



BHP Billiton Mitsubishi Alliance

Professor Roy Green
Chairman
Queensland Competition Authority
Level 27, 145 Ann Street
Brisbane QLD 4001

23 September 2016

Dear Professor Green

Response to QCA's Draft Decision – Aurizon Network's resubmitted 2014 DAU

BMA supports the QCA's draft decision on Aurizon Network's resubmitted 2014 DAU and continues to support a timely approval of UT4.

BMA has provided comments on particular aspects of the draft decision to assist in the decision-making process (**Table 1**). BMA's comments are limited, given the extensive consultation and comments already provided throughout the 2014 DAU process to date. On this, BMA notes core principles underlying WIRP pricing have been canvassed in some detail, both individually and as part of the overall 2014 DAU pricing arrangements. Similarly, stakeholders have provided comprehensive comments on drafting matters for the undertaking (and associated documents) in their initial assessments of the 2014 DAU, and in response to the QCA's draft decisions.

More generally BMA notes that having the current process occur at this late stage in the 2014 DAU assessment, provides further evidence and even greater impetus for improving DAU assessment processes in future. A repeat of the 2014 DAU process is not just undesirable, but actually unfeasible from a cost and risk perspective for everyone.

On this, BMA is encouraged by the QCA's 'Statement of Regulatory Intent' which outlines the intended approach to managing the assessment of UT5, including the approach to stakeholder consultation. This framework, along with practical implications of approaches tried and tested during the 2014 DAU process, will assist in supporting a more effective process for assessing UT5.

BMA remains committed to engaging with the QCA, Aurizon Network and industry going forward and as part of the development of UT5. If you require any further information, please feel free to contact Emma Green on 07 3329 2585. BMA confirms this submission is not confidential and can be published as part of the consultation process.

Yours sincerely

Geoff Streeton
Head of Business Development
BHP Billiton Mitsubishi Alliance

Table 1: Comments on particular aspects of the QCA’s draft decision

QCA draft decision	BMA comment
1. WIRP Pricing	<p>BMA supports the QCA’s decision – it would not be appropriate to refuse to approve Aurizon Network’s amended 2014 DAU on the basis the WIRP fee is not deducted from the applicable tariff.</p> <p>In particular, BMA supports:</p> <ul style="list-style-type: none"> • careful consideration being given to amendments that have the potential to reduce certainty for access holders and increase cost and risk, this includes deviation from settled principles within a regulatory period or across consecutive ones; • arrangements that place primacy on commercial arrangements agreed to between parties and provides appropriate mechanisms for resolving disputes in the event parties cannot agree on terms as part of the negotiation process.
2. Drafting amendments	<p>BMA supports the QCA’s decision – to approve the drafting amendments in the amended 2014 DAU on the basis the amendments reflect underlying policy intent of the QCA’s final decision.</p> <ul style="list-style-type: none"> • BMA notes some outstanding concerns industry has with drafting will be dealt with via a separate amendment to the undertaking (once approved); • BMA will revisit any further drafting concerns during the upcoming UT5 process in the context of the broader regulatory arrangements being considered.