

RIO TINTO

Submission

to

House of Representatives Inquiry into the Integration of Regional Rail and Road Freight Transport and Their Interface with Ports

1 Background

The House of Representatives Standing Committee on Transport and Regional Services is inquiring into:

- the role of Australia's regional arterial road and rail network in the national freight transport task;
- the relationship and co-ordination between Australia's road and rail networks and their connectivity to ports;
- policies and measures required to assist in achieving greater efficiency in the Australian transport network, with particular reference to
 - land transport;
 - capacity and operation of major ports;
 - movement of bulk export commodities, such as grain and coal;
 - the role of intermodal freight hubs in regional areas;
 - opportunities to achieve greater efficiencies in the use of existing infrastructure; and
 - possible advantages from the use of intelligent tracking technology;
- the role of the three levels of Government and the private sector in providing and maintaining the regional transport network.

Rio Tinto

Rio Tinto is a world leader in finding, mining and processing the earth's mineral resources. In 2004, Rio Tinto's Australian capital expenditure in iron ore, coal, aluminium, diamonds, uranium, gold and salt was over A\$2.0 billion. Rio Tinto's Australian businesses employ over 10,000 people and comprise over 60 per cent of the Group's global assets. Rio Tinto is the largest iron ore producer in Australia, exporting 127 million tonnes in 2004. Rio Tinto is a large investor in the coal industry - Australia's biggest export earner and an important source of international competitive advantage. Rio Tinto is also a large investor in bauxite production, alumina refining and aluminium smelting in Australia. This industry sector represents Australia's second largest export earner.

This submission

This submission provides a summary of the issues Rio Tinto has encountered in operating coal mines in NSW and Queensland, and bauxite mining, alumina refining and aluminium smelting operations in Queensland and Tasmania. The submission also reflects Rio Tinto's experience with vertically integrated mine, rail and port facilities in the Pilbara iron ore business.

Rio Tinto would like to reserve the opportunity to make a further submission to the House of Representatives Inquiry into the Integration of Regional Rail and Road Freight Transport and Their Interface with Ports once it has had the opportunity to fully assess the findings and recommendations of the *Report to the Prime Minister by the Exports and Infrastructure Taskforce (May 2005)*. This Report was released on 1 June 2005 and covers issues of interest to this Inquiry.

2 Summary of Conclusions and Recommendations

The issues that arise in seeking to provide infrastructure services to Australia's export industries are diverse and their relative importance varies from situation to situation. In these circumstances it is important to avoid a "one size fits all" approach and recognise the importance of tuning the policy response to the specific situation. Rio Tinto offers the following conclusions and proposed recommendations.

It is apparent that competition policy is failing to achieve the objective of maintaining and improving the competitiveness of Australia's export industries, in some areas it is actually threatening to reduce competitive advantage. It is time to consider alternative approaches. It is also apparent that, where integrated operation of the end-to-end supply chain is possible, it delivers the greatest benefits, both in terms of ongoing operational efficiency and in terms of its ability to respond rapidly to fast changing product market conditions.

On the basis of the analysis provided in the body of this submission, Rio Tinto requests that the House of Representatives Standing Committee on Transport and Regional Services give consideration to making recommendations along the following lines.

Recommendation 1

Where appropriate, (for example at the Dalrymple Bay Coal Terminal (DBCT)), national and state governments should ensure that there are no regulatory or other barriers to the extension of the model of cooperative infrastructure ownership successfully employed at PWCS through commercial negotiations.

In the medium to long term, governments should also consider the application of such a model for the Hunter Valley rail system, recognising the need to ensure access for other services including the carriage of passengers and grain.

Larger and more complex facilities serving a wide and diverse range of users, such as the Port of Gladstone, may require more detailed reform considerations.

Recommendation 2

With respect to the Port of Gladstone, an independent port authority, without a vested interest in a single commodity, should be considered to manage the operations of the port. A port authority should be established to manage the general port infrastructure with legal ownership remaining in the public sector, with board representation from governments and principal users or user groups, and capital raising through normal commercial channels (with recoveries through user charges.)

Recommendation 3

The Australian Government act to remove threats to the continuing operation of vertically integrated and efficient privately owned integrated mine rail and port facilities by amending its own legislation, specifically Part IIIA of the Trade Practices Act; and working with the States to ensure that their relevant policy frameworks recognise the national importance of these operations.

Recommendation 4

The Australian Government in cooperation with the States institute a wider review of publicly owned and regulated infrastructure with the aim of identifying opportunities to improve the performance of the national economy by using the approaches outlined here.

3 Issues

Bulk commodities, by their nature, impose the greatest strains on Australia's transport infrastructure. These include some of Australia's most important exports, such as coal, iron ore and alumina. They are generally carried by rail from the mine to a port where they may be held in stockpiles before being loaded onto a ship. The task of the supporting infrastructure is to undertake transport to the port and loading of the ship as efficiently as possible. Failure to do this reduces the competitiveness of these export

industries and may, in buoyant market conditions such as those currently being enjoyed, limit export volumes and hence earnings.

Achieving this objective requires that adequate levels of infrastructure be available and that the infrastructure be operated efficiently. In Australia this infrastructure is provided and operated in a number of different ways. Different issues arise in these different contexts. Various attempts have been made to improve the performance of Australia's infrastructure, the most recent being the competition policy reforms that flowed from the Hilmer report¹. The impact of these reforms on the provision of infrastructure services to Australia's resource-based export industries has not been as successful as one could have hoped. The Hilmer reforms may have facilitated competitive pricing for some existing capacity (for example rail in NSW and Qld) and freed-up what was otherwise inefficient capacity (for example power.) The Hilmer reforms were, however, unable to compel infrastructure owners (including state-owned entities) to invest, and provided an uncertain investment environment, which has adversely affected some of the best performing private sector entities.

These issues fall under three headings:

- Provision of capital
- Operating efficiency
- Impact of competition policy

These issues impact differently under each of the three models through which infrastructure services are provided in Australia. These are:

- Publicly owned entities
- Privately owned but regulated entities
- Privately owned integrated supply chains

3.1 Provision of capital

Failure to provide sufficient capital can manifest as inadequate growth in capacity and/or decreasing efficiency caused by equipment not being replaced in a timely fashion. Inadequate capital provision can occur in any of the three kinds of entity providing infrastructure services.

Publicly owned

Public sector investment decisions are often made against a background of competing political priorities for limited resources. For example, prior to the ARTC lease arrangement, priority in rail track investment in NSW was given to the public transport infrastructure in and around Sydney at the expense of the coal-carrying Hunter Valley rail system. In addition, regulation of the rate of return able to be earned by a public sector manager of infrastructure limits the risks that it is prudent for it to take. Where substantial capacity expansions are called for in volatile market conditions, the only practical way to secure them may be for contractual arrangements to transfer a

¹ Commonwealth of Australia (1993), *National Competition Policy: Report by the Independent Committee of Inquiry*, AGPS, Canberra.

substantial proportion of the investment risk to the users of the infrastructure service, eg through some form of take or pay contract. Such arrangements may, however, be somewhat cumbersome and inflexible. An alternative, discussed below, is cooperative ownership of the infrastructure facilities by its users. That said, the ARTC lease arrangement has brought some improvements, with producers now expecting a swift response by ARTC in delivering the required additional rail capacity.

When a publicly owned infrastructure facility is large and complex, servicing users with diverse interests spread across a range of trades with very different characteristics, fresh issues arise. The sheer scale and complexity of the task of managing the facility, including the interfaces of the different transport modes, and providing for its expansion can test the capabilities of its managers. Where that manager has a number of related responsibilities, there is scope for conflicts of interest to arise. These can affect both the provision of capital and the day-to-day management of facility operation.

An ongoing concern is the breadth of matters for which CQPA is responsible. As well as overall management of the port, CQPA is responsible for the management of two dedicated coal-loading terminals. Coal is the dominant trade at the port and the major contributor to CQPA's revenues. In these circumstances, there is the potential for the perception to arise between terminal users as to whether coal is treated more favourably than other trades. This conflicts with the declared public policy objectives for the Gladstone region, namely to create a major diversified industrial area there. Efforts by the Queensland Government to promote the region in this way are proving successful, but are also putting extra pressure on the port.

It may be possible to improve on traditional models of public ownership by instituting more clearly defined and actively enforced accountability standards to provide a better framework for the public management of infrastructure. Where the market is contestable, competition can deliver substantial benefits. Wholesale electricity prices in Australia are almost certainly lower than they would have been without the creation of the National Electricity Market (NEM), even though privatisation of publicly owned generation capacity has been limited. Where competition is not practicable, some of the models for private involvement that have been used in Australia have serious flaws which have been highlighted by the recent rapid growth in demand for Australia's commodity exports. Alternative approaches, discussed below, address these and would permit greater and more effective private sector involvement, with significant benefits to the Australian community.

Privately regulated

Unregulated investment by an entity with no interest in upstream enterprises using the infrastructure facility can confer substantial market power capable of causing significant damage to the national economy.

Consider the case of the mining industry in an area like the Bowen Basin, which is effectively constrained to use a single port. Were that port to be owned by an unregulated third party, that party would be able to set prices based on export prices and capacity to pay rather than marginal cost, resulting in losses of efficiency. Those losses would manifest as lower output from the upstream industry and lower exports from the Bowen Basin. The dynamic or longer term effects would be even more damaging. Returns to investment in the upstream industry would be limited by the monopoly power of the downstream service provider. In periods of favourable market conditions, the

unregulated downstream monopolist would be able to seek a large share of the extra profit earned in the product markets. Denied access to the upside, the returns to investment in the upstream industry would become very unattractive.

Why would an enterprise undertake expensive exploration and resource development or opening of new markets if a substantial proportion of any resulting benefits would end up flowing to a third party?² The impact would be like imposing a resource rent tax whose rate jumped to 100 per cent once returns exceeded a normal, risk-free level – a classic case of killing the goose that is laying the golden eggs. While the alternative models of infrastructure ownership proposed here are preferred, if third party ownership of monopoly infrastructure is to continue, it must be regulated.

Regulation of privately owned or managed infrastructure aims to provide the minimum rate of return necessary to induce adequate investment, mimicking the competitive outcome in situations where competition is not practicable. In practice it is difficult to identify the rate of return required. Considerable time and expertise has been devoted to attempting to establish appropriate regulated rates of return. The processes are often drawn out, involving substantial public consultation with affected parties.³ Such a delay can prove very costly if its effect is to limit the capacity of an export industry to respond to a surge in demand. Even when a quasi-competitive rate of return has been established, the very basis of this approach to regulation can be called into question by a very rapid expansion of demand in downstream markets.

As is evidenced by recent events, such a set of developments can confer substantial market power on a sole service provider, even a regulated one. Moreover, when there are sharp changes in the rate of growth of demand in downstream markets, it can be difficult to provide a rate of return sufficient to elicit a quick response in a regulated environment. In the case of DCBT, while the recent decision by the Queensland Competition Authority offers some short-term alleviation of the problems at that facility, the long-term structural problem remains.

A model capable of a better response in such circumstances is the one in place, for example, at Port Waratah Coal Services (PWCS). Here the commodity producers jointly own the infrastructure that they use. The incentive for the producers to invest in infrastructure capacity expansion when demand increases sharply is much greater than that for a regulated monopoly service provider, particularly when the infrastructure investment required may be much smaller than the investment required upstream at the mine site. Given its benefits, it is unfortunate that such an arrangement was precluded by the terms of the tender for the lease of DBCT. As discussed in more detail below, coordinating the management of such a jointly owned entity and reconciling the conflicting interests of the owners is not a trivial task, but as the operation of PWCS has demonstrated, represents a more responsive model to the alternatives.

When the publicly owned facility is large and complex, as for example at the Port of Gladstone, a hybrid arrangement, involving a mix of public and private ownership may

² Third party here means a party other than the mineral producers or government. A monopoly infrastructure owner would, of course, leave its users sufficient profit to continue some use of the facility, but the scale of the using industry and the investments it makes will be substantially reduced by such an infrastructure owner's exercise of its market power.

³ See, eg, the considerable volume of deliberations and varying results of the reviews undertaken by the ACCC and the State regulators (eg, IPART in NSW) of rates of return allowed on gas pipelines.

be required. This would have two components. Individual terminals would be collectively owned by their users on the PWCS model. Any remaining general port infrastructure, like port entry channels, would be managed by a substantially restructured port authority. This would exclude services such as tugs and pilotage that can be privately owned and run.

The restructured port authority would be an independent entity, incorporated under the Corporations Act, created solely and exclusively for the management of the general infrastructure of the port. Legal ownership of the general port infrastructure would remain within the public sector. The board appointed to run the port authority would include representation from all principal users or groups of users, the State and possibly the federal government. The board would be required to run the general port infrastructure so as to recover all costs through charges for use of its infrastructure.⁴ The general port infrastructure would not be expected to generate a flow of revenue for its owners nor would they be expected to provide capital or subsidise operations. Capital raising would be arranged by the board through normal commercial channels and recovered through user charges.

Variations are possible, but the key requirement is that the general port infrastructure be run as a stand-alone operation on a commercial basis, not as a revenue generating entity for government.⁵ Successfully operating entities that have elements in common with these proposals include the Dampier Port Authority, where users jointly own the port, and the National Electricity Market Management Company (NEMMCO), where an independently managed monopoly service provider owned by the governments of the NEM provides services on a cost recovery basis.

In restructuring the port authority and achieving clear separation between user charges and taxes, it will be important to ensure that the overall impost on export industries is not increased. In addition some seed funding may be required to establish the new organisation.⁶ While restructuring the port authority would not be a trivial undertaking, a model where users are effectively engaged in the timely and effective provision of the infrastructure capacity they require seems likely to yield a better outcome than arrangements in which a public entity with complex and conflicting objectives plays the dominant role.

Privately integrated

As was recognised by the Reserve Bank of Australia in its recent comments on the problems in Australia's export infrastructure, the model of integrated operations with its simple and direct pattern of incentives is undoubtedly the most responsive to changing downstream market conditions.⁷ In common with iron ore producers around the world,

⁴ Financial arrangements would need to be spelt out in more detail and would need to be flexible enough to allow the board to manage the facilities effectively.

⁵ If there are concerns about the public capital sunk in general port infrastructure, a sinking fund could be established or the board required to deliver a fixed rate of return, eg the long-term bond rate, on the sunk capital, which would be depreciated at an agreed rate.

⁶ If the federal government were keen to have a seat on the board, this could be an opportunity for it to take a share of ownership.

⁷ RBA (2005), Statement on Monetary Policy, 7 February 2005, p 50.

the Pilbara producers were surprised by the sharp lift in the growth rate of China's demand for ore, however their response has been rapid and dramatic and has created substantial value for both Australia and for the investing companies.

In a 1992 planning study it was anticipated that capacity at Port Hedland would reach 110 mtpa by 2011. It is now expected to attain that level this next year and to reach 118 mtpa capacity in 2006 and 152 mtpa before 2010. Rio Tinto is spending \$1.5 b on expansions at Dampier and Cape Lambert that will take the capacity of the former from 74 mtpa to 116 mtpa and the latter to more than 60 mtpa. These plans dwarf those announced elsewhere.

Given the demonstrated responsiveness of privately provided infrastructure, it seems extraordinary that the impact of national competition policy is to undermine the industry's ability to respond to market opportunity and that this should be underpinned by Australian Government legislation and its application by the government's agencies. It is appropriate that the Committee be fully aware of the threat and the role the Australian Government could take to ameliorate it.

The reasons for, and advantages of privately provided infrastructure are worth examining. In the case of a resource located in a remote area away from centres of population, public provision of infrastructure can be prohibitively expensive and inappropriate. Here private provision of the required infrastructure by the resource owner can be the only viable alternative. To enable the development of the resource, the risk-return ratio for the project as whole, including the provision of necessary infrastructure, must be low enough to satisfy normal commercial criteria, that is, the project must be bankable.

Sovereign risk, encompassing the stability of the operating environment and hence the certainty of achieving the anticipated return, can be a major factor in the calculation of this ratio. Traditionally Australia, with its stable political system and governments familiar with resource-related issues has had a competitive advantage. This has permitted the creation of super-competitive industries like the Pilbara iron ore industry, whose success is owed not just to the quality and extent of its ore bodies, but also to the extraordinary efficiency of its very substantial infrastructure, financed entirely by the private sector.

Paradoxically, the desire for more rapid expansion of such resources has, in recent years, come to threaten the fundamentals of the industry. By imposing an *ex post* regulatory regime on exclusive use private infrastructure, initiatives like the access regime in Part IIIA of the Trade Practices Act (TPA) have increased sovereign risk, placing further development of existing resources and initiation of green fields projects at risk. The dangers of the misapplication of an access regime were recognised from the outset of the policy debate in Australia and have been re-emphasised since in a number of public inquiries.⁸ It is sometimes referred to as the potential "chilling effect" on investment.⁹ In addition to their deleterious effect on the investment climate, such regimes can also

⁸ See Commonwealth of Australia (1993), pp 248 and 251; House of Representatives (1998), *Tracking Australia*, Report of the Standing Committee On Communications, Transport And Microeconomic Reform, pp 73-5; and Productivity Commission (2001), *Review of The National Access Regime*, Inquiry Report 17, AusInfo, Canberra, p66 *et seq.*

⁹ See, eg, Productivity Commission (2001), p xix.

harm operational efficiency as discussed below. There is a strong case for limiting the applicability of such regimes in industries where the scope for them to do harm is so marked. This is especially clear now that the commodity producers deploying privately provided infrastructure have been able to respond to the sudden increase in global demand better than other Australian commodity producers forced to share infrastructure services.

3.2 Operating efficiency

Operational efficiency is enhanced by clear incentives for the operator to manage the facility well and damaged by the absence or confusion of these incentives. Models of facility management in Australia closely parallel the models of capital provision described above. Specific issues arise in each case.

Publicly owned

Historically, incentives to efficient operation in Australia's publicly owned enterprises have been poor. Recognition of this led to a program of reform that encompassed ceasing to use these enterprises as revenue collections agencies, corporatisation, privatisation and, where practical, the introduction of competition. These initiatives have been pursued to different degrees in different sectors and locations. Reform while retaining public ownership can deliver benefits as, for example, in the case of Queensland Rail. The introduction of competition, as has been done in the rail system of the Hunter Valley, generally produces a superior result. For natural monopolies, privatisation under regulation (*inter alia* to ensure that such monopolies are not used as sources of tax revenue) has the potential to improve operational efficiency, but may give rise to difficulties in the provision of capital as discussed above.

Privately regulated

Unregulated private (non-producer) monopoly service provision creates well-known efficiency problems by conferring a capacity to exercise market power. There are, at present, no instances of this in the transport infrastructure supporting Australia's export industries and, as noted above, there are very strong reasons not to create any. There are, however, instances where services are provided by an entity collectively owned by its users.

A leading example is PWCS servicing the Hunter Valley coal industry. While it is important that arrangements for the coordination of scheduling and the general management of the facility be well designed, this model can deliver significant benefits over public ownership or regulated third party ownership. In particular, as noted earlier, it is likely to be much less subject to problems in capital provision than these two alternatives. This model does present its own challenges. It is harder to achieve optimal levels of efficiency in facility use when providing services to a group of users with often conflicting requirements. As the group becomes larger and more diverse the problem becomes more difficult. The degree of success achieved at PWCS is, in no small measure, due to the high degree of common interest among its owners, all of whom are coal-producers. The joint arrangements at PWCS have also provided a basis for cooperation in making better use of the Hunter Valley rail system, which has been a

bottleneck in moving coal from mine to ship, and ensuring that the modal interfaces operate as smoothly as possible. Applying the PWCS model to the extent possible, eg to individual terminals, and engaging the users more directly on the board of an independent authority solely and exclusively responsible for the management of general infrastructure on a cost recovery basis seems likely to produce a better result than public ownership of a whole large and complex facility.

Privately integrated

In some cases the operations of mining, transport and ship loading have been integrated, with the leading example being the iron ore industry in the Pilbara. This permits the achievement of very high levels of efficiency in the end-to-end operation, through closely integrated management of the three sets of facilities and their interfaces. These efficiencies are a major source of competitive advantage for the iron ore producers of the Pilbara. So close is this integration that the facilities operate as a unified production process. As noted earlier, there is a very clear incentive on the facility owner to ensure capacity is adequate and to optimise capital provision.

Although the situation outlined above represents an ideal in many respects, it is clearly not possible to apply it to every export industry. Because of their location and proximity to, for example, centres of population demanding a wide range of goods and services, many of Australia's export industries must share infrastructure services with others. It would seem important, therefore, that Australia maximise its competitive advantage by ensuring that the full benefits of this model be harvested when conditions permit its use.

3.3 Impact of competition policy

As noted earlier, many of the shortcomings in the provision of infrastructure services in Australia, particularly those provided by publicly owned enterprises, have been well recognised. The principal instrument of reform deployed to deal with them has been competition policy. Its track record in respect of the provision of infrastructure services to Australia's export industries has not been encouraging. It has proved difficult to introduce competition where it would have been beneficial, eg in service provision dominated by publicly owned monopolies.

At the same time, the reforms have had the effect of encouraging the de-integration of flexible and efficient privately owned export supply chains. In this case the ultimate objective of competition policy, improving the welfare of the community, seems to have been prejudiced in pursuit of competition for its own sake. This misunderstanding of the proper role of competition policy seems to extend to aspects of State government policy where substantial contributions to the economy of some States are being put at risk for potential gains that seem, on the most optimistic reading, to be marginal.

Publicly owned

It is clear that the authors of the Hilmer report believed that there was scope for major gains through improving the performance of sectors that had long been dominated by

publicly owned monopolies.¹⁰ In many important instances, the States owned these entities. It was the intent of the reform that State governments separate natural monopoly service provision from potentially contestable markets. The provisions of Part IIIA would then guarantee access to the monopolised services, increasing competition in downstream markets. In the early stages some progress was made, most notably in the structural separation of the elements of NSW Rail.

Unfortunately, however, not all States followed this lead and NSW has begun to reintegrate the previously separated entities. In addition, the access regime provided by Part IIIA has not been completely effective in providing access to, for example, the publicly owned rail track in NSW and Queensland. Under section 44D of the TPA, the Minister responsible for determining whether access is granted to a facility provided by a State or Territory body is the responsible Minister of that State or Territory. This has placed Ministers in the invidious position of being asked to make decisions that could reduce the revenues of entities for which they are responsible. Some access regimes have been put in place, but the process has often been slow and difficult.

Privately integrated

As has been noted above, the impact of the access regime in Part IIIA on privately owned transport infrastructure servicing Australia's resource exports has been unambiguously negative. So far the impact has been limited to tying up significant resources in submissions and legal action. A successful declaration, with its threat that access could be granted on terms that the facility owner would not have voluntarily agreed could cause substantial damage, both to the provision of essential capital for further infrastructure development and to the operational efficiency of the facility and the competitive advantage that this yields. For Australia's mineral export industries, it is very difficult to see how such a declaration could deliver gains sufficient to offset these very considerable losses. This danger warrants urgent re-examination of this aspect of Part IIIA.

The problem with Part IIIA is that the focus is on whether access would promote competition in a downstream or upstream market. Any loss of efficiency that may be occasioned by such access is not expressly recognized (it being assumed that this will in some way be catered for by compensation when access terms are set – something that is far from certain and, in any event, follows well after the service has been declared). There is also no pre-emptive mechanism such as an exemption or authorization in the same way as exists with Part IV of the TPA. As a result, Rio Tinto has had to expend significant time and money in responding to access applications and the likelihood of these continuing (or even increasing) is high given the interest in resource projects in the Pilbara at present.

It seems to us that the most realistic and satisfactory solution would be for the Treasurer, as the Minister responsible for national interest determinations pursuant to FIRB applications, to have the power to exempt services provided by certain facilities from the operation of Part IIIA. As national interest and impact on efficiency are likely to be the

¹⁰ The basis for this conclusion and the related proposition that the authors of competition policy reform saw only limited scope for the application of an access regime to privately owned assets is fully documented in Rio Tinto's submission to the Productivity Commission Review of the National Access Regime.

drivers for an exemption, we believe an exemption application should be made to and determined by the Minister with responsibility for national interest determinations rather than the National Competition Council, whose focus and responsibility is on competition issues. No doubt the Minister would seek input from relevant instrumentalities and departments such as the NCC, Productivity Commission, Treasury, Foreign Affairs and Trade, Industry Tourism and Resources, etc.

Half way measures such as adding impact on efficiency as a criterion to be considered, or requiring that dependent markets in which competition is promoted be confined to Australia, are not likely to be satisfactory. First, as we have seen already from decisions of the NCC, the Tribunal and the courts, there is scope to create theoretical markets so that the technical requirements of the regime are met. Secondly such measures will not avert the time and expense of responding to access applications, or the threat of one being successful. Further not only are the NCC and the Tribunal driven by competition objectives, but they also understandably have to take into account the precedent they create in making determinations or recommendations.

It is also not correct to state that the Minister has the final say under the existing Part IIIA process. The Minister can be overruled by the Tribunal. The recommendations outlined above seek to provide a framework which will ensure that decisions can be made in the best long term interest of the nation, with due regard to competitiveness considerations.

8 June 2005