



Professor Roy Green
Chairman
Queensland Competition Authority
Level 27, 145 Ann Street
Brisbane, QLD 4000

2016 QCA Fee Framework Consultation

3 February 2016

Dear Roy,

I am writing in response to your letter dated 11 January 2016, regarding the Queensland Competition Authority's (QCA) positions to reconsider the way in which it sets its Regulatory Fee Framework.

Aurizon Network welcomes the QCA decision on this and the opportunity to provide feedback on both the existing fee allocation framework, along with the framework proposed in your letter, specifically contained within Appendix 2.

Background

The setting of the QCA fee has been an ambiguous matter over the last 5 years due to the level of transparency associated with its construction and application. The QCA's recent steps to provide this detail and consult on the matter are positive for both the regulated entities along with their end customers.

The QCA Fee framework is based upon the Queensland Competition Authority Regulation 2007 (QLD), which permits the QCA to charge fees:

- a. The authority considers to be reasonable; and
- b. That is not more than the reasonable cost of providing the service or performing the function

Aurizon Network is charged Regulatory Fees by the QCA for the services it provides. Aurizon Network recovers these Regulatory Fees from its Access Holders through QCA approved adjustments to its Access Tariffs.

In 2010, the QCA set its regulatory fees for a forward-looking 5 year period from 1 July 2010 to 30 June 2015. In setting this structure, the QCA also approved that it was prudent to index these regulatory fees at 5.8% over that 5 year term.

During the 5 year period, the QCA advised in 2012 and 2015 that it was going to under-recover on those set fees and it was therefore required to increase its set fee charge to Aurizon Network. These changes resulted in the QCA increasing its fees charged to Aurizon Network by 85% over the five year term from what was originally set in 2010.

Upon receiving the latest under-recovery notice in 2015, Aurizon Network raised additional questions relating to amount of under-recovery, the allocation of costs and the allocation of overheads applicable to the services the QCA provides Aurizon Network. Aurizon Network was seeking this information, to allow it to have meaningful discussions with its end customers to explain the uplift in fees being charged.

Consultation on New Framework

Aurizon Network welcomes the QCA's positive step to consult on the Regulatory Fee Framework for the future years. This consultation promotes transparency and improves public confidence in ensuring that the costs incurred in managing the economic regulation of the State of Queensland are reasonable.

The 2015 Annual Reports outlines that the QCA received revenue of \$22m (FY15) and \$24m (FY14), collected primarily from Regulatory Fees and Government Grants. Given the QCA's annual revenue and its responsibilities to the economic performance of Queensland, having transparent fee development and cost compliance, should aim to ultimately improve the public's confidence in our government organisations.

Aurizon Network has completed a review of the draft framework and provided a detailed response as an appendix to this letter. Aurizon Network has suggested various improvements to the draft framework.

Aurizon Network's review focusses on building upon the minimum obligations within the QCA Regulations. By aiming to a higher standard and continuously improving upon those minimum requirements will lead to improve stakeholder confidence in the setting of regulatory fees. This should be an aim of the QCA.

The objectives of the QCA's consultation (and any subsequent changes to the QCA Fee Framework), should be that:

1. all parties are more informed about the methodology used to create the process;
2. the QCA fees are reflective of the externally benchmarked reasonable costs, not just the actual costs, for providing that service; and
3. the possibility of any under-recoveries (or over recoveries) should be reduced due to the more consultative approach in setting the forward looking fees.

If you should have any questions in relation to this, please contact Jon Windle directly on (07) 3019 8460, or networkregulation@aurizon.com.au.

Regards



Lana Stockman
Vice President - Regulation

QCA Draft Fee Framework Section	QCA Draft Fee Framework	Aurizon Network feedback
Consideration of the reasonableness of a regulatory fee	Decision by the QCA that it is satisfied overall that the regulatory fee charged to individual entities is reasonable having regard to the costs of providing regulatory services	<p>It is not appropriate that the QCA self-regulates its own assessment of the reasonable costs. The fact that the QCA set and decides what is reasonable is not appropriate. The QCA should seek an appropriate level of oversight from an external organisation (eg. QAO). While this may not be a legislative requirement it does demonstrate to stakeholders that the QCA has sought external support in relation to the setting of its fees provided</p>
		<p>Actual costs should not be considered to be the reasonable costs. The QCA Regulations requires reasonable costs. The QCA has failed to show that their costs are reasonable. There are a number of Australian based regulators performing similar functions that the QCA could use as a benchmark.</p>
		<p>The QCA does not undertake any benchmarking to assess whether the reasonable costs are in line with other regulated entities providing similar services.</p> <p>Corporate overheads should be benchmarked against similar size organisations. Within Australia, there are other regulators that are providing similar services to those that the QCA provides. The QCA could use these as an applicable benchmark to assess reasonableness.</p>
	A review of the regulatory service or function and the associated fee is always triggered when the proposed fee to be charged is more than 1% of the regulated annual revenue of the entity concerned	<p>It is not appropriate for the review trigger to be based upon the regulated entities revenue. Linking to revenue does not provide the right incentives to the QCA to ensure it manages its costs.</p> <p>The trigger for a fee structure review should be aligned to where the proposed fee increase is more than a mandated percentage of the previous year's regulatory fees. If a review is triggered, the regulated entity must be informed of the fee review.</p>

		A review should also be triggered in light of a material change of activity for the QCA such as increased/decreased responsibilities or increased or decreased workload for each regulated entity.
Basis of calculating fees for providing general regulatory services of functions	QCA's fee charging regime will be calculated by the QCA based on its estimate of the actual costs of performing the service or function in respect of that entity over the coming financial year.	The QCA should aim to reduce forecasting inaccuracies by consulting with the regulated entities to confirm alignment on the forward looking work schedule prior to the setting of the regulated fee for the forthcoming financial year. The QCA should publish the work plan assumptions as part of its fee setting process.
	Its estimated costs of analyst staff and specialist consultants required to provide the service or function	<p>Internal labour costs should be regularly reviewed to ensure that they are prudent and in line with current market rates or government salary guidelines (if applicable).</p> <p>The QCA must ensure that it incurs its costs prudently. This includes where the QCA has engaged specialist consultants that it is completed through a competitive tender process to ensure prudent market based costs are incurred. The QCA's external consultant selection process should be transparent (although the details of specific procurement process should remain confidential).</p>
	A proportion of the QCA's estimated overheads based on the estimated analyst staff costs for performing the service or function compared to the QCA's total staff analyst staff costs for the year	There is no transparency on the methodology that the QCA uses to calculate the overhead costs allocation to each entity. It is not clear if the overhead calculation is the appropriate allocator to use given the QCA's size and type of organisation.
	The expected Consultation process	The estimation of costs should be in-line with the approved regulatory process to decide upon the relevant matter. This estimation should be informed by s147A of the QCA Act, relating to time periods and subsequent length of time required to make a decision on relevant matters.
Methodology for accounting for regulatory fees	The QCA retains internal auditors, BDO, who review the costs allocation model	<p>The draft fee framework text suggests that BDO's scope only examines the correct application of costs to the applicable project/entity.</p> <p>Does BDO assess the reasonableness of the costs associated to providing that service to ensure that they are in line with the QCA regulations?</p>

	A percentage of the QCA's overheads for the period	How is this percentage calculated and allocated for each regulated entity?
	The total budgeted overheads are reviewed by the QCA and where, in the reasonable opinion of the QCA, amounts are not reasonable to be included in setting regulatory fees, these are excluded.	There must be appropriate oversight of the reasonable assessment process completed by the QCA. The QCA should not be responsible for the complete development and approval of what is reasonable. There should be a publically available policy, guideline or governance document that outlines the reasonableness assessment process and its considerations.
	The QCA considers the board and executive and corporate services are fundamental and fixed element of the QCA	<p>Aurizon Network agrees and accounting for their time on a project basis is not appropriate.</p> <p>However, the costs for these functions should be benchmarked against other appropriate entities to ensure that the costs are reasonable.</p>
Reconciliation and Settlement of under-and-over recoveries of Fees	The Under-recovery of proving the service will be charged in October of the following financial year	<p>Any under or <u>over-recovery</u> must be considerate of the regulatory mechanism of the applicable entity. Aurizon Network understands that the various entities that the QCA regulates, will have different mechanisms to recover the QCA Regulatory fee.</p> <p>The QCA is proposing to complete an annual reset of the QCA Levy. As part of that annual reset, it would be more efficient if any under-recoveries from a previous year, was recovered in the following financial year. This would allow tariffs to be adjusted in one process.</p> <p>It is also preferred that the recuperation of any under-recovery be either smoothed over the next financial year.</p>