



AUSTRALIAN RAIL TRACK CORPORATION LTD

Ref No:

18 March 2011

Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Email: rail@qca.org.au

QR Network 2011 Draft Amending Access Undertaking

ARTC Submission

Thank you for the opportunity to make a submission with respect to the QR Network Draft Amending Access Undertaking submitted by QR Network dated 24 December 2010 (2011 DAAU), and a proposed standard user funding agreement (SUFA). Australian Rail Track Corporation's submission is attached. The preparation of this submission follows substantial participation by ARTC with regard to Queensland Competition Authority (Authority) consultations in relation to the previous access undertakings to apply to the rail network in Queensland owned by Queensland Rail.

ARTC notes more recent correspondence from the Authority indicating that the Authority has formed a view that no submission that complies with clause 7.6(a) of QR Network's 2010 Access Undertaking (2010 AU) has been made within three months of the date of approval of the 2010 AU (1 October 2010) and that the Authority is exercise its powers under clause 7.6(b) to develop a proposed SUFA and amendments to the Investment Framework forming part of the 2010 AU. The Authority has indicated that it will continue with the assessment of the 2011 DAAU in accordance with section 142 of the QCA Act.

You would be aware that ARTC is currently working towards finalising its 2010 Hunter Valley Coal Network Access Undertaking (2010 HVAU) currently being reviewed by the ACCC. This has been a very drawn out and complicated process involving substantial consultation with the ACCC and industry stakeholders. At this time, ARTC has not been able to undertake any detailed assessment of the SUFA proposed by QR network, and is not in a position to present any detailed views on it. In any event, it is likely that parties that will

AUSTRALIAN RAIL TRACK CORPORATION LTD ACN: 081 455 754

Off Burbridge Road, Passenger Rail Terminal Rd, Mile End SA 5031; PO Box 10343, Gouger Street, Adelaide SA 5000
Tel : (08) 8217 4366 Fax: (08) 8217 4578 E-Mail: track@arcom.com.au

ultimately enter into such agreements would be in the best position to comment on the SUFA. QR Network has indicated that it considers the proposed SUFA has been developed consistently with the Investment Framework Principles (IFP) incorporated in the 2010 AU and, where QR network has concerns with the IFP, these have been explained in QR network's submission.

ARTC's submission will therefore be focussed on the Investment Framework Principles and its related experiences in the Hunter Valley and in the development of the 2010 HVAU.

The submission contains no information considered 'commercial-in-confidence'.

For further information regarding the preparation of this submission, could you please contact myself on (08) 82174314, sormsby@artc.com.au or Mr. Glenn Edwards, (08)82174292 (Ph), gedwards@artc.com.au.



per

Simon Ormsby
General Manager Commercial

QR Network 2011 Draft Amending Access Undertaking (2011 DAAU)

ARTC Submission

QR Network has submitted to the Queensland Competition Authority (Authority) its proposed 2011 DAAU to apply to the below rail network assets now owned by QR Network. The 2011 DAAU largely incorporates a proposed standard user funding agreement (SUFA) that QR Network has asserted has been developed consistently with the Investment Framework Principles (IFP) incorporated in the QR Network 2010 Access Undertaking (2010 AU) approved by the Authority in October 2010, and a number of concerns and issues raised by QR Network in relation to those Investment Framework Principles.

ARTC notes that the primary application of the 2011 DAU would be to the networks forming part of the export coal supply chains operating in central Queensland. Over the last 2 years, ARTC has been developing, in consultation with relevant stakeholders, its Hunter Valley Coal Network Access Undertaking (2010 HVAU), with primary application to the Hunter Valley export coal supply chain. The main focus of the consultation has been around providing for greater alignment in the commercial (contractual) arrangements between coal producers and infrastructure providers, primarily in the areas of capacity development and allocation, in order to increase certainty around access to the coal supply chain.

The consultation that has occurred with stakeholders, and recently with the ACCC following the release of its Position Paper on the 2010 HVAU in December, has resulted in substantial changes to the access undertaking originally contemplated by ARTC. Many of these changes have resulted from the pursuit by the coal industry (as well as ARTC and the ACCC) of the long term solution contemplated in the 2009 Greiner Review of the Hunter Valley coal supply chain. Fundamental to the long term solution is an increase in certainty for access to both the rail network and port facilities needed to underpin capacity investment. Areas that have undergone substantial change in this regard have been described in a previous ARTC submission¹ to the Authority.

With this in mind, ARTC has proposed to put in place long term take-or-pay track access agreements directly with coal producers and other access seekers. These agreements which will underwrite long term investment in track capacity (to meet forecasted export coal demand) depend on coal producers having in place long term capacity commitments with terminal operators.

¹ QR Network 2009 Draft Access Undertaking, ARTC Submission to the Draft Decision by the Authority.

ARTC recognises and supports the need for contractual alignment across the Hunter Valley coal chain which will assist in increasing certainty of access for coal users and promote efficient investment in capacity expansion. However, ARTC believes it is important to recognise that achieving contractual alignment does not necessarily mean the contractual arrangements need to be uniform across agreements with different service providers. Doing so may unnecessarily constrain flexibility needed in relation to the provision of access by a service provider. In developing the detailed arrangements for capacity allocation, management and investment in the 2010 HVAU, ARTC has sought to maintain sufficient flexibility to cater for the access and capacity arrangements that may be sought by other service providers. In doing so, ARTC is seeking to enable **working** alignment and consistent access arrangements between providers of different types of infrastructure and services, rather than uniform arrangements.

Investment approach under the 2010 HVAU

As part of the development of, and consultation on, the 2010 HVAU, ARTC has developed, with the ACCC and the coal industry a framework for future investment in the Hunter Valley Coal Network (Network). Features of the framework include:

- Capacity analysis in consultation with the Hunter Valley Coal Chain Coordinator (HVCCC) to identify the need for additional capacity both arising from an application for access and as part of the ongoing development of a formal capacity investment strategy with the industry.
- An ability for an applicant, ARTC or the HVCCC to propose an investment in additional capacity and a transparent, consultative mechanism for delivery of that capacity on a prudent basis in terms of cost and timing.
- A forum, driven by industry, where all proposals for additional capacity can be reviewed, developed and endorsed by the industry. The forum consists of representatives of all coal producers roughly in proportion to utilisation of the Network, rail operators and the HVCCC. Voting to endorse the cost and timing of project development and delivery is aligned to utilization of the relevant part of the Network and involves voting thresholds.
- Through that forum, a structured and consultative approach to the development and endorsement of a formal corridor capacity strategy, with mechanisms to facilitate alignment of rail capacity investment with capacity investment at the port.

- Provision of a structured and transparent project development process, controlled by the industry, involving the provision of stages of project development each providing for detailed reporting by ARTC and stage endorsement by the industry.
- Incentives for ARTC to prudently deliver projects on budget and on time, with mechanisms to deal with variations that may arise, including independent adjudication in relation to prudence of the variation if needed.
- Deeming of investment expenditure that is endorsed by the industry as prudent for inclusion in the regulatory asset base.
- An ability to deliver projects through a tendering process, through an alliance or internally.
- An option for ARTC to not invest where it considers an investment to not be commercially viable, the investment does not meet ARTC's legitimate business interests, does not provide for the economically efficient operation of the Network, or is not technically feasible or safe.
- Where ARTC elects not to fund an investment for reasons of commercial viability, an obligation to work with a proponent towards alternative means to deliver the capacity, including an offer for the proponent to make a capital contribution. Where a capital contribution is made, an obligation on ARTC to ensure equitable treatment in relation to capital contributor, ARTC and other users of the capacity.

ARTC believes that the framework proposed in the 2010 HVAU provides for efficient investment in the Network that delivers greater certainty of access to users of the network in the future, greater certainty of recovery by ARTC, and more industry involvement and control over future investment in the network.

Both ARTC and the ACCC recognize that where ARTC is not in a position to invest in additional capacity, the industry must have some certainty and clarity in relation to being able to invest itself in the network so that it can ensure track capacity is development in alignment with investment in other parts of the Hunter valley coal chain.

To address ACCC issues raised in the Position Paper, ARTC is continuing to work with the ACCC in developing, through the 2010 HVAU, a capacity investment framework that provides for:

- the Hunter Valley Corridor Capacity setting out the investment strategy for the Hunter Valley coal network;

- ARTC to identify, fund and construct additional capacity;
- the HVCCC to recommend investments to provide additional capacity;
- an applicant to pursue investment needed to facilitate access to the network
- user-funding to be available as an option in certain circumstances;
- rights and obligations of all relevant parties under these different investment mechanisms to be clearly and logically set out, including:
 - when ARTC is obliged to fulfill obligations and make decisions, as well as when ARTC will be bound by its decisions, and the criteria on which those decision will be made; and
 - where an access seeker or group of access seekers ability to fund an investment will be triggered, including the criteria on which ARTC will base its decision on whether to consent to the investment, and the principles of equitable reconciliation that will apply to a user funded investment;
- a best endeavours obligation for ARTC to agree a user funding agreement consistent with certain principles relating to principles of equitable reconciliation that will apply;
- further clarity around how a project is initiated, commences industry consultation, voting on project timing and cost; and
- increased transparency around ARTC's decisions on whether to fund an investment.

Some relevant underpinning principles of the capacity investment framework are:

- ARTC will consent to additional capacity where certain criteria are met, including commercial viability;
- the decision to consent to additional capacity and the decision to fund additional capacity are separate decisions;
- ARTC has the first option to fund additional capacity;
- where ARTC elects not to fund additional capacity, an applicant or the industry may fund the additional capacity;

- the capacity development and endorsement process is largely controlled by the industry;
- where additional capacity is endorsed by the industry, it is prudent, included in the Regulatory Asset Base (RAB) and investment cost will be socialized amongst users;
- where additional capacity is not endorsed, it may be approved as prudent by the ACCC, included in the RAB and the investment cost is socialized amongst users;
- where prudent investment is funded by users, the cost of capital collected the access charges will be refunded to funding users on an equitable basis; and
- where additional capacity is not prudent, it will not be included in the RAB.

ARTC is not proposing to incorporate a 'standard' user funding agreement in the 2010 HVAU, as has been provided for under the 2010 AU. In its Position Paper, the ACCC has indicated that it *'does not consider it necessary for the proposed 2010 HVAU to provide the same level of prescription as considered necessary by the QCA in relation to QR Networks'*². The ACCC based this view on a statement by the Authority in its Final Decision on the 2010 Draft Access Undertaking that:

*'It is also now a matter of the public record that the counterparties to those access negotiations are significantly dissatisfied with how some of the negotiations [in relation to required expansions of the QR network] have progressed in the past and that the undertaking has been deficient in assisting them to address their concerns. These coal and train companies are particularly concerned about how negotiations may progress in the future without significant protections being added to the 2010 access undertaking.'*³

The ACCC indicated that the past behaviour of ARTC had not been raised in submissions.

The ACCC indicated however that a 'user funding agreement' should be explicitly referred to in the 2010 HVAU, which was consistent with principles of equitable reconciliation specified in the 2010 HVAU; that ARTC should use reasonable endeavours to agree the agreement, and that negotiation of the agreement should be subject to ACCC arbitration.

The ACCC has also left room, at an appropriate juncture, for provision of a pro-forma deed, if considered necessary.

ARTC has no strong objection to the above ACCC views.

² ACCC, Position Paper, ARTC Hunter Valley Rail Network Access Undertaking, 21 December 2010, p375.

³ Queensland Competition Authority, Final Decision – QR Network's 2010 DAU, September 2010, p. 25.

ARTC comments in relation to the IFP in the 2010 AU (and QR Networks' concerns)

Where relevant, ARTC's comments in relation to the proposal are made in the context of the framework developed by ARTC and the industry in the Hunter Valley.

ARTC notes that the circumstances giving rise to the proposed investment framework are not dissimilar to the circumstances that have arisen in the Hunter Valley. In the broader sense, regulators are tasked with setting a rate of return in relation to infrastructure investment that adequately compensates an infrastructure provider, and investors, for the commercial and operational risk associated with an investment. The setting of the regulated return often results from a consultation amongst parties with different interests and is often an estimate based on an economic framework that requires a fair degree of subjective assessment and reference to benchmarks or precedents that may be more or less relevant to the circumstances at hand. As such, there is likely to be a moderate risk of regulatory error.

In addition, for an infrastructure owner to invest, it is necessary that investors, at the time, have the same view as to the investment risk as that taken by the regulator, and have an appetite to invest. In the current uncertain investment financing climate, which is likely to persist for some time yet, if not permanently, there is no certainty that an infrastructure owner will be able to obtain financing for an investment at the regulated rate of return.

The 2010 AU, explicitly recognizes this through provision for QR Network to seek Access Conditions (for approval by the Authority) where it believes the risks associated with a particular investment vary from those used to determine the regulatory return. Access Conditions can include uplift of the return. Similar arrangements are not provided for in the 2010 HVAU.

ARTC, in access undertakings to date, has consistently proposed that its obligation to invest should be subject to the investment being commercially viable and in ARTC's legitimate business interests. This is consistent with ARTC's understanding of the provisions of the Trade Practices Act 1974⁴ and the Competition Principles Agreement 1995⁵. ARTC is not aware of the ACCC objecting to this premise. ARTC's access undertakings, as well as the NSW Rail Access Undertaking currently applying to the Hunter Valley coal network, do not preclude a user making a capital contribution. In the Hunter Valley, no user has proposed to make a capital contribution since ARTC became the network manager in 2004, and ARTC is not aware of a capital contribution have been made in the 5-10 years preceding its lease. ARTC expects that investment in the network by parties other than the infrastructure owner will be an infrequent event going forward.

⁴ s44W.

⁵ s6(4)(j).

As such, ARTC supports QR Network's proposals to seek alternative mechanisms to invest, where the investment risk is not adequately compensated by the related return (access conditions), and supports the proposition that a proponent for an investment should be able to make a capital contribution where QR Network elects not to fund an investment.

Obligation to Invest

1. Consistent with the above, ARTC supports the premise that QR Network should not be forced to fund an extension or an expansion.
2. ARTC notes that the IFP require QR Network to fully fund where the investment cost is less than \$300 million, or a shortfall (up to \$300 million) in the ability of users to fund investments in excess of \$300m. The 2010 HVAU contains no such obligations where ARTC's obligation to fund is subject to prescribed commercial viability criteria. ARTC considers that any obligation to fund by QR Network should be underpinned by Access Conditions that have the effect of ensuring that the funding is commercially viable to QR Network. It is not clear from the IFP that, where QR Network is obliged to fund, such Access Conditions, if any, are available.

ARTC notes that QR Network has also raised concerns in relation to being obliged to provide funding on behalf of a user that is unable to raise finance on reasonable terms up to an aggregate amount of \$300 million over the term of the 2010 AU. ARTC agrees with QR Network that this obligation on the part of QR Network, seemingly intended to protect the interests of smaller users and enhance competition, does not appear to be consistent with promoting economically efficient operation and use of, and investment in, significant infrastructure by which services are provided, with the effect of promoting competition in upstream and downstream markets. ARTC agrees that QR Network should not be using its own funding (irrespective of whether the use of that funding is commercially viable and in QR Network's reasonable commercial interests) to promote competition on its network per se, particularly where alternative more efficient funding can be obtained.

User Ability to Fund

3. ARTC supports users having a right to fund extensions or expansions, but is not convinced that the right should be at the option of the user. ARTC believes that the infrastructure owner should be able to invest in its own infrastructure in the first instance if it wishes to do so. Further, any right of a user to fund an extension or expansion should still be subject to other provisos in relation to the extension or expansion such as

technical feasibility, economically efficient operation of the network, and the legitimate business interests of the owner.

ARTC intends that it has first option to fund under the 2010 HVAU.

ARTC notes that QR Network has also raised concerns with this 'foundation premise' of the IFP that a user has the right to fund an investment even where QR network is willing to do so. ARTC notes and supports the arguments put forward by QR Network in its submission.

Undertaking Coverage

4. As stated earlier, ARTC does not believe a 'standard' user funding agreement is necessary. ARTC does not believe user funding will be a frequent event so there should be no need for a standard agreement. With the ability to seek Access Conditions under the 2010 AU, user funding may well be less frequent in Queensland (that is, QR Network may be more likely to invest). ARTC considers that it is more likely that a user will seek an arrangement that is tailored to the specific circumstances of an investment, and in any event, having greater flexibility in negotiation may give rise to more innovation in the way infrastructure is delivered. ARTC notes that the IFP do not preclude the negotiation of terms and conditions other than those prescribed in the SUFA.

Network Investment

5. As stated earlier, ARTC supports users having a right to fund extensions or expansions, but the infrastructure owner should have first option to fund. ARTC is not convinced that there should be a distinction drawn at \$300m with respect to QR Network's ability to decline to fund for financing reasons, particularly if the ability to seek Access Conditions does not apply to all investments. These principles should apply for all investments (including the users' right to fund the investment), which is consistent with the approach taken in the 2010 HVAU.
6. ARTC has no issue with the requirement to publish a *reasonably* comprehensive statement as to the reasons for electing not to fund *subject to any confidentiality requirements*. This is broadly consistent with transparency under the 2010 HVAU.
7. ARTC agrees in principle with the idea that all potential users should be given the opportunity to participate in the funding of an extension or expansion but it is not clear how this could be manageable in practical terms. That is, who will determine whether

someone was given a fair opportunity to participate (for example, if the complainant says the terms were unreasonable who will resolve this; QR Network, the Authority or the consortium of parties funding)?

8. ARTC agrees that users funding an extension or expansion should be compensated for their investment by any users of the capacity created by the investment who did not participate in the user funding. However, such compensation should not disadvantage QR Network in any way. In other words, if QR network is unable to make a regulated return from existing capacity, an investor in an expansion should not be able to recover a regulated rate of return from just the extension or expansion. As QR Network has taken the risk on market growth sufficient to recover fixed cost associated with the existing capacity, QR Network should also obtain the benefit of additional revenue earned through the extension or expansion to recover fixed cost on existing assets either ahead of, or at least on par with, revenue being allocated to recover cost of the extension or expansion. In other words, a third party investor should face the same risk in investing as QR Network would have faced had it invested. This principle underpins 'equitable reconciliation' as contemplated under the 2010 HVAU.

ARTC notes that QR Network has raised a concern that the IFP do not provide for the access provider to be compensated for the non-systemic risks its bears in relation to an investment funded by users, where the user is compensated by refunding the portion of access charges covering depreciation and return on capital. ARTC agrees that the access provider is then required to bear all residual regulatory and commercial risks without compensation. This would seem to leave the access provider commercially worse off as a result of the investment in the extension or expansion and would not represent an equitable or fair proportioning of responsibility.

To the extent these risks exist, ARTC would support either incorporating the cost of dealing with this risks in the amount retained by the access provider or reducing the amount paid to the user to compensate the access provider for bearing these risks.

9. ARTC has no issue with users funding the extension or expansion having first right of refusal over any excess capacity created by the expansion (that is additional capacity is not considered prudent), but not any pre-existing excess capacity, as long as effective anti-hoarding and capacity resumption provisions are in place. This is broadly consistent with the approach in the 2010 HVAU.
10. ARTC has no issue with users having an ability to fund any funding shortfall (a variation to the investment cost) that has been identified, subject to QR Network having the first option to fund. This is broadly consistent with the approach in the 2010 HVAU.

11. It should be noted that, under the 2010 HVAU, where additional capacity is considered prudent by either industry (through endorsement) or the ACCC, the investment cost is socialized amongst all users (through access pricing). This is the case even if the investment cost is met fully or partially through user funding. Where this occurs, there is no priority for funding parties (as effectively they will be compensated by all users).

Ownership

12. ARTC notes that the IFP do not in most cases distinguish between treatment of expansions and extensions, except in the case of a Customer Specific Branch Line (to a sole loading facility). The 2010 HVAU only covers additional capacity, and connections to what it defines as extensions which may include Customer Specific Branch Lines. To this end, ARTC supports QR Network having ownership and operating responsibility for the network including user funded extensions. ARTC agrees that users should have the right to own and operate Customer Specific Branch Lines where solely funded by the user. QR Network should retain ownership and operating for the connection however.

13. ARTC agrees that QR Network should not get the benefit of the capital cost associated with an extension, except where the network is considered to have an economic life greater than the physical life of the extension and there is an expectation that the infrastructure owner will need to replace the extension at some point. In this case, the infrastructure provider should be able to retain depreciation in relation to the expansion.

Construction

14. ARTC agrees that QR Network should construct all expansions and extensions other than Customer Specific Branch Lines funded solely by the customer.

15. ARTC agrees that only prudent cost overruns should normally be incorporated in the regulatory asset base and, where possible, passed on to users. This is similarly provided for under the 2010 HVAU. However, one reason QR might not wish to invest in the first place is the uncertainty of cost (for example, likelihood of problem engineering conditions or environmental mitigation works). It seems counter-intuitive for QR Network not to have to fund the investment itself but then fund cost overruns.

16. ARTC does not support a user undertaking construction of an extension or expansion (stepping in), irrespective of which party funds the extension or expansion, where there is an unnecessary delay. Such a proposition is not consistent with the reasons why QR Network should undertake the construction in the first place (above). ARTC would

recommend an approach whereby QR Network is incentivized not to unnecessarily delay construction. The approach proposed by ARTC in the 2010 HVAU is that ARTC will not be able to incorporate financing cost in the regulatory asset base for any delay beyond that considered prudent by the industry or an independent expert.

17. ARTC has no issue with users constructing Customer Specific Branch Lines funded solely by the customer subject to approved interface standards.

WACC/Rate of Return/Access Conditions

18. ARTC agrees that the same WACC should apply to an investment irrespective of which party funds the investment, as long the parties bear the same risks. ARTC agrees with the Authority that a coal company WACC is inappropriate as it relates to different risks.
19. In principle, ARTC agrees that investments should earn the regulated return, unless there are specific risks associated with a particular investment that is not compensated for in the regulated return. There are practical issues, however, in determining a 'base line' level and type of risk that is reflected in the regulated rate of return. For example, the IFP recognize stranding risk as a potential additional risk. Any investment in a network must incur at least some degree of stranding risk and a certain allowance for this would be made on the regulated return. The regulator however would not prescribe a certain level of stranding risk implicit in the regulated return, so it would be difficult to objectively determine the incremental risk that might be associated with a particular investment.

As such, whilst ARTC has no issue in principle with the concept of 'Access Conditions' in the 2010 AU in relation to an investment used to address additional risk, ARTC sees considerable difficulty in coming to a fair and objective quantification of an additional risk to include in an Access Condition. ARTC notes that the Authority has placed this burden on QR Network.

It is not clear why the ability to seek Access Conditions is limited to Significant Investments (over \$300 million).

As stated earlier, the ability to seek Access Conditions is not provided for under the 2010 HVAU.

ARTC notes that QR Network has raised a concern in relation to the principle that the Authority will approve Access Conditions that are commercially agreed between QR Network and all relevant users subject to meeting certain criteria. QR Network's argument that obtaining the support of **all** users is onerous, particularly where users may

have different commercial objectives would seem reasonable. Nevertheless, automatic approval of Access Conditions should not be considered lightly, and should not be imposed on a party that has not agreed to them. ARTC expects that the decision making process by the Authority will identify and consider the reasons for a party not supporting the Access Condition.

20. ARTC agrees, in principle, that QR Network should be able to seek uplift in the regulated WACC where it considers that this is inconsistent with a particular extension or expansion. It is not clear to ARTC why this should apply to a Significant Investment only (over \$300 million). Presumably the uplifted WACC would only apply to the extension or expansion (unless there was a broader implication) and would be fixed with respect to that extension or expansion. It is not clear however, as to why the Authority has proposed to limit any uplift to changes in the risk free rate and debt margin only. The ability to obtain financing for a project would also depend on project specific risks, in addition to prevailing market conditions.

ARTC proposed to recognize different WACCs, in the 2009 Hunter Valley Coal Network Access Undertaking (2009 HVAU) originally submitted to the ACCC, for existing assets and new investments to recognise the different risks faced. Whilst, in its Draft Decision on the 2009 HVAU, the ACCC did not explicitly take a view that having multiple WACCs was inappropriate on economic grounds, it recommended using a single WACC due to the practical difficulties associated with operating more than one asset base and return and identifying cash flows with separated assets.

Pricing

21. In relation to a user-funded extension or expansion where there is excess capacity built in, the Authority has indicated that the cost of the excess capacity should be carried forward (at WACC) for inclusion in prices at a later date. This suggests to ARTC that the capital cost not recovered in the early years of the project can be included in the cost base at a later time for recovery when volumes pick up. Effectively, the party funding the extension can earn a return in excess of the regulated rate of return (recover cost in excess of operating cost and capital cost) in later years in order to recover prior unrecovered losses.

ARTC supports such an approach, as it will encourage investment ahead of demand by enabling the party funding the investment to earn a regulated return in the long run.

Higher levels of revenue in later years can be obtained through increased volumes or increased prices. Users may require more certainty that prices will not increase

excessively in the future in order to recover the prior losses as soon as possible. To address this, the ACCC has recommended that a cap on annual pricing variation be included in relation to parts of the network that are not recovering a regulated rate of return.

Extension Process

22. ARTC notes that the IFP separate the investment decision process (deciding on the reasonableness of or need for the investment) from the funding decision. This is consistent with the principle underpinning the Capacity Investment Framework in the 2010 HVAU and is supported by ARTC.

23. The process proposed by the Authority is not entirely different to ARTC capacity investment framework where the Extension Process (capacity development process that can be initiated by QR Network, other supply chain participants, or network users). The difference is that the ARTC's capacity investment framework in the 2010 HVAU prescribes a clear, transparent, industry based forum for controlling the timing and cost of the development and delivery of additional capacity.