



ACCC REVIEW – PROPOSED ACQUISITION OF WESTCONNEX STP (INCLUDING TRANSURBAN) DRAFT PROPOSED UNDERTAKING

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 14 AUGUST 2018

Introduction

1. The Australian Trucking Association has raised competition concerns about the proposed acquisition of WestConnex by the Sydney Transport Partners Consortium (STP), including Transurban. This included a submission on 31 May 2018 and a teleconference and supplementary information on 4 July 2018.
2. The ATA is the peak body representing the trucking industry. Its members include state and sector trucking associations, major logistics companies and businesses with leading expertise in truck technology. The ATA represents many thousands of trucking businesses, ranging from owner-drivers to large fleets.
3. The ATA holds significant concerns that the proposed acquisition of WestConnex by STP would substantially lessen competition for concessions to construct, own and operate toll roads in New South Wales:
 - a. Transurban would be substantially advantaged in seeking future toll road concessions in NSW, with more options for funding proposals by proposing an increase in the heavy vehicle multiplier.
 - b. Heavy vehicle operators generally do not have the ability to take alternate routes and as a result would have no option but to pay the increased multiplier.
 - c. Increases in the heavy vehicle multiplier in Sydney would ultimately flow through to other states.
 - d. Increases in heavy vehicle tolls have a significant impact on trucking businesses.
 - e. Despite assertions by Transurban, its heavy vehicle tolls do not merely cover the cost of road wear by heavy vehicles.
 - f. Government incentives to constrain Transurban's heavy vehicle charges would continue to erode.

Transurban's draft proposed undertaking

4. On 9 August 2018 the ACCC released a draft proposed undertaking by Transurban, with a request for submissions.
5. The draft proposed undertaking would require Transurban to publish traffic data from its NSW toll road network and appoint an independent auditor to produce compliance reports to the ACCC in relation to Transurban's compliance with the undertaking.

Impact of the draft proposed undertaking on Transurban's competitive advantages

6. **The draft proposed undertaking does not address any of the six competition concerns raised by the ATA.**

7. Providing public access to traffic data would not overcome the competitive advantage that Transurban has from proposing new toll road concessions to be partly funded by increases in the heavy vehicle multiplier elsewhere on the Transurban network.
8. There would be no further constraints or disincentives on Transurban to propose higher heavy vehicle tolls to state governments in the future, including possible increases on WestConnex and the wider Transurban NSW network.
9. Additionally, there would be no change to the outcome where heavy vehicle operators generally do not have the ability to take alternate routes, and the increasing use of regulations by governments to ban alternate routes.

Advantages of competitive toll road concessions

10. Ultimately, the proposed Transurban acquisition would make it more difficult for a competitor toll road operator to be established in Sydney. The draft proposed undertaking would not alter this and would significantly reduce the likelihood of a competitive arrangement developing in the future.
11. An example of the potential outcomes from allowing for competition in toll road operation can be seen with the focus and outcomes from the operation of Melbourne's EastLink, which does not include Transurban. EastLink:
 - a. Has the lowest toll road prices in Australia.
 - b. Does not automatically adopt the latest Transurban truck toll multiplier. The EastLink truck toll multiplier appears to be about 2.65, which is lower than all recent Transurban agreements with governments.
 - c. The concession actually provides for tolls to decrease if CPI is negative.
 - d. Has brought a particular focus to managing the corridor by enabling the development of freight, industrial and employment zones, investing in local public transport upgrades, and providing the fastest average speed of any road in Melbourne.