatisation of FreightCorp

Minutes of the Proceedings

December 2000

Minutes of the Proceedings

LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO 4

Minutes No. 16

Thursday 12 October 2000
At Parliament House at 6:15pm

1. Members present

Ms Gardiner (in the Chair)
Mr Cohen
Ms Fazio
Mr Hatzistergos (Saffin)
Mr Kelly (Macdonald)
Mr Lynn
Mr Oldfield

2. Confirmation of minutes

Resolved, on the motion of Mr Cohen, that the minutes of meeting no 15 be confirmed.

3. Correspondence received

The Chair tabled three items of correspondence received.

Letter from the Hons Jenny Gardiner MLC, Ian Cohen MLC and David Oldfield MLC, to Director, received 6 October 2000, requesting a meeting of the Committee to consider proposed terms of reference for an inquiry into Freightcorp.

E-mail from the Hon Peter Primrose MLC, Government Whip, to Director, dated 11 October 2000, advising that the Hon Tony Kelly MLC will be representing the Hon Ian Macdonald MLC at the meeting on 12 October 2000.

E-mail from the Hon Peter Primrose MLC, Government Whip, to Director, dated 11 October 2000, advising that the Hon John Hatzistergos MLC will be representing the Hon Janelle Saffin MLC at the meeting on 12 October 2000.

4. Inquiry into the privatisation of Freightcorp

Mr Cohen moved that: General Purpose Standing Committee No 4 adopt the following terms of reference:

(a) the economic, social, safety, employment and environmental implications of any privatisation of Freightcorp,

(b) the effect on rural and regional New South Wales of any privatisation with respect to:

(i) rail infrastructure and service improvements including the potential for reopening disused lines,
(ii) cutbacks in rail services, maintenance and staff,
(iii) the potential for more freight to be transported by rail and less heavy vehicle use of roads, and
(iv) the economic and social impacts on country communities,

(c) options for achieving fairer competition between road and rail freight transport operators,

(d) the implications of possible monopoly ownership of Freightcorp and Australian National Rail and vertical integration of the freight business, and

(e) any other matters which affect the Government's ability to provide a safe, reliable and efficient system for the transport of people and goods by rail.

The Committee deliberated.

Mr Kelly moved that the motion be amended by inserting before paragraph (a) the words "General Purpose Standing Committee No. 4 inquire into and report on the privatisation of Freightcorp, and in particular:" and by deleting paragraph (e).

Question that the amendment of Mr Kelly be agreed to – put and passed.

Original question, as amended, put and passed.

The Committee deliberated.

Resolved, on the motion of Mr Kelly, that:

- the closing date for written submissions in relation to the inquiry be Friday, 3 November 2000,
- advertisements calling for written submissions in relation to the terms of reference be inserted in the *Sydney Morning Herald* on Saturday, 21 October 2000, the *Financial Review* on a suitable day during the week commencing Monday, 16 October 2000, and *The Land* on Thursday, 19 October 2000,
- the Committee write to certain persons and organisations inviting them to make a

submission to the Committee and advising them of the proposed timeframe for the inquiry, and that Members submit the names of such persons and organisations to the Committee Secretariat by 5pm on Wednesday, 18 October 2000,

- the Committee hold public hearings in relation to the inquiry during the week commencing Monday, 6 November 2000, and
- Members forward the names of proposed witnesses to the Committee Secretariat for the consideration of all Members of the Committee.

****

6. Adjournment

The meeting adjourned at 6.50pm until a date during the week commencing Monday, 6 November 2000.

Anna McNicol
Director

LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO 4

Minutes No. 17

Monday 6 November 2000
At Parliament House at 10:03am

1. Members present

Mr Cohen (in the Chair)
Ms Fazio
Mr Gay (Ms Gardiner)
Mr Kelly (Saffin)
Mr Lynn
Mr Macdonald
Mr Oldfield

2. Confirmation of minutes

Resolved, on the motion of Ms Fazio, that the minutes of meeting no 16 be confirmed.

3. Correspondence received

The Chair tabled one item of correspondence received.

Memorandum from the Hon. John Jobling, MLC, Opposition Whip, dated 3 November 2000, advising that the Hon. Duncan Gay will be substituting for the Hon. Jenny Gardiner on Monday 6 and Tuesday 7 November 2000.

4. Inquiry into the privatisation of Freightcorp

4.1 HEARING

The Committee deliberated.

Resolved, on motion of Mr Gay, that in accordance with the Resolution of the Legislative Council of 11 October 1994 the Committee authorises the sound broadcasting and television broadcasting of its public proceedings held today.

The public and media were admitted.

The Chair welcomed the gallery and reminded the media of their obligation under Standing Order 252 of the Legislative Council in relation to evidence given before, and documents presented to, the Committee. The Chair also distributed copies of the guidelines governing broadcast of proceedings.

Mr Mark Ronsisvalle, Executive Director, and Mr James Grainger, Project Manager, both of New South Wales Treasury, were sworn and examined.

Evidence concluded and the witnesses withdrew.

Mr Lucio Di Bartolomeo, General Manager, Mr Terrance Kearney, Deputy Managing Director, and Mr Gary Pedersen, General Manager, Strategy and Acquisitions, all of Freightcorp were sworn and examined.

Evidence concluded and the witnesses withdrew.

Professor Daryll Hull, Consultant, and Mr Nick Lewocki, Branch Secretary, Rail, Tram and Bus Union were sworn and examined.

Evidence concluded and the witnesses withdrew.

Mr Gary Sargent, Industrial Officer, Australian Services Union, was sworn and examined.

Evidence concluded and the witness withdrew.

Mr Paul Bastion, State Secretary, and Mr Timothy Wallace, Coordinator, National Research Centre, both of the Australian Manufacturing Workers Union were sworn and examined.

Evidence concluded and the witnesses withdrew.

Mr William Barwood, President, Mr Max Duffy, Treasurer, Mr Greg Standen, Secretary, and Mr Paul Trevaskis, representative, all of the Lachlan Regional Transport Committee were sworn and examined.

Chair acceded to request of Mr Barwood that evidence be heard in camera.

The media and public withdrew.

Evidence heard in the presence of Members, Mr Carr, Mr Smith and CAT transcription service.

Six documents, 21 photographs and two videos were tendered in support of their evidence.

Evidence concluded and the witnesses withdrew.

Public hearing concluded.

The committee deliberated.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the documents received and the corrected transcripts of evidence given at today's hearing, with the exception of those portions taken in camera.

The committee deliberated.

Resolved, on motion of Mr Gay: that the Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, be invited to appear before the committee.

The committee deliberated.

Mr Macdonald moved: that the Hon. John Fahey, MP, Minister for Finance and Administration, and appropriate departmental officials be invited to appear before the committee to discuss the sale of National Rail Corporation and reasons why Freightcorp were excluded from the bidding process.

Debate ensued.

Mr Gay moved: that the motion of Mr Macdonald be amended by deleting reference to the Minister.

Debate ensued.

Question put on the amendment of Mr Gay.

Ayes: 2
Mr Gay
Ms Lynn

Nos: 5
Mr Cohen
Ms Fazio
Mr Kelly
Mr Macdonald
Mr Oldfield

Question resolved in the negative.

Question put on the original motion of Mr Macdonald.

Ayes: 5
Mr Cohen
Ms Fazio
Mr Kelly
Mr Macdonald
Mr Oldfield

Nos: 2
Mr Gay
Ms Lynn

Question resolved in the affirmative.

****

6. Adjournment

The meeting adjourned at 4.50pm until Tuesday, 7 November 2000 at 9:30am.

Steven Carr
Director

LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO 4

Minutes No. 18

Tuesday 7 November 2000
At Parliament House at 9:30am

1. Members present

Mr Cohen (in the Chair)
Ms Fazio
Mr Gay (Ms Gardiner)
Mr Kelly (Saffin)
Mr Lynn
Mr Macdonald
Mr Oldfield

2. Inquiry into the privatisation of Freightcorp

2.1 HEARING

The Committee deliberated.

Resolved, on motion of Mr Gay, that in accordance with the Resolution of the Legislative Council of 11 October 1994 the Committee authorises the sound broadcasting and television broadcasting of its public proceedings held today.

The public and media were admitted.

The Chair welcomed the gallery and reminded the media of their obligation under Standing Order 252 of the Legislative Council in relation to evidence given before, and documents presented to, the Committee. The Chair also distributed copies of the guidelines governing broadcast of proceedings.

Mr Michael Costa, Secretary, Labor Council of New South Wales, was sworn and examined.

Evidence concluded and the witness withdrew.

Mr Mick Keogh, Policy Director, Ms Beverley Jordan, Economist, and Mr Glenn Dalton, Director of Grains, all of the New South Wales Farmers' Association were sworn and examined.

Evidence concluded and the witnesses withdrew.

Mr Denis Porter, Executive Director, New South Wales Minerals Council, Mr Kenn Clacher, Coordinator, Hunter Rail Access Task Force and Dr David Cook, General Manager (NSW), Blue Circle Southern Cement were sworn and examined.

Evidence concluded and the witnesses withdrew.

The committee deliberated.

Resolved, on motion of Mr Kelly: that the committee invite the Hon. Carl Scully, MP Minister for Transport and Minister for Roads and representatives of the Rail, Tram and Bus Union, Austrac and the Australian Competition and Consumer Commission to appear before the committee on Friday 17 November 2000.

Mr Noel O'Brien, Chairperson, and Ms Margaret Macdonald Hill, Executive Officer, both of the New South Wales Association of Mining Related Councils were sworn and examined.

Evidence concluded and the witnesses withdrew.

Associate Professor Philip Laird, private citizen, representative of the Railway Technical Society of Australasia and Mr John Watsford, Chairman, Sydney Division, Railway Technical Society of Australasia, were sworn and examined.

Associate Professor Laird tendered one document in support of his evidence.

Evidence concluded and the witnesses withdrew.

Public hearing concluded, the media and public withdrew.

The committee deliberated.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the documents received, and the corrected transcripts of evidence given, at today's hearing, with the exception of those potions taken in camera.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish all submissions received by the committee as at 7 November 2000 with the exception of documents identified as "private and confidential" or "not publicly available".

3. Adjournment

The meeting adjourned at 1:45pm until Friday 17 November at 9:00am.

Steven Carr
Director

LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO 4

Minutes No. 19

Friday 17 November 2000
At Parliament House at 9:05am

1. Members present

Ms Gardiner (in the Chair)
Mr Cohen
Ms Fazio
Mr Kelly (Saffin)
Mr Lynn
Mr Oldfield

2. Apologies

Mr Macdonald

3. Confirmation of minutes

Resolved, on the motion of Mr Cohen: that the draft minutes of meetings numbered 17 and 18 be confirmed.

4. Correspondence received

The Chair tabled four items of correspondence received:

E-mail from the Hon Peter Primrose MLC, Government Whip, dated 13 October 2000, advising that the Hon Tony Kelly, MLC will be representing the Hon Janelle Saffin, MLC for the duration of the inquiry into the privatisation of Freightcorp.

Correspondence from the Hon. John Fahey, MP, Minister for Finance and Administration, dated 10 November 2000, responding to the committee's invitation to appear before the committee.

Correspondence from the Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, dated 16 November 2000, responding to the committee's invitation to appear before the committee.

Correspondence from Professor Allan Fels, Chairman, Australian Competition and Consumer Commission, dated 16 November 2000, responding to the committee's invitation to appear before the committee.

5. Correspondence sent

The Chair tabled nine items of correspondence sent:

Correspondence to the Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, dated 13 October 2000, advising of inquiry commencement and inviting a submission to be made.

Correspondence to Mr Barry Capp, Chairman, Freightcorp, dated 13 October 2000, advising of inquiry commencement and inviting a submission to be made.

Correspondence to the Hon. Michael Egan, MLC, Treasurer, Minister for State Development and Vice-President of the Executive Council, dated 2 November 2000, advising of witnesses and hearing schedule for 6 and 7 November 2000.

Correspondence to the Hon. Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, dated 2 November 2000, advising of witnesses and hearing schedule for 6 and 7 November 2000.

Correspondence to Mr Lucio Di Bartolomeo, Managing Director, Freightcorp, dated 7 November 2000, outlining committee information request No.1.

Correspondence to the Hon. John Fahey, MP, Minister for Finance and Administration, dated 7 November 2000, inviting the Minister to appear before the committee.

Correspondence to Professor Alan Fells, Chairman, Australian Competition and Consumer Commission, dated 7 November 2000, inviting an ACCC representative to appear before the committee.

Correspondence to Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, dated 7 November 2000, inviting the Minister to appear before the committee.

Correspondence to the Hon. Carl Scully, MP, Minister for Transport and Minister for Roads, dated 14 November 2000, outlining committee information request No.2.

6. Tabled documents

6.1 SUBMISSIONS

6.1.1 INQUIRY INTO THE PRIVATISATION OF FREIGHTCORP

The Chair tabled 33 submissions received in relation to its inquiry into the privatisation of Freightcorp.

Submission 1 – Dr David Cook, General Manager (NSW), Blue Circle Southern Cement, dated 13 November 2000.
Submission 3 – Mr Michael Costa, Secretary, Labor Council of New South Wales, dated 1 November 2000.
Submission 4 – Mr Michael Nicholson, private citizen, dated 1 November 2000.
Submission 5 – Mr William Barwood, President, Lachlan Regional Transport Committee, dated 1 November 2000.
Submission 6 – Ms Diane King, private citizen, dated 2 November 2000.
Submission 7 – Ms Christine Laurence, Smogbusters Project Coordinator, Nature Conservation Council, dated 3 November 2000.
Submission 8 – Ms Jocelyn Hulme, Honorary Secretary, Mudgee District Environment Group Inc, dated 3 November 2000.
Submission 9 – Mr Barry Holland, member, Graingrowers Association, dated 3 November 2000.
Submission 10 – Ms Anne Coffey, Honorary Secretary, NSW Farmers' Association (Condobolin Branch), dated 3 November 2000.
Submission 11 – Mr J R Watters, private citizen, dated 3 November 2000.
Submission 12 – Associate Professor Philip Laird, Chair, Government relations Committee, Railway Technical Society of Australasia, dated 3 November 2000.
Submission 13 – Mr G C Venn-BrownNational Secretary, Railway Technical Society of Australasia, The Institution of Engineers, Australia, dated 3 November 2000.
Submission 14 – Mr Roger Hall, private citizen, dated 3 November 2000.
Submission 15 – Mr Lucio Di Bartolomeo, Managing Director, Freightcorp, dated 3 November 2000.
Submission 16 – Mr T V Lobb, General Manager, Weddin Shire Council, dated 3 November 2000.
Submission 17 – Ms Margaret Mauro, Secretary, Bathurst Public Transport Initiative, dated 3 November 2000.
Submission 18 – Mr V Moffitt, private citizen, dated 3 November 2000.
Submission 19 – Mr Anthony Haraldson, Executive Chairman, Coal Operations Australia Ltd, dated 3 November 2000.
Submission 20 – Mr T B Keene, Managing Director, GrainCorp, dated 6 November 2000.
Submission 21 – Mr Ray Merchant, State Secretary, Combined Pensioners and Superannuants of New South Wales Inc, dated 7 November 2000.
Submission 22 – Mr D Taylor, Transport Officer, Combined Pensioners and Superannuants of New South Wales Inc (Bathurst), dated 3 November 2000.
Submission 23 – Mr J Trevillian, private citizen, dated 3 November 2000.
Submission 24 – Mr Denis Porter, Executive Director, NSW Minerals Council, dated 7 November 2000.
Submission 25 – The Hon. George Souris, MP, Leader, NSW Parliamentary National Party, dated 3 November 2000.
Submission 26 – Mr John Pierce, Secretary, New South Wales Treasury, dated 3 November 2000.
Submission 27 – Mr Ron Greetree, Chairman, Grain Growers Association Limited, dated 3 November 2000.

Submission 28 – Mr Andrew Buckland, Director, Capricorn Capital Limited, dated 3 November 2000.
Submission 29 – Ms Bev Smiles, Secretary, Central West Environment Council, dated 6 November 2000.
Submission 30 – Mr S E Spears, private citizen, dated 7 November 2000.
Submission 31 – Mr Paul Bastian, Secretary, Australian Manufacturing Workers' Union (NSW Branch), dated 8 November 2000.
Submission 32 – Mr Noel O'Brien, Chairman and Ms Margaret MacDonald-Hill, Executive Officer, Association of Mining Related Councils Inc, dated 8 November 2000.
Submission 33 – Mr Robert Gunning, Executive Director, LTA (NSW), dated 13 November 2000.
Submission 34 – Mr Alex Ferguson, Managing Director and Interim Chairman, dated 13 November 2000.

The committee deliberated.

Resolved, on motion of Mr Cohen: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish all submissions received by the committee as at 17 November 2000, with the exception of documents identified as "private and confidential" or "not publicly available".

6.1.1.1 SUBMISSIONS IDENTIFIED AS PRIVATE AND CONFIDENTIAL

The Chair tabled one submission received in relation to its inquiry into the privatisation of Freightcorp identified as "private and confidential".

Submission 2 - Author, dated 1 November 2000.

The committee deliberated.

Resolved, on motion of Mr Cohen: that the committee accept the submission as private and confidential.

7. Freightcorp inquiry

7.1 DRAFT REPORT OUTLINE

The Chair tabled her draft report outline and timetable for report completion.

The committee deliberated.

Resolved, on motion of Mr Lynn: that the draft report outline incorporate implications arising from National Rail Corporation being privatised while Freightcorp remains a public entity.

Resolved, on motion of Mr Cohen, that: the committee confirm the draft report outline and timetable for report completion, as amended.

7.2 HEARING

The Committee deliberated.

Resolved, on motion of Mr Lynn: that in accordance with the Resolution of the Legislative Council of 11 October 1994 the Committee authorises the sound broadcasting and television broadcasting of its public proceedings held today.

The public and media were admitted.

The Chair welcomed the gallery and reminded the media of their obligation under Standing Order 252 of the Legislative Council in relation to evidence given before, and documents presented to, the Committee. The Chair also distributed copies of the guidelines governing broadcast of proceedings.

Mr Andrew Buckland, Director Capricorn Capital Limited, Director, Austrac Rail Limited and Professor Bob Baxt, Consultant to Capricorn Capital Limited, were sworn and examined.

Mr Buckland tendered two sets of three photographs in support of his evidence. Moved, by Mr Kelly: that the committee accept the photographs.

Evidence concluded and the witnesses withdrew.

Mr Nick Lewocki, Branch Secretary, Rail, Tram and Bus Union (NSW Branch), was recalled. The Chair noted the witness was still under oath.

Evidence concluded and the witness withdrew.

Public hearing concluded, the media and public withdrew.

The committee deliberated.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the Committee authorises the Clerk of the Committee to publish the documents received and the corrected transcripts of evidence given at today's hearing, with the exception of those portions taken in camera.

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9. Adjournment

The meeting adjourned at 10:59am until Friday, 15 December 2000 at 10:00am.

Steven Carr
Director

LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO 4

Minutes No. 20

Friday 15 December 2000
At Parliament House (room 1108) at 10:20am

1. Members present

Ms Gardiner (in the Chair)
Mr Cohen
Ms Fazio
Mr Gallacher (Lynn)
Mr Kelly (Saffin)
Mr Macdonald
Mr Oldfield

2. Confirmation of minutes

Resolved, on motion of Ms Fazio: that the draft minutes of meeting number 19 be confirmed.

3. Correspondence received

The Chair tabled the following five items of correspondence received:

Correspondence from Mr Lucio Di Bartolomeo, Managing Director, FreightCorp, dated 1 December 2000, responding to committee information requests numbered 1, 2 and 3 and responding to issues raised at the committee public hearing of 17 November 2000.

Correspondence from Mr Andrew Buckland, Director, Capricorn Capital Limited, dated 22 November 2000, providing excerpts of the document entitled *Review of Competitive Neutrality in NSW Rail Freight*, prepared by Booz Allen & Hamilton for NSW Department of Transport.

Correspondence from Associate Professor Phillip Laird, dated 30 November 2000, responding to committee request for comments on the report prepared by Professor Dr Daryll Hull, for the Rail, Tram and Bus Union, entitled “Future Directions of the Australian Freight Industry and the Likely Viability of Freightcorp”.

Correspondence from Mr Mark Ronsisvalle, Executive Director, NSW Treasury, dated 14 December 2000, responding to questions taken on notice from the committee public hearing of 6 November 2000.

Correspondence from Leader of the Opposition in the Legislative Council, dated 15 December 2000, advising that the Hon Michael Gallacher MLC will be substituting for the Hon Charlie Lynn MLC at the committee meeting of 15 December 2000.

4. Correspondence sent

The Chair tabled the following item of correspondence sent:

Correspondence to Associate Professor Phillip Laird, dated 22 November 2000, seeking comments on the report prepared by Professor Dr Daryll Hull, for the Rail, Tram and Bus Union, entitled "Future Directions of the Australian Freight Industry and the Likely Viability of Freightcorp".

5. Tabled documents

5.1 SUBMISSIONS

5.1.1 INQUIRY INTO THE PRIVATISATION OF FREIGHTCORP

The Chair tabled the following seven submissions received in relation to its inquiry into the privatisation of FreightCorp.

Submission 35 – Mr Robert Fozzard, private citizen, dated 14 November 2000.
Submission 37 – Mr John Crosbie, Manager Supply Chain, Australian Wheat Board Limited, dated 16 November 2000.
Submission 38 – Dr Clive Hamilton and Mr Richard Denniss, representatives, The Australia Institute, dated 16 November 2000.
Submission 39 – Mr Mick Keogh, Policy Director, NSW Farmers' Association, dated 17 November 2000.
Submission 40 – Dr Robert Weatherby, representative, School of Exercise Science, Southern Cross University, dated 20 November 2000.
Supplementary submission 15 – Mr Lucio Di Bartolomeo, Managing Director, FreightCorp, dated 10 November 2000.
Supplementary submission 28 – Mr Andrew Buckland, Director, Capricorn Capital Limited, dated 21 November 2000.

The committee deliberated.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the committee authorises the Clerk of the Committee to publish all submissions received by the committee as at 15 December 2000, with the exception of documents identified as "private and confidential" or "not publicly available".

5.1.1.1 SUBMISSIONS IDENTIFIED AS PRIVATE AND CONFIDENTIAL

The Chair tabled the following submission identified as private and confidential.

Submission 36 - Author, dated 16 November 2000.

The committee deliberated.

Resolved, on motion of Ms Fazio: that the committee accept the submission as private and confidential.

6. FreightCorp inquiry

6.1 DRAFT REPORT VERSION 1

The Chair submitted her draft report version 1 entitled "Privatisation of FreightCorp", which having been circulated to each member of the committee, was accepted as being read.

The committee proceeded to consider the draft report.

Resolved, on motion of Mr Macdonald: that correspondence received from Mr Mark Ronsisvalle, Executive Director, NSW Treasury, dated 14 December 2000, be included as an appendix to the report.

The committee deliberated.

Mr Kelly moved: that the report, as amended be adopted.

Debate ensued.

Question put.

Ayes: 6
Ms Gardiner
Ms Fazio
Mr Gallacher
Mr Kelly
Mr Macdonald
Mr Oldfield

Nos: 1
Mr Cohen

Question resolved in the affirmative.

Mr Cohen indicated his intention to append a dissenting statement to the report.

Resolved, on motion of Mr Kelly: that the report be signed by the Chair and presented to the House in accordance with the resolution establishing the committee of 13 May 1999.

Resolved, on motion of Mr Kelly: that pursuant to the provisions of section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of Standing Order 252, the committee authorises the Clerk of the Committee to publish the report, submissions, correspondence and related material with the exception of documents and material identified as "private and confidential" or "not publicly available".

The committee deliberated.

Mr Kelly moved: that Mr Cohen be afforded until 5pm Tuesday, 19 December 2000 to provide the committee with a dissenting statement in electronic Word format.

Debate ensued.

Mr Cohen moved: that the motion of Mr Kelly be amended by inserting "with provision for a 24 hour extension" after "5pm Tuesday, 19 December 2000".

Question: that the amendment of Mr Cohen be agreed to—put and passed.

Original question of Mr Kelly, as amended—put and passed.

7. Adjournment

The meeting adjourned at 10:40am, *sine die.*

Steven Carr
Director

Appendix 5

Privatisation of FreightCorp

Previous Publications

December 2000

Previous Publications

Report 1	*Budget Estimates [1997-1998]*	June 1997
Report 2	*Budget Estimates 1998-1999*	June 1998
Report 3	*Budget Estimates 1999-2000*	November 1999
Report 4	*Budget Estimates 2000-2001 Vol 1*	June 2000
Report 5	*Budget Estimates 2000-2001 Vol 2*	August 2000

Appendix 6

Privatisation of FreightCorp

New South Wales Treasury response to questions on notice

December 2000

New South Wales
TREASURY

Mr Steven Carr
Director
General Purpose Standing Committee No.4
Legislative Council
Parliament House
Macquarie Street
Sydney
NSW 2000

Contact: James Grainger
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FAXED

14 DEC 2000

STATE DEVELOPMENT COMMITTEE
18 DEC 2000
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Dear Mr Carr,

Inquiry into the Privatisation of FreightCorp

I refer to your letter of 10 November 2000 enclosing the transcript of evidence from Mr Grainger and myself given on the 6th November 2000. Both Mr Grainger and I have reviewed the transcript and noted several corrections. The amended transcript was faxed back to your office on 24 November 2000.

There were a number of matters, which we undertook to follow up for the committee. These are now addressed.

1. Regional Impact Statement (p. 3)

A rural communities impact statement was submitted to Cabinet. This is, of course, subject to Cabinet Confidentiality.

2. Grains Board

FreightCorp has hauled grain for the NSW Grains Board in relation to previous harvests. Any arrangements or considerations in this regard were not a factor in the recent rescue package that was prepared for the Board.

Rail haulage arrangements for the current harvest and from hereon in are being directly negotiated on commercial terms between FreightCorp and Grainco, given Grainco's role as sole Board agent for vested commodities until the end of September 2005.

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3. *Total expenditure for the PricewaterhouseCoopers report and associated workshop visits.* (p. 11)

The PricewaterhouseCoopers report cost $40,000.00. There was an additional $10,000 paid for some follow on work relating to the scenarios developed by them.

Dr Daryll Hull was engaged to project manage the preparation of the economic and commercial advice prepared by PricewaterhouseCoopers, and to develop and deliver the seminar consultation program. The fees for this, including disbursements were $100,539.22 (excluding GST).

4. *Correspondence between the Commonwealth and the State* (p. 12)

The Treasury is not in a position table correspondence between the Commonwealth and the State or any briefing papers as these relate to commercial negotiations which if released are likely to prejudice future discussions with the Commonwealth and the State in relation to this issue.

In relation to the question from the Acting Chair relating to the Terms of Reference given to PricewaterhouseCoopers (ref: page 10), I confirm that PricewaterhouseCooper's brief was to advise on the future directions of the Australian freight industry and the likely viability of FreightCorp having regard to the future directions identified.

Yours faithfully

Mark Ronsisvalle
Executive Director

Dissenting Report

Privatisation of FreightCorp

Ian Cohen MLC

December 2000

Dissenting Report – Ian Cohen MLC

This paper addresses the premature release of the General Purpose Standing Committee Number 4 Report on the Privatisation of FreightCorp on the basis that the direction supported by the Committee is not in the best interests of NSW taxpayers, industry, rural employees, rural clients or the environment.

I have considerable concerns that majority Committee recommendations which facilitate the process of privatisation do not address the substance of the issue.

The Committee report fails to assess adequately overall benefits to service users particularly in non-profitable areas and associated Australian based industrial infrastructure which at present services FreightCorp operations.

Introduction

The Committee claims to have found little or no evidence demonstrating the advantages or disadvantages of divesting ownership of rail infrastructure to the private sector. It is disturbing that the only report upon which the Committee has relied for information is that produced by Daryl Hull ("the Hull Report"), commissioned by the Rail Tram and Bus Union (hereafter RTBU), (which has exclusive coverage of the membership of this part of the rail system) and paid for by NSW Treasury.

The Hull Report is presented as an independent response to the Federal Government's decision to privatise National Rail. However, the decision to privatise National Rail was announced by the Federal Government almost two years ago and the Hull Report was paid for by the NSW Treasury almost six months after the NSW Cabinet had made its decision to privatise FreightCorp.

The proposed plan for privatisation minimises the impact upon the RTBU membership, while seriously jeopardising jobs in all other parts of the rail system, rolling stock industry and generally in rural and regional communities. Yet this is the Report that the Committee relies upon almost exclusively for justification of its recommendations. This report has been elevated to legitimacy by default.

The Hull Report is more descriptive than analytical. It presents five alternative proposals at its conclusion without supporting documentation or explanation and these have been accepted by the majority of the Committee as the only options. The proposition that FreightCorp would be sold at the same time as National Rail as the only means by which to save any jobs at FreightCorp is directly drawn from the Hull Report and yet there is no evidence to support this.[230]

The argument that this would also minimise social and other negative impacts on regional communities is a belated and token gesture in response to the Australian Labor Party's 2000 Country Conference, at which major opposition to the proposed privatisation of FreightCorp was based upon the probable negative impact upon rural and regional communities.

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[230] See pp 28 –30.

It is not correct to say that the weight of community and other evidence presented to the Committee supported privatisation. Firstly, the "evidence" presented favouring privatisation was predominantly grounded in opinion rather than upon information.[231]

There was considerable evidence, based upon precedents and independent analysis[232] which indicate that this privatisation is potentially problematic and requiring further social and economic assessments of priorities in relation to employment, safety standards, environmental concerns, rural and regional needs and commercial considerations.

The major recommendation of the Report is as follows:

Recommendation 5

That, given the concern that a stand-alone fire sale of NRC may have adverse implications for FreightCorp and its employees, the New South Wales Government work towards a joint sale of FreightCorp and NRC to the one bidder by 30 June 2001, provided that the findings of the rural and regional impact study referred to in recommendation 1 are firstly taken into account.

There are several major assumptions underlying the report of the General Purpose Standing Committee No 4 on the Privatisation of FreightCorp. These will each be addressed in turn in the course of the following discussion.

The National Rail Issue

The Committee's analysis commences from a position that "NSW FreightCorp will be overwhelmed by National Rail and must therefore be privatised if it is to survive." An additional assumption that "that a privatised FreightCorp will be more efficient and commercially successful than if it remained in public hands" is made. These suggestions are contrary to the evidence presented by Treasury and FreightCorp management, which is that FreightCorp is the most profitable, commercially efficient and effective freight rail carrier in Australia. It is more commercially successful than National Rail. Any constrictions upon the commercial success of FreightCorp are not due to an inefficient FreightCorp management.

Employment Implications

The Report argues that "because NSW FreightCorp will be unable to compete with National Rail once it has been privatised there will be massive job losses as FreightCorp "withers on the vine" and dies." A concurrent assumption is that "if FreightCorp is privatised, it will be stronger and more efficient and will therefore retain at least some of the jobs that it currently supports."

FreightCorp and National Rail do not currently compete and there is no reason to believe that they would do so if either or both were privatised. They operate in different markets with little overlap.

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231 See p21 (4.1) and p28 (4.32).

232 See evidence of Phillip Laird and Australian Manufacturing Workers' Union.

There is no convincing evidence that Freight Corp would not be able to retain its market share or compete with a privatised National Rail. Any purchaser would have to compete against FreightCorp's existing strong markets and FreightCorp's current dominance of the freight rail system.

FreightCorp's management "has progressively worked to drive down its operating costs by increasing both employee and asset productivity"[233]. Evidence indicates FreightCorp to be an extremely lean operation. It is essentially already functioning as a private operator.[234] It is difficult to see how FreightCorp could possibly become more efficient unless it severely reduced services and/or staff. Increased investment in infrastructure by the Government would generate opportunities for FreightCorp to become even more commercially successful and would allow deeper market penetration by the existing commercial entity.

National Competition Policy

The Committee makes the erroneous assumption that “National Rail and NSW FreightCorp must be sold at the same time to the same purchaser as the best means of retaining their sale price, and ensuring that there will be no competition between them, so allowing both to survive.”

There is little doubt that the Federal Government would prefer that FreightCorp did not exist as a commercial threat to National Rail in terms of attracting a purchaser and a good purchase price for its own National Rail. Negotiations between the Federal and State Governments have stalled in this regard.

There is considerable evidence that the ACCC would not allow a joint purchase of National Rail and FreightCorp, given the constraints of National Competition Policy.

It is significant that the ACCC is currently investigating the operations of FreightCorp as being too commercially successful, to the point of excluding other operators from the market.[235]

There has been inadequate consideration of the consequences for FreightCorp or National Rail if sold separately.

Rural and Regional Communities

The Report claims that rural and regional communities “will be better serviced, or at least suffer no lasting disadvantage, from the privatisation of FreightCorp”. It argues that the “State Government can use 50% of the sale price of FreightCorp to invest in essential infrastructure that will improve services to rural and regional communities”, and accordingly assumes that “the resulting upgrading of infrastructure will create jobs that will replace any jobs lost from the sale of FreightCorp”.

Significant evidence has been provided, even from those supporting privatisation, that there will be serious job losses under a privatised FreightCorp. The evidence from interstate ranges between 34%

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233 Lucio Di Bartolemeo

234 See p.10 (3.12).

235 See p.82 (7.30) and (7.31).

and 50% of existing jobs being lost and of the remaining jobs, a significant proportion are casualised or are on a contract basis. Permanent jobs will be less secure than they had previously been.

There was also evidence presented that job losses would occur throughout the rail system and in the rolling stock industry as a direct result of privatising FreightCorp.[236]

Apart from arguments as to whether the State Government should be spending this money to improve infrastructures for a profit making private enterprise, there is also the question of why the Government has not already made this investment if it is so essential to a successful freight rail system. Indeed, there are inefficiencies in the current use of the network which have potential for improvement.

The investment of 50% of the sale price of FreightCorp also seriously undermines the Treasurer's arguments that the State Government should not be in the business of providing a freight rail system and that the money from the sale could better be invested in debt reduction or the provision of other essential social infrastructure. [237]

Evidence was presented that regional and rural communities will suffer serious job losses throughout their local economies as a direct result of job losses and associated population loss in these areas where FreightCorp is currently the major employer. These losses will be exacerbated in areas where National Rail jobs are also being lost. [238]

The Committee heard that services to unprofitable and less profitable rural and regional communities rely heavily upon the payment of Community Service Obligation payments (CSO's). The Treasurer has made a commitment to continue CSO payments for an indefinite period yet a major argument of this Report is that a privatised FreightCorp will be so successful that CSO's will become redundant. [239]

There is scant regard paid to ensuring that rural and regional communities will continue to be serviced at an acceptable level once FreightCorp is privatised and there is no evidence at all that any level of service would continue if CSO payments cease.

The Committee heard evidence from private operators currently in NSW[240] that they intend to “cherry pick” the more profitable (coal) lines. This would inevitably result in the abandonment of less profitable lines and the communities that rely upon these lines.

Safety and Service

The Committee Report makes the dangerous assumption that “standards of service and safety will not diminish in a privatised FreightCorp”. It is noted that FreightCorp has made significant efforts to improve Occupational Health and Safety conditions for example the use of shorter shifts. Considerable

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236 See p.45 (5.26) and (5.27) and (5.28) and p 26 (4.27).

237 See p.12 (2.24) and (2.25).

238 See p.45 "Cutbacks in Staff".

239 See p.xi and p.39 (5.6) and (5.7) and p.43 (5.20). See also p.40 (5.6) and (5.7) and p.42 (5.14).

240 p.25 (4.22).

evidence from overseas indicates that safety standards diminish in privatised transport systems.[241] The obvious concern is that safety issues may be subsumed in pursuit of profits by a private corporation.[242]

Despite numerous references in the Report to the need for high safety standards, there is little evidence of the application of these standards in states which have privatised freight rail. There is no suggestion of the manner in which these standards could be imposed or enforced in a privatised system.[243]

There was also evidence presented that the major potential purchasers of FreightCorp buy their rolling stock and spare parts second hand from overseas. This has implications for quality, safety, and job opportunities for Australian workers.

Environmental Considerations

There is a general consensus that for environmental and safety factors, the maintenance of rail transport infrastructure is the desired objective of any government seriously concerned about both local and global environmental issues.

There is a strongly held belief that a robust, publicly owned FreightCorp organisation would create the greatest opportunity of streamlining through innovative use of, for example, nodal rail/road loading facilities.

Any downgrading of freight-rail transport options will result in society facing increasing vehicle accidents and spills, with consequent runoff and environmental contamination.

It is clear that there is a terrible human cost and financial impost associated with heavy vehicle traffic on national roads given that rail freight is nearly seven times safer in terms of fatalities than road transport and 10% of all road fatalities involve trucks. Heavy road vehicles represent 3.8 fatalities/billion tonne kilometres compared to rail at 0.55 fatalities/billion tonne kilometres[244]. Any downgrading of opportunity for rail transport will add to loss of life. An increase in human and wildlife deaths cannot be ignored.

The impacts of road noise on the social amenity of urban and rural communities is a significant quality of life issue.

Such costs are seldom measured by compartmentalised thinking by Government departments, particularly Treasury, failing to see the big picture.

Both State and Federal governments are pursuing the path of greenhouse irresponsibility, be it Federal government encouragement of road transport through fuel excise reductions or the NSW Government's lack of support for rail and a potentially positive commitment to a greenhouse gas reduction strategy. Road transport uses over three times as much fuel per gross tonne kilometre as rail,

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241 See The Paddington Rail Disaster, and other studies by Richard Oliver International Risk Assessors.

242 See p.34 (4.49) and (4.50).

243 See p.54 (6.2) See also p.73 (7.3).

244 See http://www.FreightCorp.com.au.

generating over three times the quantity of greenhouse gas emissions. That is, heavy road vehicles generate 80.6 gigagrams of greenhouse gas per tonne kilometre compared to 24.4 for rail.[245]

Conclusion

It appears there has been no serious attempt by the Committee to consider any alternative to privatisation. There has been no concerted attempt to consider the possibility of FreightCorp continuing to trade as a public corporation, or how FreightCorp might purchase National Rail or of FreightCorp merging with any other public freight rail system (such as Q rail). The Committee accepted the Hull Report and the position of the RTBU without adequate analysis. Moreover, the Committee has failed to consider the possibility of alternative possibilities such as a joint venture between public and private enterprise.

Despite requests for funding and information that would have allowed alternative and independent reports to have been prepared, no report was commissioned which evaluated the case for keeping FreightCorp as a public corporation.

I consider that there has been no truly independent analysis of the future of FreightCorp as a public or private entity after the sale of National Rail. Accordingly, the privatisation of FreightCorp should not proceed without considerable and detailed further investigation.

245 See http://www.FreightCorp.com.au.