

In December 2018, the QCA released a decision to not approve Aurizon Network's 2017 Draft Access Undertaking (2017 DAU).

The QCA's decision was based on the evidence and information available, having regard to the statutory assessment criteria.

Statutory assessment criteria

The QCA may approve a DAU only if it considers appropriate to do so having regard to each of the factors listed under s. 138(2) of the QCA Act. These factors include: the legitimate business interests of the owner or operator of the service; the public interest; and the interests of persons who may seek access to the service.

In some cases, the QCA's assessment gives rise to competing considerations. In such cases, the QCA has weighed up the competing considerations as appropriate.

Consultation

The QCA has consulted extensively on Aurizon Network's 2017 DAU and provided numerous opportunities for interested parties to put forward their views on the merits of Aurizon Network's proposal and potential alternatives. This included opportunities for stakeholders to collaborate, discuss and, where possible, reach consensus on issues. The QCA also sought, and received, additional information where this was necessary.

Timeframes for assessment

The QCA commenced its investigation into Aurizon Network's 2017 DAU in November 2016.

The QCA must use its best endeavours to make its decision within six months, excluding: consultation periods; periods where stakeholders are responding to formal information requests; or periods otherwise

agreed to be excluded by Aurizon Network and the QCA. The QCA has met this requirement.

Nonetheless, the timeliness of the regulatory process has been impacted by several factors.

Over the course of this process, a significant amount of time was spent undertaking consultation; and seeking additional information and clarification, where necessary (representing about two thirds of the total time taken). Key dates and timeframes are outlined in the table below.

The QCA's decision was also delayed by Aurizon Network's judicial review application on the draft decision. The QCA intended to issue its decision in September 2018, but decided to delay making its decision, pending the outcome of court proceedings.

Next steps

The QCA's decision constitutes a secondary undertaking notice that requests Aurizon Network to amend its 2017 DAU in accordance with the decision and submit it to the QCA within 60 days.

If Aurizon Network complies with the secondary undertaking notice, the QCA may approve the amended DAU.

If Aurizon Network does not comply with the secondary undertaking notice, the QCA may prepare its own DAU for the declared service, in accordance with s. 135 of the QCA Act. The QCA will provide advice to stakeholders on the way forward for that process, should it become necessary.

Further information

The QCA's decision on Aurizon Network's 2017 DAU, along with all stakeholder submissions and other relevant materials can be accessed at www.qca.org.au

Proportion of time used during the QCA's assessment of Aurizon Network's 2017 DAU



Aurizon Network's 2017 Draft Access Undertaking: QCA Decision

Key milestones — Aurizon Network's 2017 DAU investigation

Key milestones	Key dates and timeframes
Aurizon Network submits its 2017 DAU	30 November 2016
Notice of investigation	2 December 2016
Stakeholder submissions on Aurizon Network's 2017 DAU — consultation period	2 December 2016 to 17 February 2017
Collaborative consultation period	17 February 2017 to 17 March 2017
Issuance of a notice to produce information under s. 185 of the QCA Act — maintenance information	10 April 2017 to 31 May 2017
Period of time agreed with Aurizon Network to be excluded — maintenance information	31 May 2017 to 21 August 2017
Period of time agreed with Aurizon Network to be excluded — late information	22 September 2017 to 14 November 2017
QCA draft decision	15 December 2017
QCA draft decision consultation period	15 December 2017 to 12 March 2018
Issuance of a notice to produce information under s. 185 of the QCA Act — maintenance information	15 May 2018 to 5 June 2018
Maintenance matters (request for comments) — consultation period	29 May 2018 to 20 June 2018
Proposal to change the averaging period (request for comments) — consultation period	26 June 2018 to 10 July 2018
Period of time agreed with Aurizon Network to be excluded — maintenance information	10 July 2018 to 31 July 2018
Period of time agreed with Aurizon Network to be excluded — following notice of intention to issue a final decision	22 August 2018 to 5 December 2018
QCA final decision	6 December 2018