



Our ref: AA1000541
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By email

Dear Mr Blakey

Dalrymple Bay Coal Terminal access holders and access seekers – Application for authorisation to engage in collective negotiation and collective arbitration - AA1000541

I acknowledge receipt of the Dalrymple Bay Infrastructure Management Pty Ltd (**DBIM**) submission regarding the Dalrymple Bay Coal Terminal access holders and access seekers application for authorisation AA1000451, sent to the ACCC on 4 March 2021.

DBIM submits concerns that should the ACCC grant interim authorisation to allow coal producers to commence collective bargaining and collective negotiation with DBIM in relation to the access to the Dalrymple Bay Coal Terminal, irreversible harm would result. DBIM submits that the Applicants have not proposed any measures to mitigate the anticompetitive effects of a buy-side cartel, such as the appointment of an independent third-party negotiator or information ring-fencing arrangements.

The submission was sent to the ACCC the day prior to the release of the Interim Authorisation Decision and well after the due date for submissions on the Applicants' request for interim authorisation, which was 29 January 2021. I note that DBIM has previously made three submissions raising concerns with the application for authorisation and request for interim authorisation, which have been taken into account as part of this decision. The 4 March 2021 submission was received too late to be formally taken into account prior to deciding whether to issue the interim authorisation. The ACCC will carefully consider the submission, noting that interim authorisation can be reviewed and potentially revoked at any time.

This letter and DBIM's submission of 4 March 2021 have been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Simon Bell on 02 6243 1232 or David Hatfield on 02 6243 1266.

Yours sincerely

Daniel McCracken Hewson
General Manager
Competition Exemptions