

Our Reference: TRX-12931

21 MAY 2010

Mr J Feil
Executive Director
National Competition Council
GPO Box 250
MELBOURNE VIC 3000



Dear Mr Feil

The Honourable Andrew Fraser MP, Treasurer and Minister for Employment and Economic Development, has today released a document, "Railing Queensland's coal – a new era for Queensland's coal export industry", which outlines the legislative amendments that the Queensland Government is proposing to make to the Queensland access regime. I attach a copy for your information.

These amendments include:

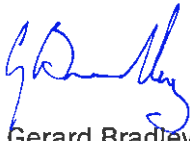
1. A new explicit requirement in the *Queensland Competition Authority Act 1997* (QCA Act) that vertically-integrated access providers must not unfairly discriminate between access seekers in negotiating with access seekers, under an access undertaking, or between access holders in providing access.
2. A requirement that Access Undertakings of vertically-integrated access providers set access charges to only recover those costs reasonably attributable to the access service to prevent anti-competitive cost-shifting, cross-subsidies and margin squeezing.
3. New powers will be given to the QCA to supplement existing powers of investigation and to improve the timeliness of regulatory processes:
 - As a supplement to existing powers of investigation, the QCA Act will be amended to give the QCA enhanced power to require an access provider to give information to enable the QCA to assess whether the access provider is complying with an approved Access Undertaking
 - The QCA Act will be amended to strengthen the ability of the QCA to impose financial penalties on an access provider in the event of a failure to provide information requested by the QCA in the approval of an access undertaking

- To improve the timeliness of regulatory processes, the QCA Act will specifically provide that the QCA is able to make decisions based on the information available to it
 - To improve timeliness, the Act will be amended to allow the QCA to prepare an access undertaking itself when an access provider of a declared service has not prepared a compliant voluntary access undertaking. The QCA will be able to prepare the undertaking without restarting the process, by way of issuing an undertaking notice
4. To complement these changes to the access regime, the Government will also be legislating protections in the *Transport Infrastructure Act 1994* which are specific to QR National's corporate governance framework:
- A requirement that the majority of directors of QR Network's Board must be independent of the executive management of the QR Group
 - A requirement that access agreements between QR Network and its related entities be approved in advance by the QR Network Board
 - That directors must not approve an access agreement with QR National unless the directors are reasonably satisfied the agreement is on arm's length terms

Draft legislation containing these and other proposed amendments will be released for public consultation in the coming weeks.

The Treasurer also announced the release today of a draft amendment regulation which proposes to amend the *Queensland Competition Authority Regulation 2007* to revise the declaration of the services provided by the use of rail transport infrastructure in Queensland. The declaration for the coal networks has been revised from an ownership based declaration to an asset based declaration. The draft regulation and Consultation Paper is available on Queensland Treasury's website. Submissions on the draft regulation close on Friday, 18 June 2010. It is the intention that a final regulation be recommended to the Governor-in-Council on 1 July 2010.

Yours sincerely



Gerard Bradley
Under Treasurer

Encl.