

MINISTER FOR TRANSPORT AND REGIONAL DEVELOPMENT

**GOVERNMENT RESPONSE TO SENATE RURAL AND
REGIONAL AFFAIRS AND TRANSPORT REFERENCES
COMMITTEE REPORT ON THE BREW REPORT AND ON THE
CONTINUING ROLE OF THE COMMONWEALTH IN THE
AUSTRALIAN RAIL INDUSTRY**

June 1997

Response to Senate Rural and Regional Affairs and Transport References Committee Report on the Brew Report and on the Continuing Role of the Commonwealth in the Australian Rail Industry

On 7 November 1996, the Senate referred to the Rural and Regional Affairs and Transport References Committee the task of examining the Review of Australian National (AN) and National Rail (NR) prepared by Mr John Brew, and the Commonwealth's continuing role in the rail industry.

This was in spite of the fact that the Brew Report was by that time nearly five months old and the Government, having considered its position, based on a range of information including the Report and number of other sources relating to its rail assets and the Australian rail industry as a whole, was preparing a package of rail reforms, which it subsequently announced on 24 November 1996.

By the Committee Report's release date of 16 May 1997, the Government had conducted a scoping study of AN and successfully invited expressions of interest for the SA Freight, Tasrail and Passenger businesses. The sale process for these businesses is progressing well.

The Committee's recommendations and the Government's response are set out below.

THE BREW REPORT

The Committee concludes:

- *that the Brew report provides an adequate analysis of the financial position of individual business units of AN and NR at one point in time. However, on its own, it is not a proper framework for policy development as it fails to consider the role of rail in the Australian transport system and any other issues other than financial performance;*
- *that while the Brew report is a principal source of recent data on AN and NR it fails to take account of the need for future policy on the Australian rail industry. This is so particularly in relation to community and public service aspects of the current AN businesses.*

The Government acknowledges the Committee's conclusion that the Brew Report achieved its goal - to examine the financial position and relationship of AN and NR, thereby providing, as the Report itself accepted, a financial "snapshot" of AN's financial situation. As some Committee members noted, to criticise the Report for failing to address issues outside its terms of reference ("fails to consider the role of rail in the Australian transport system"), but to also criticise it for going beyond its terms of reference in relation to interstate rail infrastructure, is inconsistent.

Further, the Brew Report was not intended as a "framework for policy development". The Government has stated on a number of occasions that the Brew Report was only one of a number of sources of information relating to its consideration of rail reform. The Government itself established a Rail Reform Committee to examine the Report and the Commonwealth's options in reforming the rail industry. This Committee, consisting of Ministers, Senators and MPs consulted with a wide range of people in the rail industry, including private sector organisations, trade unions, AN employees, merchant bankers and potential buyers in considering recommendations for reform of the rail industry, and the Commonwealth's role in it.

THE GOVERNMENT'S NOVEMBER 1996 RAIL REFORM PACKAGE

In summary, the Committee concludes that the November 1996 package

- *contains very little new funds for the rail system or contains inadequate funding for track upgrading*
- *will minimise the value of assets realised at sale*
- *will run down the value of the Commonwealth's rail assets and therefore recommends that the Government immediately inform the Parliament on the following matters*
 - i. *the expected timetable for the sale and disposal process,*
 - ii. *the expected return to the Commonwealth*
 - iii. *the outcome of any agreement with the Governments of South Australia and Tasmania on asset disposal or sale*
 - iv. *the regulatory and safety environment that will prevail after privatisation*
 - v. *the outcome of a sale of AN as an integrated rail enterprise.*

The key elements of the Commonwealth's rail reform package are the sale of the non-interstate businesses of Australian National Railways Commission (AN) and the Commonwealth's shareholding in the National Rail Corporation (NR). As part of this process, the Commonwealth has also decided to explore the establishment of a national rail infrastructure body to manage access to the interstate rail network, to provide a 'one stop shop' for access between Brisbane and Perth, and to provide greater operational and administrative efficiencies on the network. The proposed timetable was also announced at that time.

The rail reform package is designed to provide the best environment for rail in Australia. Private sector involvement is expected to lower the cost of transport to industry, better meet the needs of customers and provide the best guarantee of long term employment in the rail sector.

The reform package announced by the Government involves very significant costs to the Commonwealth. The components of the costs include:

- cost of expected redundancies;
- unfunded provisions such as the cost of employee leave entitlements and workers compensation;
- provision for outstanding contracts and other commitments that will need to be met;
- environmental costs associated with the preliminary environmental audit of AN sites;
- acquisition of AN's debt at book value;
- a two year regional adjustment package to mitigate the effect of restructuring; and
- superannuation costs for employees in Commonwealth and former SA & Tasmanian schemes

While the debts and liabilities incurred by AN over a long period of time may not be considered a new expenditure, the previous Government made no effort over the last thirteen years to make adequate provision for these liabilities or to alleviate AN of its crippling debts. Rather, unfunded debts and liabilities were enormously increased.

Further, as an indication of the Government's commitment to a national rail infrastructure body, it has set aside \$175m in the Budget to upgrade the interstate rail network, to assist the proposed body to bring sections of the network up to a commercially viable standard.

The Government does not accept that its proposals will minimise the value of assets realised at sale. Delay to the sale process will, however, reduce the sale value as AN's businesses continue to run down and necessary re-focussing, restructuring and investment are delayed.

The sale process for AN generated significant interest from the private sector. The Minister for Finance, who is responsible for the sale, agreed a strong shortlist involving a number of major Australian companies with transport interests and significant rail operators from North America and Europe.

In addition, Australian companies expressed strong interest in workshop and infrastructure maintenance operations, and in financing and tourism opportunities. These firms are being encouraged to form consortia with the shortlisted parties so that rail operators can benefit from partnership with them.

Shortlisted parties have been given the Information Memoranda and the tender Rules, and the data room opened on 18 June 1997. The date for final binding bids is the end of July.

It is not the Government's practice to announce the expected return of any sale, to avoid influencing the bidding process.

Discussions have been underway with both South Australia and Tasmania to renegotiate the 1975 Rail Transfer Agreements that lead to the establishment of AN in its current form. Once Agreements have been reached they will be tabled in Parliament.

The safety regime will be governed by the Rail Safety Intergovernmental Agreement that has already been provided to the Committee. The regulatory regime will be that as is prevailing at present until such time as the National Track Entity comes into operation.

AN has been offered for sale as a whole or by constituent part. The final structure of the sale will be determined in the light of bids. Three Information Memoranda have been prepared, for Tasrail, SA Rail and Passenger Services. The Government is not prepared to devote resources to speculating on other sale outcomes that are not intended to be pursued.

AN SALE PROCESS

Passenger Services

The Committee recommends that if AN's passenger service is to be sold, contrary to the recommendation of this Committee, any bidder for the purchase or franchise of this asset be required to maintain the current level of operation of these passenger services as a condition of purchase. The Committee also recommends that subsidised pricing arrangements, as community service obligations, be maintained for domestic travellers.

The Government does not accept the Committee's recommendation that any bidder for the passenger services should be required to maintain the services. Nor does it accept that the Government should continue to subsidise the operating costs of passenger services.

Nevertheless, the Government is very mindful of the importance placed on the passenger concessions by the beneficiaries, and its broader commitments in relation to pension concessions, including to the States.

Funds are currently appropriated for AN to continue to provide the passenger concession in 1997/98 though further consideration may need to be given to this matter once bids for the services have been received.

SA Freight

The Committee recommends that any future agreement reached between the Commonwealth and South Australia on the future of the AN intrastate freight network be provided to the Parliament at the earliest opportunity following conclusion of any agreement.

These details should clearly indicate to the Parliament:

- *the terms of the agreement reached between the Commonwealth and the States*
- *the proposed timetable, both in the State and Commonwealth parliaments, for necessary statutory enactment of such agreements*
- *the nature and extent of any agreement in respect of continuing Commonwealth liability in respect of accumulated liabilities and superannuation liabilities.*

Arrangements for amendments to existing Commonwealth-State agreements that are required by the sale process have been addressed in the AN sale Bill currently before Parliament. Any formal agreement reached with South Australia will be provided to the Parliament.

The Committee Chairman, Senator Woodley, has indicated that the Australian Democrats (as foreshadowed in the Addendum to the Report by Senator Murray) will seek to amend the AN sale Bill to give AN employees first option on re-employment with any new owners. Such an amendment would have serious implications for the retrenchment and severance, and superannuation benefits of AN employees, who may be prevented from accessing redundancy benefits and superannuation payments if the Commonwealth attempts to broker a transfer of employment to the new owner. Such provisions will also diminish the sale price of AN's assets, as they prevent new owners from making a clean break from the past and establish a new team to perform AN's tasks.

Further, the arrangements proposed by the Commonwealth already maximise existing employees' opportunities for re-employment by new owners. The new owners will be able to access the skills and experience of current employees without having to incur any additional costs in employing them.

Tasrail

The Committee recommends that the Government pursue the option offered in the Brew Report of eliminating the AN debt in Tasrail and returning the system to the Tasmanian Government.

Following the public release of the Brew Report, the Tasmanian Government indicated it would not accept the transfer of Tasrail back to itself.

Accordingly, the Government considers the recommendation relating to Tasrail to be impractical. The sale of Tasrail is proceeding well, with final bids currently expected on 25 July. In advancing this recommendation, the Committee clearly ignored evidence from affected Tasmanian communities and the Tasmanian Government supporting the sale of Tasrail. It should be noted that even representatives of the Construction, Forestry, Mining and Energy Union and the Public Transport Union indicated some support for its sale. This shows that rail workers and their union representatives accept the validity of the Government's rail reform program, which aims to create long-term jobs in a commercially viable rail industry, rather than taxpayer-subsidised jobs in an industry without a secure future.

NR

The Committee recommends that the sale of the Commonwealth equity in NR not proceed at this time. The Committee also recommends that the Commonwealth review the sale of its shareholding in NR in the light of NR's performance at the expiration of the NR agreement in 1999.

The Commonwealth does not accept the recommendation relating to the sale of NR. Once again the Committee has ignored evidence, notably from NR itself, on the importance of this reform, and its role in revitalising the Australian rail industry through greater private sector participation.

The sale of National Rail has been delayed by New South Wales not agreeing to the release of confidential information to the Commonwealth. This information is essential for a comprehensive scoping of the sale to be undertaken. The Commonwealth is disappointed with New South Wales's approach to this matter and is still pressing for their agreement, to allow the NR sale to be progressed. It is hoped that negotiations with the shareholding Governments will soon allow progress in the sale.

Community and Public Service Obligations

The Committee recommends that the Commonwealth needs to take more seriously the social effects of the AN disposal and sale. Significantly more funds will, in the Committee's view, be required to this purpose in the long term.

The Commonwealth recognises that its rail reforms will have an impact on some communities, and a regional adjustment package of \$20 million has been provided to assist communities affected by the AN sale. These funds will be directed at community-generated projects that will provide long-term employment in communities affected by the Commonwealth's rail reforms.

National Track body

The Committee recommends that legislation establishing the proposed national track authority be referred to the Senate Rural and Regional Affairs and Transport Committee for inquiry following its introduction into the Parliament.

Options for Future Commonwealth Involvement in the Rail Industry

The Committee therefore recommends that before proceeding with the sale process, the Government should develop a coherent land transport policy framework, taking into account financial, economic, social and environmental goals and recommending mid and long term investment programs for road and rail in all major corridors.

The Government welcomes the Committee's support for a national rail infrastructure body, and its acknowledgement of the crucial nature of this reform. However it does not accept the recommendation that legislation establishing a national rail infrastructure body be referred to a Senate committee. Such a referral would serve only to further delay the establishment of the body, which is still being negotiated with the States. Interstate freight operators such as NR, TNT and SCT have indicated their strong support for the proposal, and described to the Committee the difficulties they face under the current access regime.

The Report notes a number of issues that a committee would address in scrutinising a Bill to establish a national rail infrastructure body, including rail investment programs, equity between road and rail and track access regimes. Given that the previous Government had thirteen years in which to address these issues, and failed to, it is absurd that Opposition Senators should now use such matters to delay a crucial reform.

In developing land transport policy, the Government recognises that both road and rail transport play important roles in an efficient national land transport system and it encourages an integrated transport system where each mode efficiently performs the tasks to which it is best suited. The Government's rail reform package was developed with a vision for the Australian rail industry that encompasses a major role for the private sector in all aspects of the industry, from track maintenance, rollingstock provision and engineering services to freight operations, creating competition to reduce costs and improve services. The Commonwealth's future role will concentrate on establishing a simple, economic, competitively-neutral access and pricing regime for rail infrastructure.