

GLENCORE

10 March 2014

Mr David Hatfield
Director, Adjudication Branch
Australian Competition & Consumer Commission
GPO Box 3131
Canberra ACT 2601

by email: adjudication@acc.gov.au
attn: Ms Hannah Ransom

Dear Mr Hatfield

A91410 & A91411 – Rio Tinto Coal Australia Pty Ltd & Ors - submission

Thank you for the invitation to make comment on the proposed Dalrymple Bay Coal Chain Coordination Arrangements (DCCC).

1. Interim Authorisation

Glencore is supportive of interim authorisation being granted on the basis that the proposed arrangements are likely to contribute to more efficient utilisation of the existing rail infrastructure in the Goonyella Coal Chain with significant resulting public benefits, and will do so without adverse competitive impacts or other detriments.

Should interim authorisation be granted it is Glencore's intention to work with the proponents with a view to participating in the DCCC in its development and implementation.

Interim authorisation will also allow a period of time in which it will be possible to assess the benefits and detriments of the DCCC and for them to be considered by the ACCC in a meaningful manner before any final determination.

Much work will be involved in the DCCC initial stages and the interim authorisation process will be beneficial to allowing this to occur.

Further, as an industry participant with significant experience in these coal chain operations, Glencore believes that should authorisation ultimately not be granted, participants in the DCCC will have an ability to revert to the previous position. In addition, the DCCC can operate with a limited group of members and therefore it is not necessary for the entire industry to participate as benefits will flow even with more limited participation.

GLENCORE

2. Authorisation Application

It is unfortunate that the name of the Dalrymple Bay Coal Chain Coordinator has been used in the application and associated charter, as this gives the suggestion that what is being proposed is somehow similar in nature to the Hunter Valley Coal Chain Coordinator (HVCCC). In practice the DCCC is nothing like the HVCCC. The HVCCC is an independent entity owned by all producers and infrastructure service providers providing whole of coal chain coordination and scheduling services to its member organisations. Glencore would be strongly supportive of such an entity being established in Queensland. Glencore acknowledges that such a solution is unlikely to be adopted in an environment where the rail track provider and some coal producers are not supportive of such a model.

Therefore we are forced to look for the next best solution, and view the establishment of the DCCC, as proposed, as a potentially significant improvement in the operation of the coal chain. Our understanding is that the DCCC is effectively an entity that is open to all producers and above rail operators to participate in on an equitable and voluntary basis. The core function of the DCCC is to enable the participants to effectively optimise the use of their collective rail path entitlements (and corresponding above rail services) amongst the participating organisations. By appointing the DCCC Scheduling Coordinator to optimise the use of the collective rail paths across the demand of its members, it is expected that the rail path utilisation will be improved by matching periods of low demand for one producer with periods of high demand for another. To the extent that the rail paths of the participating members are therefore more efficiently used then this creates a direct benefit to the participating organisations, and also provides that there will be more rail paths available for the non-participating producers. This would seem to therefore provide increased efficiencies and a significant public benefit to all coal chain users that would not otherwise arise.

As we noted earlier, the DCCC is not yet in operation and that we have only had limited opportunity to review the detail of the proposal, that the effectiveness of the DCCC remains untested and at this point in time is theoretical. Glencore is therefore supportive of interim authorisation being granted to enable the DCCC implementation to commence, and to test the benefits that are anticipated. In many respects a similar practical situation arose in relation to the long term Hunter Valley contractual framework Authorisation as contractual arrangements were put into place during interim authorisation.

Some of the key benefits that Glencore believes may be delivered or achieved by the DCCC proposal include:

- Improve the utilisation of the available rail paths and related above rail services amongst the member organisations.
- Creation of a larger pool of available rail paths for non-members.
- As a result of the above two points, increase the capacity available from the existing rail track infrastructure to better meet contracted demand.
- Reduce demurrage costs to industry by increasing the capacity of the supply chain to run at high rates.
- Increased transparency and participation in the planning process by coal producers – something that does not otherwise exist in Queensland.

A number of protections appear to have been incorporated into the design of the scheme to protect against anti-competitive outcomes, including:

- Participation is open to any above rail provider and coal producer meeting reasonable qualifying criteria
- There are no exit barriers to leaving the arrangement
- The DCCC cannot over-ride contracts or access commercial information contained within

GLENCORE

contracts

- All members are treated equally with equal rights
- There are sensible limitations on the ability of organisations to 'game' the DCCC through the existence of qualifying periods for re-entry after exit

Further, as the DCCC is proposed to operate within the existing planning processes and systems in operation in the Goonyella Coal Chain, its implementation should be reasonably straightforward and low cost. This also means that if authorisation is subsequently denied that there is little risk to the ability of the supply chain to return to its pre-interim state. There is nothing in the DCCC proposal that is likely to create shared coal marketing or pricing outcomes.

3. Conclusion

On the basis of the above assessment, Glencore is therefore of the view that the DCCC proposal will create public benefits and without any likely adverse competitive impacts and should therefore be granted interim authorisation. Interim authorisation will also allow increased clarity in the assessment of public benefits for any final authorisation determination. If you require any clarification on the above comments, please do not hesitate to contact me on (07) 3115 5363 or email anthony.pitt@glencore.com.au.

Yours sincerely



Anthony Pitt
General Manager Logistics and Procurement
Glencore Coal Australia