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DATE RECEIVED



Treasury

Our Reference: TRX-06739

Mr J Hall
Chief Executive
Queensland Competition Authority
GPO Box 2257
BRISBANE QLD 4001

Dear Mr Hall

I refer to the *Draft Criteria for the Identification of Non-Government Monopoly Business Activities*, released for comment on 4 September 2008.

Treasury is generally supportive of the draft criteria outlined in the document.

Treasury supports the Queensland Competition Authority's (QCA) definition of a non-government business activity as a service provided by a facility. However, Treasury does not consider the definition of 'facility' in the *Queensland Competition Authority Act 1997* (QCA Act) to be exhaustive. For example, it is possible that carbon pipelines and storage infrastructure could at some stage in the future be considered as a 'facility', within the current definition of the QCA Act.

The discussion accompanying the draft guidelines indicate that a 'facility' is limited to the infrastructure examples given in the QCA Act or infrastructure of a similar nature. Consistent with this discussion, Treasury would suggest that criteria b) be clarified to include:

The business activity involved services provided by means of a facility and is carried on by a person other than a government agency. A facility includes: rail transport infrastructure; port infrastructure; electricity, petroleum or gas transmission and distribution infrastructure; and water and sewerage infrastructure, including treatment and distribution infrastructure, or infrastructure of a similar nature.

For non-government business activities, Treasury supports the inclusion of the criterion 'if the evidence regarding rivalry and barriers to entry is inconclusive, there is evidence that the provider of the activity is exercising substantial market power'. This criterion clarifies that the intervention should only be considered where vigorous competition is not evident and is not solely dependent on the level of profits being earned as a single indicator.

Thank you for the opportunity to comment on the draft guidelines. If you would like to discuss these comments further, please contact Ms Louise Dunne, Principal Treasury Analyst, on (07) 3225 8717.

Yours sincerely



Gerard Bradley
Under Treasurer