



## **Issues Paper**

# **Queensland Rail's 2012 Draft Access Undertaking**

**April 2012**

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**PREAMBLE**

The purpose of this document is to assist stakeholders in preparing submissions on the draft access undertaking submitted by Queensland Rail Ltd (QRail) on 30 March 2012 (the 2012 DAU).

QRail is a government-owned corporation which was created in 2010 when the Queensland Government split the former QR Ltd in preparation for privatising QR National Limited. QRail owns all of the former QR Ltd rail network in Queensland apart from the tracks in central Queensland owned by QR National's subsidiary QR Network Pty Ltd.

QRail is currently subject to the 2008 access undertaking the Authority approved for QR Network, as amended to include new tariffs and tariff-setting rules in June 2010. The 2008 undertaking applies to QRail through legislation passed to effect the split of QR Ltd.

QRail's 2012 DAU is intended to replace the 2008 undertaking with one that better reflects the business of QRail, which is a monopoly provider of rail access, with a vertically integrated above rail passenger operation but without a vertically integrated above-rail freight operator. QRail has proposed to retain some elements of the 2008 undertaking, but has rewritten most of the previous document.

While this paper highlights some issues relevant to the 2012 DAU, it does not seek to comprehensively address all issues raised or amendments proposed by QRail. Hence, interested parties should rely on their own analysis to determine whether there are additional matters on which they wish to comment.

The Authority encourages interested parties to consider the criteria in the *Queensland Competition Authority Act 1997* (the QCA Act) for the approval of draft access undertakings when preparing submissions. Interested parties may also wish to comment on the degree of consistency between QRail's DAU and other network access regimes in Australia.

**The closing date for submissions is Friday 1 June 2012.**

## SUBMISSIONS

Public involvement is an important element of the decision-making processes of the Queensland Competition Authority (the Authority). Therefore submissions are invited from interested parties concerning its assessment of Queensland Rail Ltd's 2012 draft access undertaking. The Authority will take account of all submissions received.

Written submissions should be sent to the address below. While the Authority does not necessarily require submissions in any particular format, it would be appreciated if two printed copies are provided together with an electronic version on disk (Microsoft Word format) or by e-mail. Submissions, comments or inquiries regarding this paper should be directed to:

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**The closing date for submissions is Friday 1 June 2012.**

### Confidentiality

In the interests of transparency and to promote informed discussion, the Authority would prefer submissions to be made publicly available wherever this is reasonable. However, if a person making a submission does not want that submission to be public, that person should claim confidentiality in respect of the document (or any part of the document). Claims for confidentiality should be clearly noted on the front page of the submission and the relevant sections of the submission should be marked as confidential, so that the remainder of the document can be made publicly available. It would also be appreciated if two copies of each version of these submissions (i.e. the complete version and another excising confidential information) could be provided. Again, it would be appreciated if each version could be provided on disk. Where it is unclear why a submission has been marked "confidential", the status of the submission will be discussed with the person making the submission.

While the Authority will endeavour to identify and protect material claimed as confidential as well as exempt information and information disclosure of which would be contrary to the public interest (within the meaning of the *Right to Information Act 2009 (RTI)*), it cannot guarantee that submissions will not be made publicly available. As stated in s187 of the *Queensland Competition Authority Act 1997* (the QCA Act), the Authority must take all reasonable steps to ensure the information is not disclosed without the person's consent, provided the Authority is satisfied that the person's belief is justified and that the disclosure of the information would not be in the public interest. Notwithstanding this, there is a possibility that the Authority may be required to reveal confidential information as a result of a RTI request.

### Public access to submissions

Subject to any confidentiality constraints, submissions will be available for public inspection at the Brisbane office of the Authority, or on its website at [www.qca.org.au](http://www.qca.org.au). If you experience any difficulty gaining access to documents please contact the office (07) 3222 0555.

Information about the role and current activities of the Authority, including copies of reports, papers and submissions can also be found on the Authority's website.

## REGULATION OF QUEENSLAND RAIL

Queensland Rail Ltd (QRail) is a government-owned corporation created in June 2010 when the Queensland Government split QR Ltd in preparation for the privatisation of QR National Limited. QR National Limited, through its subsidiary QR Network Pty Ltd (QR Network), operates the coal-carrying rail networks in central Queensland, vertically integrated with a coal train business, and a national rail freight business. QRail operates the rail network across the remainder of the state, and passenger trains including the commuter services in southeast Queensland. It does not operate freight services.

QRail is subject to the 2008 access undertaking the Authority approved for QR Network, as amended to include new tariffs and tariff-setting rules in June 2010. The 2008 undertaking applies to QRail through a Transfer Notice published by the Queensland Government in June 2010 under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

The access undertaking sets out the terms and conditions under which QRail will provide access to rail infrastructure covered by the undertaking. It also sets out the process required for an access seeker to negotiate access to the infrastructure and how any disputes in relation to access are to be resolved.

QRail can seek to amend the approved undertaking through the process set out in the *Queensland Competition Authority Act 1997* (QCA Act).

### *QRail's Proposal*

On 30 March 2012, QRail submitted a draft access undertaking (the 2012 DAU) which seeks to replace its current undertaking with a set of regulations more suited to a network operator which is not vertically integrated with an above-rail freight business. The documents submitted by QRail, and the Authority's notice of investigation, can be found at [www.qca.org.au/rail/QRail2012DAU/](http://www.qca.org.au/rail/QRail2012DAU/).

Even though it has been substantially re-drafted, QRail's 2012 DAU carries over many of the principles from the 2008 undertaking. It includes standard access agreements for western system (West Moreton) coal services, and is accompanied by several documents which QRail proposes to post on its website, but not include as part of the undertaking.

QRail proposes in the 2012 DAU to:

- (a) carry over the current reference tariffs for coal traffic on the western system until June 2013 to give time for QRail and its western system customers to negotiate a transparent, repeatable methodology for deriving future tariffs;
- (b) remove provisions that addressed issues with vertical integration at QR Network. These include clauses in various parts of the 2008 undertaking governing the treatment of related parties, and particularly the ring-fencing restrictions on information sharing;
- (c) fold the capacity management and access agreement sections of the 2008 undertaking into the rules on negotiation of access, and combine various similar provisions relating to dispute resolution into a single set of rules for all disputes; and
- (d) move some elements of the 2008 undertaking out of the undertaking or standard access agreements, and make them available on QRail's website. These elements include the network diagrams, interface risk management plan, environmental investigation and risk management process, operating plan template and operating requirements manual.

Other sections of the 2012 DAU remain broadly similar to the 2008 undertaking. These include the network management principles and the pricing principles.

The following table provides a guide to the location of topics in the 2008 undertaking, and where they have been moved in the 2012 DAU.

**Table 1: Topics in 2008 undertaking and 2012 DAU**

<i>Topic</i>	<i>Location in 2008 undertaking</i>	<i>Location in 2012 DAU</i>	<i>Notes</i>
<b>Scope and Administration</b>	Part 2	Part 1	
<b>Ring-fencing Arrangements</b>	Part 3	2.2 (confidentiality)	Ring-fencing largely removed
<b>Negotiation Framework</b>	Part 4	Part 2	
<b>Access Agreement Principles</b>	Part 5	2.7 and 2.8; Schedule C	
<b>Pricing Principles</b>	Part 6	Part 3	
<b>Capacity Management</b>	Part 7	2.7.2 and 2.7.6	
<b>Network Management Principles</b>	Part 7 and Schedule G	Part 4 and Schedule B	
<b>Interface Considerations</b>	Part 8 and Schedules J and HA	2.6.2	Schedules moved to website
<b>Reporting</b>	Part 9 and Schedule MB	Part 5	
<b>Definitions and Interpretation</b>	Part 10	Part 7	
<b>Dispute Resolution</b>	Various	Part 6	
<b>Line diagrams</b>	Schedule A	Website	
<b>Confidentiality Deed</b>	Schedule B	Deleted	
<b>Information Requirements</b>	Schedules C and D	Website	
<b>Reference Tariffs</b>	Schedule F	Schedule A	Only for western system (West Moreton)
<b>Regulatory Asset Base</b>	Schedule FB	Deleted	Applied to Central Queensland Coal Region
<b>Operating Plan Principles</b>	Schedule K	Website	
<b>Transfer Fee</b>	Schedule M	Deleted	

### *Key Issues*

QRail owns many of the assets that were owned by the former QR Ltd, which had its below-rail activities regulated through the 2008 QR Network undertaking. However, QR Network was vertically integrated with the above-rail operator QR National and, in an altered form but with the same name, remains so as part of the publicly listed, privatised company QR National Ltd.

QR Network is subject to a number of regulatory measures which are designed to offset its incentive to favour its related party above-rail operator over competing third party rail operators. These were included in the 2008 undertaking, and strengthened in QR Network's 2010 undertaking. A major part of the measures to address vertical integration is the ring-fencing arrangements for managing the sharing of confidential information, decision-making procedures, compliance and enforcement.

QRail, in contrast, has no vertically integrated above-rail freight operator, and that situation has little prospect of changing within the proposed life of the 2012 DAU. The Government exempted QRail from clauses 3.1 and 3.3 of the ring-fencing provisions in the 2008 undertaking through the June 2010 Transfer Notice. This reflects the fact that, while QRail operates a vertically integrated passenger rail business, it relies on government subsidies for a large proportion of its revenue, and does not compete with any third parties. The prospect for third parties to enter the passenger rail market also appears remote at this time. Therefore, the imperative for retaining the ring-fencing in QRail's 2012 DAU is much less in comparison to the 2008 undertaking as it applied to QR Network.

Despite this, QRail remains a monopoly provider of below-rail services. Therefore, it is appropriate that the 2012 DAU retain a number of measures from the 2008 undertaking which protect access seekers from monopoly pricing behaviour, and set out their rights when negotiating access. Key issues arising from QRail's 2012 DAU are discussed below.

#### Investment Framework

QRail has proposed an investment framework that sets out the rights of QRail in cases where it is necessary to construct an extension to the network in order to provide access. Extension in this case is defined to include both building track in a new location, and capital work such as duplication or replacement of existing track or other below-rail infrastructure.

The provisions in section 1.4 of the 2012 DAU propose that QRail will have absolute discretion to decide whether to fund an extension. It will build an extension at the request of an access seeker that agrees to provide funding in advance for the work, provided QRail bears no cost or risk. QRail may require that the access seeker obtains all necessary consents and acquires or procures for QRail all necessary rights and interests in land required for the infrastructure. QRail also proposes that an extension funded by a party other than QRail will be constructed, owned, operated and managed by QRail, unless it agrees otherwise.

QRail has also proposed to remove from the pricing principles any reference to access conditions, including limits on when and how they can be imposed, and guidance on how they might be shared with subsequent users of the same infrastructure. Access conditions, in the form of up-front capital underwriting, have been the mechanism through which QR Network and its predecessors have gained protection from asset stranding risk in central Queensland, by transferring that risk to the users of mine-specific infrastructure.

QRail's proposed requirement that it bear no cost or risk in building user-funded infrastructure is linked to s.119(2)(c) of the QCA Act, which prevents the Authority from making an access determination that 'require[s] an access provider to pay some or all of the costs of extending the facility'.

In this context, a substantial amount of effort has already been put into developing an investment framework for QR Network, which sets out the rights and obligations of both QR Network and its customers where infrastructure is to be customer funded. Principles for the investment framework were included in QR Network's 2010 undertaking, as customers were concerned that, once the business was privatised, they would lose the coercive ability to ensure the rail network was expanded in line with the coal industry's growth prospects.

These same protections are not included in QRail's 2012 DAU. While customers retain some of the protections that come from government ownership, the absence of a balance of the rights and obligations of the access provider and the access seekers/holders may result in otherwise unnecessary access disputes. The allocation of the various rights and obligations between QRail and the funding user would then need to be resolved during the arbitration, and probably at a time when the proposed project was particularly time sensitive.

## Negotiation, Capacity and Queuing

QRail has proposed to simplify the access negotiation process and has not retained significant elements of the capacity allocation and transfer section from the 2008 undertaking.

The 2012 DAU retains most of the elements of the negotiation process from the 2008 undertaking, including requirements that QRail provide information to the access seeker and that it maintain confidentiality of the access seeker's information. QRail has also proposed that it could refuse to enter into an access agreement for non-passenger trains that will affect the safety, cause a nuisance or annoyance to, or 'otherwise adversely affect' a passenger train service (clause 2.6.5).

QRail has proposed processes for an access holder to transfer capacity to another party, subject to QRail's approval. It has also included processes for relinquishment and resumption of capacity.

The 2012 DAU sets out the factors QRail will take into account if it receives mutually exclusive access applications for which there is insufficient capacity. These factors include the likely access charges, the cost and risk to the business, and the term of the access agreement. QRail has not included any mechanism or principle for establishing a queue where there are multiple access seekers each offering the same terms.

Conversely, it is noted that Brookfield Rail, operator of a mixed-use rail network in Western Australia, specifies in its train path policy that, where two operators are competing for a train path, the path will be provided to the operator which first requested the path. Similar arrangements are included in the 2010 access undertaking for the Dalrymple Bay Coal Terminal.

Inclusion of similar terms in the 2012 DAU could avoid unnecessary confusion in the access negotiation process, i.e. for the western system where QRail's tariffs are set at a price which reflects an allocation of the capacity costs between the different types of traffic.

## Tariffs

The 2012 DAU proposes to carry over the current reference tariffs for coal traffic on the western system until June 2013. These tariffs were first proposed by the Authority in its December 2009 draft decision on QR Network's 2009 DAU, and were included in the pricing amendments to the 2008 undertaking that the Authority approved in June 2010.

The tariff carry-over is intended to give time for QRail and its western system customers to negotiate a transparent, repeatable methodology for deriving tariffs in future. QRail has proposed that if it does not submit new tariffs before 1 July 2013, then the existing tariffs, escalated by the consumer price index, will be taken to be its proposed new tariffs. The 2012 DAU specifies that the tariffs for 1 July 2013 and beyond would be reviewed by the Authority in accordance with the provisions in the QCA Act, as if they had been submitted as part of a DAU in response to an initial undertaking notice (clause 3.4.2). The intent of this provision is to preserve the Authority's and stakeholders' rights and powers in relation to the new tariffs, even though they are not included in the 2012 DAU.

The 2012 DAU does not include any specific provisions for development of a new reference tariff, either for an additional coal service on the western system, or for services on other parts of QRail's network. Any reference tariff for a new service would need to be proposed through a DAAU.

The 2012 DAU also does not include provisions for treatment of the regulated asset base, including reporting on capital expenditure, and rolling forward the asset base, as these are matters which are subject to the discussions with western system customers on the future tariff methodology.



### Pricing Principles

QRail has retained in the 2012 DAU most of the elements of the pricing principles in the 2008 undertaking, including limits on price differentiation, and floor and ceiling prices. However, it has proposed to remove the hierarchy of pricing principles from the 2008 undertaking, which set out which principles would be applied first in the event they conflicted. Indeed, in structuring the pricing principles section of the 2012 DAU, QRail has reversed those principles, placing the objectives of revenue adequacy, and then network utilisation, before the limits on prices and price differentiation.

QRail has also proposed to remove the restrictions on establishing access charges for the purpose of preventing or hindering access by a third party access seeker in any market where it is in competition with a related party operator. QRail has argued that, given it is not vertically integrated, there is no scope for the business to use price differentiation or higher access charges to prevent or hinder access to competing third party access seekers (see Attachment 4 to the DAU, PwC report on pricing, p. 10).

As mentioned above, QRail has also proposed to remove all the rules governing access conditions.

### Network Management Principles

QRail has retained key elements of the 2008 undertaking's network management principles, including the principles for master and daily train plans. However, it has altered them to remove references to cyclic traffic and intermediate or weekly train plans, as all services on QRail's network are timetabled.

QRail has also proposed to remove measures governing the treatment of trains operated by a related party compared with those of a third party operator. In particular, as all traffic is timetabled, passenger traffic has legislated priority, and QRail is not vertically integrated in relation to freight services, there is no contested train path decision-making process. The traffic management decision-making process for managing conflicts on the day of operation has also been simplified.

### Standard Access Agreements

QRail has submitted proposed standard access agreements for coal services on the western system, that apply where the access holder is the rolling stock operator for the relevant train services. It has not submitted access agreements that would apply if an end user contracted directly for access, and was able to choose which operator to use to provide above-rail services.

The 2012 DAU provides for the Authority to require QRail to submit new standard access agreements for a specified type of train service not already covered (clause 2.8)

The DAU also includes access agreement principles which, among other things, propose that access agreements will not include an option for the access holder to renew its access rights.

### Liability for Dangerous Goods

QRail has specified in the proposed standard access agreements for coal services on the western system that the reference train will not carry dangerous goods.

The proposed access agreement principles, which would guide the content of access agreements for non-coal services, specify that the access holder must not carry dangerous goods, or permit them to be carried, except as expressly provided in the access agreement. QRail also proposes that the access agreement must include specific provisions regarding the access holder providing QRail with an indemnity relating to the carrying of dangerous goods.

The Authority has in the past applied the principle that the party most able to manage a risk should take liability for that risk. QRail is best placed to manage the risk that it will be negligent or in wilful default of its contractual obligations, such that it causes a derailment. On the other hand, it is not in a

position to control the amount of damage caused by that derailment, which could vary significantly depending on the goods being carried on the train. However, it would not be in the public interest to impose liabilities on rail freight operators which put them at a significant disadvantage against competitors offering to carry the same goods by road.

#### Passenger Services and Scope of Declaration

QRail has proposed that the 2012 DAU will apply to freight services and to non-QRail passenger trains; that is, the undertaking's negotiation process will not apply to passenger services operated by QRail, and they will not be required to operate under access agreements.

In addition, negotiations for access by freight services to stations and platforms that are used for passenger services are excluded from the scope of the 2012 DAU, even though stations and platforms are part of the declared service. Negotiations to use stations and platforms for passenger services are covered by the 2012 DAU.

Access seekers for freight services would need to use the provisions in the QCA Act to apply for access to passenger stations and platforms. In particular, QRail is required to negotiate in good faith with access seekers and the Authority could arbitrate any access disputes. QRail would not be afforded the protections that an approved undertaking would provide for negotiations for access to stations and platforms, i.e.:

- (a) the safe harbour protections for preventing or hindering access that an approved undertaking provides for conduct undertaken consistent with an approved undertaking (s.104(6)(a)); and
- (b) that the Authority must not make an access (arbitration) determination that is inconsistent with an approved undertaking (s.119(1)(a)).

Even though the use of passenger stations and platforms for freight services would not be covered by the undertaking, all of the framework for access remains in the QCA Act, including the ability for the Authority to request that an access undertaking be developed for those stations and platforms.

#### Dispute Resolution

QRail has combined the various dispute resolution provisions from the 2008 undertaking into a single section. It has proposed that any disputes in relation to access negotiations be referred directly to the Authority, without an option of arbitration by an expert. However, the proposed standard access agreements provide for engineering, accounting or legal experts or the Authority to resolve disputes.

#### Reporting and Auditing

QRail has proposed in the 2012 DAU that it be required to report quarterly on various operational matters, including train delays, speed restrictions and track quality. It has proposed that it report annually on matters related to access, including the time taken to respond to applications, the number of applications rejected, and the number of access agreements executed.

QRail has proposed to remove all references to the regulatory financial accounts, which are governed by the costing manual, as prescribed in the QCA Act. QRail has also proposed that the 2012 DAU have no provision for the Authority to request an audit of QRail's compliance with the undertaking.

#### Redrafting

The Authority acknowledges that the rewriting of the QRail 2012 DAU has some benefits as it reorganises the structure and language that has developed over a period of time and for different circumstances. This does, however, place an extra burden on stakeholders in assessing whether familiar provisions from the 2008 undertaking are carried over effectively into QRail's 2012 DAU.

The Authority will review the new drafting, but also welcomes questions and comments from stakeholders which are uncertain or concerned about the effect of the changed clauses.

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### Questions for comment

Stakeholders are encouraged to comment on any issues they consider relevant to the 2012 DAU, and the regulation of QRail. Some topics identified by the Authority are raised below.

- Is QRail's proposal to extend the existing western system tariff until June 2013 reasonable? Is the proposed mechanism for putting in place a new tariff effective?
- Is it necessary to have a trigger in the undertaking for QRail to introduce ring-fencing if competitors enter the market for above-rail passenger services?
- Do the amended network management principles and pricing principles retain the necessary protections for access seekers and access holders?
- Are access seekers'/holders' rights adversely affected by moving the network diagrams, interface risk management plan, environmental investigation and risk management process, operating plan template and operating requirements manual from the undertaking to QRail's website? If so, why and what should be done to protect access seekers' and access holders' rights?
- Does the investment framework proposed by QRail in section 1.4 of the DAU offer sufficient protection for access seekers and access holders? Does it adequately set out the rights of users who fund or underwrite infrastructure required to provide their access? Is it reasonable and efficient that QRail construct, own, operate and manage all user-funded infrastructure? Why?
- Is it reasonable for QRail to remove from its undertaking the provisions governing the use of access conditions? Are the pricing limits sufficient to protect access seekers/holders, or should the undertaking include some restrictions on access conditions? Why?
- Does the mechanism for relinquishing and transferring capacity provide sufficient safeguards of access holders'/seekers' rights?
- Would it be prudent to provide certainty to access seekers and protection to QRail, for the undertaking to indicate how QRail would select between multiple access seekers offering the same terms for capacity on QRail's network? Should this take the form of principles for selecting between those users, or a formal queuing mechanism? Why?
- Are the proposed standard access agreements for western system coal services consistent with the proposed undertaking and the QCA Act? Is it reasonable to provide standard access agreements for rolling stock operators, but not for end users?
- Does QRail's proposed treatment of liability for dangerous goods in the access agreement principles place the costs and liability in the hands of the party best able to manage the risks?
- Will access seekers/holders be adequately protected, given QRail is vertically integrated with an above-rail passenger business (but not an above-rail freight business)?
- Is it reasonable that parties seeking access to passenger stations and platforms for freight services apply through the provisions in the QCA Act, and not through a process detailed in an undertaking?

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### *Regulatory Background*

QRail's rail infrastructure is declared under Part 5 of the QCA Act. This means that:

- (a) QRail has statutory duties as access provider, including an obligation to provide access to and negotiate with access seekers, and an obligation not to hinder or prevent access;
- (b) an access seeker gains recourse to compulsory dispute resolution procedures;
- (c) QRail may submit an access undertaking to the Authority for approval, if it considers it is appropriate to do so; and
- (d) the Authority may request that QRail prepare an undertaking if it has not voluntarily submitted one (in certain circumstances, the Authority can draft and approve its own access undertaking).

The regulation of QRail is based on a 'negotiate-arbitrate' model, which provides for commercial negotiation for price and non-price terms of access between the regulated service provider and its customers, subject to the ability to raise disputes for arbitration by the Authority.

The approved access undertaking details the terms and conditions under which an access provider will be prepared to provide access to its facility to an access seeker. The undertaking also provides certainty about how the Authority will deal with access disputes, as any access determination made by the Authority must not be inconsistent with the approved undertaking. A term in an access agreement will be void if it is inconsistent with a provision of the QCA Act.

Once an access agreement has been signed, any dispute relating to that agreement is to be resolved in accordance with the terms of the agreement, which may differ from those set out in an approved undertaking.

An approved undertaking also provides a 'safe harbour' for an access provider in that any conduct in accordance with an approved undertaking is deemed not to breach the preventing and hindering access provisions of the QCA Act.

The QCA Act states that an access undertaking must specify an expiry date, and lists in s.137 the types of matters that may be addressed in an undertaking, including:

- (a) how charges for access to the service are to be calculated;
- (b) information to be given to access seekers;
- (c) arrangements to be made by the owner to separate the owner's operations concerning the service from commercial activities of the owner;
- (d) terms relating to extending the facility; and
- (e) provisions to be included in access agreements in relation to the service.

Where the Authority has approved an access undertaking that includes reference tariffs, the QCA Act provides in s.101(4) for certain obligations on an access provider to give information to an access seeker to be waived (for example, information about prices, costs and the value of the access provider's assets).

A new access undertaking does not affect existing contracts. It only affects the terms and conditions of access agreements negotiated after the approval date.

In making its decision whether or not to approve the 2012 DAU, the QCA Act (s.138(2)) requires the Authority to have regard for:

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- (a) the objective of the access regime to promote the economically efficient operation of, use of and investment in infrastructure services, with the effect of promoting effective competition in upstream and downstream markets;
  - (b) the legitimate business interests of the owner of the service;
  - (c) the public interest, including the public interest in having competition in markets (whether or not in Australia);
  - (d) the interests of persons who may seek access to the service, including whether adequate provision has been made for compensation if the rights of users of the service are adversely affected;
  - (e) the effect of excluding existing assets for pricing purposes;
  - (f) prices that should:
    - (i) generate expected revenue for the service that is at least enough to meet the efficient costs of providing access to the service and include a return on investment commensurate with the regulatory and commercial risks involved;
    - (ii) allow for multi-part pricing and price discrimination where it aids efficiency;
    - (iii) not allow a vertically integrated access provider to set terms and conditions that discriminate in favour of its downstream operations, except to the extent the cost of providing access to any other operator is higher; and
    - (iv) provide incentives to reduce costs or otherwise improve productivity; and
  - (g) any other issues the Authority considers relevant.

#### *Way Forward*

The QCA Act provides that the Authority may approve a draft access undertaking only if it has published the undertaking, invited persons to make submissions on it, and considered any submissions received within the time stated by the Authority.

The QCA Act (s.147a) requires the Authority to use its best endeavours to make a decision on QRail's 2012 DAU within a six-month period, excluding time allocated for public consultation or for a period taken to respond to information requests.

QRail provided stakeholders with a working draft of the main body of the 2012 DAU in August 2011. QRail amended that draft to take into account stakeholders' comments. However, the details of the western system standard access agreements are new and have not previously been available in draft form. The Authority has therefore provided approximately two months for comment on the 2012 DAU, including the proposed standard access agreements.

The Authority will offer stakeholders and QRail a further chance to comment after it has released a draft decision on the 2012 DAU.

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**The Authority invites submissions on any aspect of QRail's 2012 DAU or a related matter by 1 June 2012.**

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