ECONOMICS AND INDUSTRY
STANDING COMMITTEE

INQUIRY INTO THE MANAGEMENT OF
WESTERN AUSTRALIA'S FREIGHT RAIL NETWORK

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 11 JUNE 2014

SESSION TWO

Members

Mr I.C. Blayney(Chair)
Mr F.M. Logan (Deputy Chair)
Mr P.C. Tinley
Mr J. Norberger
Mr R.S. Love

Hearing commenced at 11.04 am

Dr ANDREW CRANE
CEO, Co-operative Bulk Handling Group, examined:

Mr ANDREW MENCSHELYI
Acting General Manager, Operations, Co-operative Bulk Handling Group, examined:

Miss BRIANNA PEAKE
Government and Industry Relations Manager, Co-operative Bulk Handling Group, examined:

The CHAIR: On behalf of the Economics and Industry Standing Committee, I would like to thank you for your appearance before us today. The purpose of this hearing is to assist the committee in gathering evidence for its inquiry into the management of Western Australia's freight rail network. You have been provided with a copy of the committee's specific terms of reference. At this stage I would like to introduce myself and the other members of the committee here today. I am the Chair, Ian Blayney; this is the Deputy Chair, Hon Fran Logan; my fellow members, Jan Norberger, Shane Love, and Peter Tinley will be in in a minute, I am sure. The Economics and Industry Standing Committee is a committee of the Legislative Assembly of the Parliament of Western Australia. This hearing is a formal procedure of the Parliament and therefore commands the same respect as proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as contempt of Parliament. This is a public hearing and Hansard is making a transcript of the proceedings for the public record. If you refer to any documents during your evidence, it would assist Hansard if you could provide the full title for the record. Before we proceed to the inquiry-specific questions we have for you today, I need to ask you the following: have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIR: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIR: Did you receive and read the information for witnesses sheet provided with the "Details of Witness" form today?

The Witnesses: Yes.

The CHAIR: Do you have any questions in relation to being a witness at today's hearing?

The Witnesses: No.

The CHAIR: Did you have a short statement to make before questions?

Dr Crane: Mr Chairman, I do, and I understand the limited time, so I will keep it brief. I would like to thank you for the opportunity to present to you this morning and make opening remarks under three headings: why CBH is uniquely placed to comment on the issues facing the WA grain supply chain and its impact on state development; what is so terribly wrong; and some positive constructive solutions.

Most of you would be aware that CBH is a cooperative and this is a really unique business model. The reasons for the creation of CBH as a cooperative 80 years ago are just as poignant today. WA growers and the state's grain industry are highly dependent upon the supply chain that connects them to the export market. WA produces seven million tonnes of wheat a year and only needs 290 000 tonnes to feed the state. For growers in WA to be successful, we need a well-functioning supply chain from the farm to the export market and a supply chain that is owned and managed for that sole purpose. We have heard about the promise and excitement of the Asian century and the benefits that it should bring to the state, but this opportunity is not ours by right and should not be relied on through the chance of proximity. Demand in Asia, rather than pushing up price, is stimulating production in other origins. These origins, such as Russia, Ukraine and South America, are blessed with other advantages of yield and rainfall that we can only dream of. When their newly constructed supply chains, their own ones, are in place, they will take this market from our growers or drive the price to a place where our own yield and supply chain constraints will irreversibly damage the state's industry. CBH's sole purpose is to create and turn value for all of Western Australia's 4 200 grain growers, be they a member of our cooperative or not. Our co-op's constitution also dictates that we exist for the benefit of promoting and fostering the development of the Western Australian grain industry. Hopefully, you had a chance of seeing some of our significant country network during your travels recently in the wheatbelt and came to understand the distance the grain has to travel to market and the way your deliberations can influence the future of this industry and the development of the state.

Without the mechanisms to operate an efficient and effective inland supply chain to get tonnes to port, WA agriculture is at risk of having to watch a historic economic opportunity pass us by. This is not just about our growers being a little bit more profitable; it is about ensuring their long-term viability. Given that clear purpose I have mentioned, we made an unprecedented investment in rail, $175 million into rolling stock, to enhance the performance of above rail and this has brought great benefit to the supply chain. But it is only one part of that long-term success; the other part is the quality and the maintenance of the lines. Those lines are owned by the government and are a crucial remaining ingredient in whether the state's grain industry survives and prospers or not. The fact that Brookfield Rail is intending to close tier 3 railway lines at the end of this month, despite the fact that CBH and the industry are running record tonnages over those lines, is extraordinary in the worst possible way.

[11.10 am]

Mr Chairman and committee, something is terribly wrong here. The Western Australian grain freight rail freight network has issues such as axle weight limits, speed restrictions and heat restrictions. We have significant concerns that the current approach to management of the network is not sustainable nor serving the interests of the grain industry and the development of the state. Aside from plans to close tier 3, we have also been having operational restrictions announced for the Miling line, a tier 2 line. Despite the government very credibly investing $165 million to fund required track maintenance, we still have 750 separate speed and mass restrictions that have been placed on tier 1 and tier 2 lines and remain unresolved. Brookfield has recently proposed a significant increase of fees to us, to growers, despite plans to close 800 kilometres of track, and the rail network standards are decreasing while fees are increasing. WA growers are paying four times what growers in eastern Australia are paying for track access, who have higher speeds and capacity. Freight rates in Canada and the USA are 30 to 50 per cent lower. The Brookfield management of the grain network, coupled with confidential lease arrangements and less than effective oversight, has created precisely the sort of monopoly environment that the original regulatory structure tried to avoid. We see it as unacceptable that the operator of the network is able to let this asset deteriorate to a point where it does not serve the economic interests of the state. It is similarly unacceptable that it can arbitrarily close tier 3s and make claims that it is not making enough profit from that.

In summary, we want to make some proactive and constructive suggestions that call for a change in the way the network is managed, how that management is overseen and how users of the rail assets can have a greater say. Without that change, and action right now, the industry will not collapse overnight—we are not threatening that overnight—but the economy of the wheatbelt and WA will slowly but irreversibly lose out to other origins that recognise the role that government has to play in addressing market failure and the crucial export infrastructure that exists to support the long-term economic development of the state. In implementing these simple steps, you can ensure that the state of Western Australia will capture the value of the Asian century that we so richly deserve and that important second string to the state's economic bow after mining. Thank you, Chairman.

The CHAIR: Thank you.

Mr F.M. LOGAN: Thank you very much, Andrew, for that opening remark. We have heard a significant number of statements made by Brookfield Rail to the committee about the reasons behind the closure of tier 3 rail and their obligations under the contract. Most of the statements made by Brookfield Rail related back to the 2009 decision by Simon O'Brien arising out of the inquiry and the Brookton strategy to decide to close the tier 3 rail lines. What did CBH do in 2009? I know you made contributions to the inquiry, but after that, what contributions did CBH make to the Brookton strategy? Did CBH make any submissions, presentations or lobbying to the then minister, Simon O'Brien, about his intention to sign off on the closure of tier 3 rail?

Mr Mencshelyi: I am happy to answer that question. In 2009 CBH were very much a part of the SGNR process and we must acknowledge that that process did deliver a great outcome in terms of some targeted funding for tier 1 and tier 2. At the time the analysis showed that with the current above rail operator and their fees and the below rail management fees for tier 3 versus road rates from those sites, that it was definitely uneconomic to continue to run those line sections. At the time CBH was just starting its process to tender for rail services and we did flag that to the SGNR committee and said that that could possibly change the landscape. However, the gap between road and rail prices in the analysis was so great that even from our perspective we thought: it is going to be pretty hard to bridge that gap. So, it was very much, at the time, a unanimous decision that it is unlikely that it is going to change the landscape and that that plan should stay in place. Very shortly after that, as we started the tender process and we started talking to Watco Rail and we talked about the tier 3 lines, they were interested about what the grain task was going to be in WA. They asked about why these line sections were closing and we explained the SGNR process showed them that the information—they said, "We would like to operate on a tier 3 and have a look and see if we can actually do that." So, they did the analysis in quite a short period of time. We pulled that together into a Department of Transport–sort of format business case because we did flag that with the Department of Transport at the time and then we lodged that purely on an economics of what the freight rates are road versus rail that those line sections would be viable with a Watco operation going forward. Unfortunately, because the SGNR had been signed off and processes had been put in place, government said, "It is very hard for us to change and there's still no ironclad guarantee that the tier 3s would still be used if they were kept open." So, that was the lobbying and the presentation that CBH made at that time to government. That was probably around the end of 2010, early 2011. So, probably 12 to 18 months after the SGNR was signed off.

Mr F.M. LOGAN: Thanks, Andrew. What you would say now?

Mr Mencshelyi: That absolutely they are viable. We are moving record tonnes per day on that part of the network. We are bringing greater efficiencies to that network even at the performance standards that they are at today. Since 2009 the performance standards have been lowered. Under the SGNR there would be no maintenance done on them. They have been propped up and kept going for a few years; the performance standard has been lowered from a safety perspective. Even at that lower performance standard we are still moving record tonnes on those long sections—cheaper than road transport to port.

Mr J. NORBERGER: Are you able to maybe give some examples of axle weight limits and speed restrictions that have been imposed on some of the current freight lines? How do these restrictions impact on your supply chain logistics?

Mr Mencshelyi: Probably the classic is the Miling line. So that is a line that ends at Miling. That line has had a restriction on that we cannot run a train with two locomotives in parallel to each other within the consist. So, we need to virtually run with one locomotive, which allows us only to run half a consist. There has been speed restrictions put on that line section and it continues to be 16 tonnes per axle, so the axle limit is still the same but the speed and length of train has been reduced to 50 per cent.

Mr J. NORBERGER: As a follow-on, and we understand from your submission as well and when we had the tour, CBH has obviously invested a fair bit of money in regard to gaining efficiencies, be it in lightweight aluminium rolling stock. Obviously, you were trying to reduce your bottom line in the costs that are being passed on to the growers. When you were able to achieve some of these efficiencies in your costs—and the figure, if I remember, was about an eight or 10 per cent improvement in your costs—what was the immediate effect once you were able to realise those cost savings?

Mr Mencshelyi: We passed that straight through to grower freight reductions. So, rail freight went down by the number referred to was seven per cent. So, that was passed through to growers immediately that next year, those efficiencies.

Mr J. NORBERGER: Did the rail access fees change?

Mr Mencshelyi: Our access agreement sort of overlapped the ability to introduce legislation changes. So, the fees we have been on a 24-month agreement that expires on 30 June this year. So, there is a proposal for a new agreement coming that has increases in it.

Mr P.C. TINLEY: Andrew, you made in your opening statement a comment about less than effective oversight in relation to this whole thing. I am particularly interested to see what examples or what are your top three or describe that for us?

[11.20 am]

Dr Crane: For me in general—Andrew can give some other specifics, but certainly the Auditor General's report comments on the oversight of the lease. From our point of view, now as the customer of Brookfield paying the access fee, we do not know what we are paying for in relation to what is the minimum standard performance speed, weight, that we should get for the money. It is not dictated in anything that we can see within the lease. So, we are relying on others, therefore, to patrol whatever is in that lease, and given that service is going down and price is going up, it does cause you to wonder: is the oversight enough?

Mr P.C. TINLEY: Do you think it would be beneficial in a competitive sense and a transparency sense for the performance standards that are contained in the commercial documents that Brookfield has entered into with the government to be made public?

Dr Crane: If they are public at least then we can see them and we can work with whoever is oversighting them because when we are negotiating with Brookfield, we do not know whether they are offering us terms that they are below the minimum standards in the lease or not and/or has the lease got standards in there that are unworkable? There is no way of us being able to sort of have that discussion and let alone when it is particularly an asset that is a sole asset—there is no second rail line next door that we can move to; there must therefore on the government asset be some oversight on that.

Mr P.C. TINLEY: Apart from a commercial benefit for you in relation to the price—you are just a purchaser of a service—what possible value would it then have to you to understand those performance standards?

Mr Mencshelyi: When we are negotiating for standards, it is for a performance standard. So, if you do not know what the obligation is, a lower performance standard could be negotiated in the service offering between CBH and —

Mr P.C. TINLEY: You just get what you are served?

Mr Mencshelyi: Correct. Well, you do not know what you should be actually getting.

Mr P.C. TINLEY: So it is a time thing as well. You pay the money but you do not get knowledge of what the service is going to be null roll up with the —

Mr Mencshelyi: Yes. On a 10-year agreement do we know that there is an absolute minimum service obligation in terms of axle load and rail speed for that whole 10 years? Is that what they are obligated to provide or is that just what they are willing to provide?

Mr P.C. TINLEY: So you do not know what you are paying for.

Mr R.S. LOVE: We are looking at grain rail, I suppose, at the moment. You are pretty well the only customer on these railways that are tier 3 and also tier 2, such as the Miling line. The Miling line is a little different in that it was recognised specifically in the SGNR report that it would require a review at around about this time. I am just wondering what your understanding is of the path forward from here with the Miling line? Have you been approached by Brookton to provide information as to tonnages and expectations of use, and have you been discussing with them pricing and capital requirements to maintain that line in a condition that is useful for you? We understand that the line has fallen in performance standards, as you have outlined, so where do you see your position as the main, pretty well, only customer on these lines in determining the future of a line like Miling?

Dr Crane: Certainly, prior to the application to the ERA we went through an extended negotiation with Brookfield, which included terms and speeds and weights for lines and line sections and the Miling line. It was there that when we were made aware of what these additional restrictions were going to be. I will let Andrew comment.

Mr Mencshelyi: For clarity, the Miling line received a one-in-two steel and wood sleeper program in a different alignment to the rest of the tier 1 and tier 2; so that is why it was up for review in 2015. The feedback we have been given is that it is not a sleeper problem; it is an actual rail problem. The rail is snapping on a considerably high occurrence and that is causing the restrictions of being able to run two locomotives next to each other and the length of train et cetera et cetera; so it is a different maintenance requirement for that line that is to the other tier 1, tier 2 lines that has just recently had the injected funds—it is about replacing the steel sections. The number that is being proposed is around the $40 million mark to replace the steel to bring that line back to full train length, normal line speed and still 16 tonne per axle, which, if you look at the tonnes on that one particular line section, it is probably about 400 000 tonnes—$40 million over 400 000 tonnes per annum, it is a case of a big pay back; a long time to pay that back. From a CBH perspective, the concern is there is a lot of steel in the rest of the grain network that is of similar age and similar condition, and are we just on a ticking time bomb here, where these line sections will start to deteriorate and it is unclear whose obligated to pay for those massive amounts of capital to replace line sections. So the sleepers have been done in this one capital injection from government, on tier 1, tier 2; the steel is the next part of the rail structure that will need to be replaced sometime in the remaining life of the lease. Who is going to pay for that? It is our concern that that could just pop up at any time, and it is very hard for us to plan and grow and manage the export task without knowing when that is coming.

Miss Peake: Shane, can I just add to that point as well—sorry, Andrew, and correct me if I am wrong—that in terms of your question around was CBH consulted on our future requirements on that line before the restrictions were put in place—no. That was placed on without us having to give our information about the tonnes we intend to run over it.

Mr R.S. LOVE: I think you are misunderstanding what I am asking. At the time that you, as a group, signed up to the SGNR, you anticipated that this review would have to take place at this time, so there was no surprise in Miling's case that there would be a review of the future of the line—it quite clearly said in that report that in 2014 that review would take place. I am asking you, what has been done to commence that review, and who is conducting the review? Are you intimately involved in that review and what is your expectation of who should pay for what will have to be a capital injection?

Mr Mencshelyi: So the first notification of the review, Shane, was a train notification that we could only run half trains on the line. So there was —

Mr R.S. LOVE: No, the first indication was in the SGNR—it was written into the SGNR, which was signed off.

Mr Mencshelyi: That was in 2015.

Mr R.S. LOVE: It was 2014—I have got it here in front of me.

Mr Mencshelyi: In 2013 we received the train notification that we could only run half a train, and that kicked off the process of discussions about what the future of that line is.

Mr R.S. LOVE: Well, no, with respect CBH signed off on the SGNR, which clearly said that there would need to be a review in 2014, so it would have been the understanding that along with that it would have needed to be reviewed. I am just not getting much feedback here as to what process you anticipate will be followed from here on to facilitate that review.

Dr Crane: In the form of a review—have we been involved in a review of the Miling line, as specified in the SGNR? I do not think—not that I have heard, I am sorry.

Mr R.S. LOVE: If I can just turn from that line to the tier 3 lines for a moment. We understand from discussions that have been held that there has been an offer for you to take an active role in some of the management or perhaps even look to lease sections of tier 3 line; is that something that you can confirm or deny?

Mr Mencshelyi: There has been an offer to us?

Mr R.S. LOVE: That you have made offers?

Mr Mencshelyi: That we have made offers to rail—yes.

Mr R.S. LOVE: Could you confirm that that was unsuccessful?

Mr Mencshelyi: Yes, that was unsuccessful. It was a short answer of—no.

Mr R.S. LOVE: Thank you.

Mr J. NORBERGER: In your submission, one of the recommendations was that the government should consider amending the Railways (Access) Code 2000. What amendments do you believe are necessary, and why? How would these amendments to the code facilitate state development?

[11.30 am]

Mr Mencshelyi: I think one of the key ones is the pricing methodology that is under the rail access code in terms of determining what the floor and ceiling price is and also what the actual final price will be determined. It is based on a modern equivalent asset and a gross replacement value, which is fine when it is a brand new railway operating as a modern equivalent asset, such as the standard gauge that is heading east–west. As you have seen, many of the grain lines are over 100 years old, narrow gauge, pioneer railways, so just that price methodology of using a modern equivalent asset to determine what the price should be to run on that asset is flawed, in our view. That is probably one of the main things that we would like to see changed going forward.

Mr J. NORBERGER: What about transparency?

Mr Mencshelyi: Transparency is a big part. If you look at what happens on the east coast, ARTC network, it is on their website what the access fees are and what the performance standards are for all users on an open access railway; so we would love to see that as well.

Mr F.M. LOGAN: In terms of your submission and your opening statement, Andrew, you talked about freight rates being four times higher here than in the eastern states, and in the US, 30 to 50 per cent lower than what they are here in Western Australia as well. Can you give the committee some explanation of your understanding as to why that is? Also, we are aware from your submission, and those of Brookfield and others, that obviously eastern states' governments, particularly New South Wales, have invested heavily in their rail freight lines, but is that consistent across the eastern states? And what is the situation in the US? Who provides the capital for upgrading and capital investment in those lines on the basis that they are still 30 to 50 per cent lower than we are?

Dr Crane: I think some of my comments might relate to the access fees and others to rates—I want to make sure that we are clear on that—but, certainly, there are gaps between the two and mere models vary greatly. Ultimately, some of the issues that we believe lie at the separation of the above-and-below rail operation into separate entities and then you lose the ability to be able to charge at a rate that can then also maintain a line and ensure it is sustainable. Andrew, do you want to give some further comment on the east coast because you have been looking at some of that?

Mr Mencshelyi: Yes, I think, Fran, when there is a separation of ownership, when the below rail is owned by a different entity, in a lot of those areas there is a regulated return on what that entity can get, and it is very defined and everyone knows what it is because it is a monopoly—a natural monopoly asset—that is quite regulated. When it is an integrated railway, there is only one profit centre. So, the organisation that is running the above and below will invest in the below rail network to provide the capability to move the bar and they make one profit. They are the two fundamentals of why, in other parts of the world, we see that reduction. Here, we have got this floor and ceiling and it is wherever you end up negotiating in between the two, so it can end up being that massive returns can be made from the above rail. The above rail needs to make a return as well, so there is too much profit going out, in some cases, to make that rail viable versus road transport.

Mr F.M. LOGAN: Within the access fee regimes in both the eastern states and the US, is there a greater transparency in terms of what you are getting, what you are paying for, particularly in terms of the question Jan asked about axle limits and speeds et cetera?

Mr Mencshelyi: Yes, I think so. We have been looking to expand into New South Wales. It has been quite public, and part of that expansion is, indeed, the Hunter Valley coal network, which is ARTC driven. Working with ARTC in seeking access to their track, it is very transparent on what price you will pay and what axle limit speeds that they will commit to, not only for yourselves, but for everyone that is on that track.

Mr P.C. TINLEY: Various processes have identified a government decision to not invest in rail and transfer taxpayer funds into the road network for the purposes of the grain freight network as a total series of networks. Have you formed an opinion about, first, has that investment occurred; and, second, has it been effective in relation to the current tonnages and anticipated tonnages?

Mr Mencshelyi: I think the feedback we have had talking to local governments is that it has not been adequate. They have got concerns, and they have been raising these concerns for some time, that when tier 3 closes, we are going to see some issues in terms of road safety and also their annual maintenance costs—trying to maintain those roads once those tonnages move on there. The proof really will be in the pudding when they do close and we are moving those tonnes on those roads to see if the investment is adequate and the annual funding is enough. We have had some examples when we were transitioning from one rail operator to another two years ago, with the second biggest crop in history, where we had to move a lot of tonnes by road from site to site to try and get it onto rail, and the damage to the roads, local shire roads, was significant and much worse than what they anticipated. So, there is evidence that these roads may not be able to stand up to the tonnages we are going to pose.

Mr P.C. TINLEY: And there is evidence currently that these roads are not meeting the current requirements, let alone when there are further shuts on the tier 3. Will CBH incur a capital loss of some kind or an opex loss in relation to your infrastructure when these lines close?

Mr Mencshelyi: It is still hard to tell. The tonnes are designed to move to another railhead, so the task still needs to be moved by rail, which our assets will be required to do. But the actual longer term effect of that—does that mean we have got too many wagons or too many trains —

Mr P.C. TINLEY: Or redundant depots.

Mr Mencshelyi: — or redundant depots—is yet to be seen. It is really going to come out of, you know, what happens with freight rates and what happens with investment in infrastructure going forward in that part of the network. A lot of that analysis has not been done, and in a lot of cases you have got to actually see what is going to happen in reality before you can make a decision.

Mr F.M. LOGAN: Can I just ask on that very issue, though, can you give the committee some estimation—you might not have exactly the right numbers—of the tonnes of grain moved on road this year as a result of this year's harvest, compared to the tonnes that will be moved on road after 30 June and at the end of the forthcoming harvest, just so we have got a comparison?

Mr Mencshelyi: After 30 June, we will move an additional—above what we are moving today—500 000 tonnes on road for the remainder of this year with the closure of tier 3. There is a million tonnes on average on the tier 3 that is going to have to move by road to another railhead, so today, on an average crop, if tier 3 were operating, we would probably move 90 per cent of that plus on rail.

Mr R.S. LOVE: Just going back to the Miling line that we were discussing a while ago, the restrictions that might affect the line and, as you said, if the steel is so deficient it may lead to its closure at some point in the future, what do you think that would mean for the growers in and around not just Miling but also Bolgart and all the others bins on that line? Where do you think the alternative grain freight options would be in that area? What effect would that have on your own investment plans for that area?

[11.40 am]

Mr Mencshelyi: A great question, Shane. We did have plans to expand the Miling bin and that was all hinged on it being a rapid-rail facility and with the ability to move tonnes quickly and on a good cycle time to port. With the subjectivity of whether that line will operate into the future, it has curved outland, so we have scaled back the short-term investment at that site. I think the site will be there always—we have invested too much capital there to close it—but how the grain moves out of that site and other sites on that line section to port, we are still looking at what the best options are to get those tonnes to port. So Miling may go to Moora, Calingiri's might go directly to port, Piawaning's might go directly to port down Great Northern Highway. So, it is a factor of two things: what the best freight rate is for growers, but also the capacity to get those tonnes to port in the shortest period of time.

Mr J. NORBERGER: Andrew, in the CBH submission—it is really difficult because there are two Andrews! In your submission, you suggested that CBH is quite confident that the tier 3 lines can be operated economically. I would suggest, obviously, that would have been the underlying reason why you would have made a submission to Brookfield offering to do a sublease, I suppose. I am just interested to know: how did you model the maintenance costs? You obviously would have done your own figures and calculations to arrive at an outcome where you believe it could be done economically. Obviously, the state that they are in at the moment, I am suggesting, you probably would have had to calculate some kind of improvement. So what kind of modelling did you do and what did it show you?

Mr Mencshelyi: Great question, Jan. Coming into the rail space, CBH, obviously, that is not our strength. When we engage with WATCO from the US, they are the ones who really said, "The tier

3 lines, we think they are viable. We run on lines like this in the US and we maintain them and we run economically.” They were the catalyst to actually look at this differently; they brought some other consultants over from the US that do track maintenance and maintain those, what they call, short-line railways, in the US, which have low volume and relatively short sections of track. It is about an annualised maintenance regime. It is about replacing assets that are end of life and really running assets down to end of life and investing the revenues that are derived from the track back into that track and not taking any profit out of it. They were the ones that brought the different methodology and the different mindset. We pulled that together with some other consultant expertise to actually come up with a model to look at how it could be done differently.

Mr J. NORBERGER: It sounds like you are coming back to what you mentioned earlier where you have the above rail and below rail together; you have the single profit centre. So you are saying that the below rail is almost cost neutral or profit neutral because —

Mr Mencshelyi: You need to be able to put all the revenues that are generated from that back into that track. Taking profit out is going to lead to the demise of it, because it is such low volumes.

Mr R.S. LOVE: CBH now are customers in the sense, I suppose, that you rely upon the network for the transport of the grain, but also now have a stronger relationship with the network through fact that you are a rail operator with your partners. Do you think that you have a clear understanding of the current regulatory regime that is in place for the network in Western Australia? How would you manage all of the roles and responsibilities and how do you think that might be improved as both an operator and as a customer?

Dr Crane: Rail regulation.

Mr R.S. LOVE: Rail regulation and also the understanding of all the pricing mechanisms and everything else: access arrangements.

Mr Mencshelyi: I think we have got the PTA, who from managing the lease, are very much in control of managing the performance standards of the track through the lease. We have the ERA, who are there to monitor and regulate the price. We have the Department of Transport, sort of, sitting above that, but in policy area about how things get changed from a policy perspective in terms of the provision of the rail network. And then you have the Department of Treasury, who actually control the ERA. If you want to change anything in the rail access code, then it needs to go through the Department of Treasury. It is quite convoluted from our perspective, in terms of, when we have gone through this journey about whether there is any complete oversight of performance, price and the direction of where the rail network is going. The Office of Rail Safety as well, on the side, being the regulator of safety. When we started this journey, talking to the PTA about what we were getting from performance of road to price; they said, “Well, price is not why. I cannot do anything about the price.” Similarly, the ERA would say that they could set the floor and ceiling, but they could not do much about the performance. It is quite convoluted, and if you could change it and start again you would have one regulator that would manage the whole lot.

Mr R.S. LOVE: A quick follow up on that line; we dealt quite extensively with tier 3 and also tier 2, but you also operate on the standard-gauge line and there are certain legacy issues, which were pointed out to the committee, I think, in terms of the previous operator of the above-rail network having some assets which other operators cannot actually access. Could you outline some of the matters that you would like to see addressed as an operator on the whole-volume lines that by event of some historic accident and changes that have taken place are leaving you in a more difficult position than you would have liked?

Mr Mencshelyi: Sure, so the lease today is basically there to facilitate multiple operators and have an open-access regime. When you get into the nitty-gritty of train operations, the key thing that makes for efficiency and things like maintenance and being able to make longer trains and to do crew changes et cetera are yards. Through the privatisation of Westrail all of the yards on the network were given to the above-rail operator and split away from the below-rail network, and so a new entity like WATCO that came in, having the ability to find places to park trains, maintain trains and do crew changes was extremely limited and it still hampers their operations today. It could be much more efficient if they did have access to those yards. That was, you know, the concept of opening it up to allow others to come in and operate and compete, which would drive better prices for rail freight, but the jewels in the crown, so to speak, were given to one operator.

Mr R.S. LOVE: Thank you.

The CHAIR: Have you got any idea of what proportion of your access fees are for capital works; and how would you describe the condition of the network given the access fees that you are paying?

Mr Mencshelyi: We do not have any transparency about where our fees go and what part is capital and what part is variable cost, operational cost. Through the ERA process we should get some transparency on those things, but in terms of our current commercial agreement, we do not have any transparency on that at all. In terms of how much is getting invested in the track, we have seen just through the SGNR process that the track has been deteriorating since it has been privatised in the grain network and it has taken government to come in and invest capital to bring it back to a standard. Through that process you would assume the amount of capital being put in outside of that is minimal.

Mr F.M. LOGAN: Just in relation to future access to tier 3 lines; it was put to Brookfield about possible subleasing of those lines and they quite clearly are not interested in that and indicated that under the terms of the contract they are the lessee of those lines. But they did indicate that other organisations, and Karara is one of them, that have invested jointly with Brookfield to upgrade access to what was previously a tier 3 rail line, is a model that they would quite willingly negotiate. What is your view on that proposal?

[11.50 am]

Dr Crane: Briefly, it depends on the model on which it is being invested in. If we are going to put growers' money into the lines, we need to know that we have control and oversight of that investment and that is done in a way, in a model, that we suggest is viable. Those would all be the conditions, would be the criteria that we would need to be satisfied on before we put growers' money into railway lines, particularly if someone else has got the lease for them and the government owns them. You know, it is investing in someone else's asset. What would be that long-term control and sustainability that we get in exchange?

The CHAIR: I will ask one very quick question; a final, final question. We understand you presented Brookfield with an offer to lease the lines. Did they give you some reason why your proposal was not accepted?

Mr Mencshelyi: I think, not very good ones, although it was hard for them to pass on the safety obligations that they are under holding the lease with the ORS and as a below-rail accredited operator. They struggled to see how they could do that. Apart from that, it was really just: "We do not want to do that. We want to continue to operate them with CBH and with government investment." That was basically the answer.

The CHAIR: I would like to thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

We probably have not got through all the questions we would have liked to ask, so are you agreeable to us sending you supplementary question?

The Witnesses: Yes.

The CHAIR: Thank you, for your time today.

Hearing concluded at 11.53 am