

1 March 2011

Ms Andrea Staines  
Chair  
QR Network Pty Ltd  
GPO Box 456  
Brisbane QLD 4001

Dear Ms Staines

**QR Network's Draft Amending Access Undertaking**

I refer to the letter of 24 December 2010 from Mr Glen Mullins, Acting Chief Executive Officer, QR Network Pty Ltd (QR Network), attaching proposed Standard User Funding Agreements (SUFAs) and a draft amending access undertaking (DAAU), and the explanatory notes that were subsequently submitted on 25 January 2011.

Clause 7.6(a) of QR Network's 2010 access undertaking (the undertaking) requires that, within three (3) months after the Approval Date, following consultation with stakeholders, QR Network will submit to the Queensland Competition Authority (the Authority):

- (a) a proposed SUFA; and
- (b) a DAAU incorporating amendments to the undertaking it considers reasonably necessary to fully implement the principles set out in Schedule J ("Investment Framework Amendments").

The Approval Date of the undertaking is 1 October 2010. QR Network was therefore required to comply with the requirements of clause 7.6(a) of the undertaking by 1 January 2011.

QR Network's letter of 24 December 2010, under cover of which it submitted the DAAU and SUFAs, indicates that in some cases QR Network has departed from the literal application of the principles and admits that the DAAU does not perfectly comply with the requirements of clause 7.6(a) of the undertaking. That letter also indicates the DAAU is submitted in accordance with section 142 of the *Queensland Competition Authority Act 1997* (the QCA Act).

In addition, the explanatory notes submitted on 25 January 2011 identify several specific areas where the DAAU does not comply with the requirements of clause 7.6(a) of the undertaking, including:

- (a) page 4 of the explanatory notes states that "QR Network has departed from the Investment Framework principles relating to the process for determining the capital related payments to Users in respect of User Funding Investments"; and
- (b) page 20 of the explanatory notes indicates that QR Network has sought to restrict the "prohibitions on Access Conditions without the QCA's approval to Expansions."

These descriptions are consistent with the actual content of the DAAU, such that it is clear that:

- (a) the DAAU does not fully implement the principles set out in Schedule J of the undertaking, and
- (b) at least certain of QR Network's departures from the principles were intentional.


In accordance with the indications given in QR Network's letter and explanatory notes, the Authority intends to treat the DAAU as a DAAU submitted under section 142 of the QCA Act and will consider it in accordance with the requirements of the QCA Act regarding consideration of draft amending access undertakings.

Further, in accordance with the indications given in QR Network's letter and explanatory notes, the Authority is of the view that no submission that complies with clause 7.6 of the undertaking has been made within three months of the Approval Date and therefore the Authority has the right to exercise its powers under clause 7.6(b) of the undertaking.

The Authority has decided to exercise its powers under clause 7.6(b) to develop a proposed SUFA and Investment Framework Amendments to the undertaking. This decision will be notified publicly via the Authority's website.

Any enquiries regarding this matter should be directed to Paul Bilyk on (07) 3222 0506.

Yours sincerely



Brian Parmenter  
Chairperson