



7 May 2010

Mr Paul Bilyk
Director Rail & Ports
Queensland Competition Authority
Level 19, 12 Creek Street
Brisbane Qld 4000

Dear Paul,

Re: QR Network Pty Ltd's 2010 Draft Access Undertaking

On the 15th April 2010 QR Network withdrew its Draft Access Undertaking (DAU) and submitted a new DAU. On the same day the QCA issued a Notice of Investigation and requested comments on the DAU. In accordance with the terms of the Notice of Investigation, DBCTM hereby offers the following comments.

DBCTM notes that an inconsistency regarding investment obligations has existed between infrastructure service providers on the Goonyella Coal Chain since the sale of DBCT in 2001. This inconsistency effectively requires the owners of DBCT to expand the terminal in response to bona fide access applications in accordance with the approved access undertaking, including the return on capital. However, there is no similar obligation for either the above or below rail service providers to expand their capacity.

As the above rail market is an unregulated, competitive environment, DBCTM holds the view that it is entirely reasonable that commercial imperatives dictate the timing and pricing of further expansions of above rail capacity. The same argument can not be made for the below rail network.

The below rail network of Queensland is a true monopoly. In terms of port services, some users of DBCT have the option to use an alternative port to the south, and may soon have a further alternative to the north. However, any coal producer wishing to export coal out of Queensland has no alternative to the below rail service of QR Network.

The inconsistency between the respective investment obligations of QR Network and DBCT imposes a real asset stranding risk on the owners of DBCT. Under DBCTM's obligations to both the Government and the QCA, it is entirely possible that further expansions of DBCT may be required which are not supported by corresponding development of the below rail network. While customers of DBCT would be required to commit to take-or-pay contracts in advance of the construction of incremental capacity at DBCT, the Standard Access Agreement for DBCT only requires a contractual commitment for 10 years. This is despite the economic life of DBCT for the purposes of calculating depreciation expiring only at the end of June 2054.

While the current Revenue Cap approach to economic regulation at DBCT should in theory provide security for DBCTM in the event that expiring contracts are not renewed, there is a significant risk that a substantial withdrawal of contracted capacity at DBCT might impose an excessive burden on the remaining Access

Holders. In this situation DBCTM would have no option other than to under-collect against its Revenue Cap.

Where the Government of Queensland retains a majority share of the company which owns and operates the below rail network, DBCTM remains relatively comfortable with the above inconsistency. Under Government control, DBCTM has confidence that the below rail network will be managed and expanded in accordance with the overarching interests of the economy and state development objectives. However, where a majority stake is held by private interests, it would be appropriate to assume that commercial imperatives will drive investment decisions. It is entirely possible that a new, private owner could withhold investment for reasons other than those related to an economic evaluation of the proposed capacity expansion, such as constraints or competing demands on its own capital.

DBCTM wishes to request that the QCA consider imposing investment obligations on QR Network similar to those already in place for DBCTM. The QCA has previously confirmed the view that it is reasonable for DBCTM to be required to expand DBCT at the regulated rates of return where access seekers are prepared to commit to binding take-or-pay agreements which underwrite the required capacity. Given the announced intentions of the Government to consider a sale of the below rail assets, now is the appropriate time to consider imposing the same obligation on the owners of the below rail assets.

DBCTM notes that the form and structure of any potential sale of QR Network is uncertain and may change between the time the QCA considers these matters and when the ultimate sale takes place. Furthermore, DBCTM is aware that there is a need to have an approved undertaking in place prior to the expiry of QR Network's current regulatory period at end June 2010. Accordingly, and given the complexities involved with resolving the above issues in the limited time available, DBCTM suggests that a reset trigger could be included in any approved DAU which would require a reset of the access undertaking at any time the Government's ownership of the below rail assets falls below 50%.

As another component of the Goonyella Coal Chain moves toward private ownership it is critical that steps are taken now to align the future investment obligations of the key service providers.

DBCTM is pleased to have had the opportunity to contribute to the review of QR Network's DAU and looks forward to the QCA's response.

Yours sincerely

DBCT Management



Russell Smith

Chief Executive Officer, DBCT Management Pty Ltd
Chief Operating Officer, Prime Infrastructure