

13 March 2014

**By email:** [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

David Hatfield  
Director, Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

Dear Mr Hatfield

**Applications for Authorisation – A91410 and A91411 – Aurizon Network Submission**

Aurizon Network welcomes the opportunity to provide a submission with respect to the applications for interim and final authorisations in relation to a supply chain coordination proposal (Proposal) with regards to the Dalrymple Bay Coal Terminal (DBCT).

Parties that operate in competition with the Applicants may be in a better position to comment on the competition effects of the Proposal. Our response concentrates on those aspects of the Proposal, and the Applicant's submission in support of the Proposal, where Aurizon Network considers commentary would assist the Commission in making its decision.

**Key Points**

Aurizon Network welcomes all initiatives designed to improve efficiency in coal chain operations and a more even draw-down of supply chain demand.

However, Aurizon Network is concerned that the submission in support of the Application:

- does not discuss and consider the necessary inter-relationship and the inconsistencies between, the Proposal and the regulated and contractual framework governing access to affected rail services declared under the *Queensland Competition Authority Act, 1997* (QCA Act);
- does not fully or appropriately identify the various causes of the problems the Proposal purports to address;
- materially overstates the public benefits claimed and achievable; and
- does not recognise the potential negative impact on other access users not within the Proposal.

We are concerned that there seems to be no genuine need for an interim authorisation, particularly given the matters discussed above and other avenues open to the Applicants to influence train scheduling efficiencies.

## **Conflict with the regulatory and contractual regime**

Aurizon Network provides and manages access to rail services in the central Queensland coal system. It does this by means of a voluntary access undertaking approved by the Queensland Competition Authority (QCA) and access agreements with customers that are negotiated and reflect the requirements of the approved access undertaking.

The current access undertaking, known as UT3, was approved by the QCA in October 2010 (UT3).

This undertaking is due to expire in June 2014. Aurizon Network proposes to apply to have UT3 extended in order to allow time for further consultations with industry and the QCA over the proposed terms of the next voluntary access undertaking to replace UT3, (UT4). Consultations in relation to UT4 are well advanced and Aurizon Network anticipates being in a position to submit a revised final version of UT4 for approval by the QCA in the next few months.

One of the key operational responsibilities of Aurizon Network in managing access arrangements is to perform train scheduling services.

The undertaking and Aurizon Network's access agreements operate to ensure that Aurizon Network does not unfairly differentiate between access holders in the provision of access. For instance, clause 2.2(a) of UT3 provides that Aurizon Network will not unfairly differentiate between access holders in relation to *"the provision of scheduling and Train Control Services in accordance with the Network Management Principles"*. UT4 will adopt the same principle.

In accordance with regulatory and contractual processes for the scheduling of trains, Access Holders (through their contracted Rail Operator) place orders for train services (known as 'TSEs' or 'train service entitlements') with Aurizon Network on a weekly basis and can be updated daily as part of the existing scheduling process. A train path specifies the origin, destination, time and other factors relevant to the service that the Rail Operator is seeking to utilise.

Aurizon Network analyses all the orders it receives on an affected coal systems using the principles defined in Schedule G of the undertaking or System Rules where approved by the QCA.

The purpose of this analysis is to schedule train services in the most efficient and equitable manner possible having regard to the competing interests of the parties seeking the train paths and the constraints of the rail infrastructure, as well as the constraints of the relevant loading and unloading facilities (e.g. port infrastructure and mine load out infrastructure).

Often, train path orders submitted to Aurizon Network will be in conflict with one another (i.e. one order will be seeking a path that overlaps with the time and destination of another). Where this occurs, Aurizon Network employs what are described as the 'Contested Train Path Rules' to determine the order of priority as between the contestants for the relevant paths, on an equitable and fair basis.

In summary, Rail Operators place orders for train path services on behalf of access holders and Aurizon Network determines the scheduling of those services.



The Applicants have referred to the Proposal as a train scheduling solution and the draft Charter Agreement appoints a "Scheduling Coordinator". The public benefits claimed by the Applicants are said to flow from more efficient train scheduling.

Therefore, train scheduling as demonstrated above is performed by Aurizon Network in accordance with regulatory and complimentary contractual processes, not by Rail Operators or their customers. Aurizon Network fairly and equitably performs this function taking into account orders received from all users of the rail network and cannot favour some over others, while maintaining consistency with the Network Management Principles.

It is therefore incorrect to suggest that the Proposal involves train scheduling. It involves, at best, coordinated train ordering for those users in the Goonyella System who choose to be members of the DCCC Charter Agreement.

### **The claimed public benefits**

The requirements for Aurizon Network to take into account orders from all users of a coal system on an equitable basis also questions the ability of the Proposal to achieve the claimed public benefits.

In addition, the Commission should note that in performing the train scheduling function in respect of the Goonyella System, Aurizon Network is not only obliged to take into account the orders of users travelling to DBCT. That is because some users of the Goonyella System unload trains at the ports of Hay Point and Abbot Point and because the Goonyella System also interconnects with the southern supply chain.

The DCCC referred to in the Proposal does not have visibility or control over the orders placed by other users not participating in the Proposal. The Applicant's submission does not recognise the interests of other users of the Goonyella System.

### **The nature of the problem and the public benefits**

The Application for Authorisation is premised on the fact that the Proposal is needed "*to make the DBCT coal chain more flexible in order to reduce interface losses through better and more coordinated planning, scheduling and operation*".<sup>1</sup>

The Applicants claim that the interface losses are represented by the difference between the nominal capacity of the DBCT – 85mtpa - and the actual throughput – 65mtpa. When asserting the financial benefits of the Proposal, the submission from the Applicants concentrate on this 20mtpa difference.

However, assuming that train scheduling inefficiencies were the primary cause of interface losses, it would be incorrect to assert that they would represent a loss of throughput equal to the difference between actual throughput and name plate capacity at DBCT. This can be demonstrated by the following:

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<sup>1</sup> See paragraph 4 of the Application. See too, for example, the second last paragraph on page 2 of the supporting submission.

- (a) The Goonyella System producers' own sales forecast through DBCT for the 12 month period from April 2014 to March 2015 is 74.2mtpa.<sup>2</sup> This represents a demand loss as compared to nameplate capacity of 10.8mtpa.
- (b) Additionally, the cause of throughput losses that have been analysed by various groups in the past, including the Integrated Logistics Company (ILC). The ILC developed a Master Plan for the Dalrymple Bay Coal Chain in 2013 which has been accepted by the Board of the ILC. That Plan recognises the best throughput case for DBCT after considering all known capital improvements is 72.1mtpa. This analysis used an Evidenced Based Starting Case (EBSC) methodology using forecast and historical data.

It is the premise of this analysis, confirmed in the 2013 Master Plan, that the gap between the stated nameplate capacity of 85mtpa and the starting EBSC is a consequence of:

- Post cycle delays;
- In loading rates at DBCT;
- Port dwell times;
- Network closures;
- Out loading rates at DBCT; and
- Flexible vessel selection (stockyard planning).

Of those causes, none equate to "interface losses" arising from train ordering or scheduling and only the last mentioned cause is something the DCCC Proposal could influence by changing the order of berthing for ships.

The Applicants assert, by way of public benefit, that the reduction in interface losses through implementation of the Proposal will result in increased coal revenues of \$450m per annum.<sup>3</sup> This claim is based on an "*anticipated...benefit of 3-5%*" of additional throughput arising from the Proposal.<sup>4</sup>

There may be difficulty in securing everyone in the DBCT supply chain to become members of the DCCC in order to achieve the optimum claimed benefit.

The submission in support does not identify any objective or measurable means of assessing the "anticipated benefit" and is therefore unlikely to be able to prove the Proposal's benefits in addressing the claimed interface losses.

In summary, any arrangements the Proposal participants are able to come to amongst themselves, still need to be considered for train scheduling along with all other users of the Goonyella System. This reality materially affects the claimed public benefits.

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<sup>2</sup> Integrated Logistics Company capability statement – 2014.

<sup>3</sup> Section 9.2.

<sup>4</sup> Ibid.,



### **Potential negative impact on competitors**

As mentioned above, the Applicants' submission does not take into account that there are other users of the Goonyella System who will not be members of the DCCC Charter Agreement, including users that rail coal to terminals other than DBCT.

There is a level of concern that if the Proposal was capable of improving the train scheduling outcomes for members of the DCCC, it could potentially come at the detriment of other users. The submission does not identify or seek to measure that impact.

The Charter Agreement proposes that a Rail Operator will act as the Scheduling Coordinator. This raises potentially serious issues from a competition and a conflicts perspective.

Rail Operators will have confidential production and haulage information relevant to all of the producers to which they provide rail haulage services using the Goonyella System, including producers that do not utilise DBCT and those producers that elect not to become members of the Charter Agreement.

The Charter Agreement is silent on:

- (a) how conflicts as between producers contracted to non-DCCC members will be addressed by a DCCC member who is acting as the Scheduling Coordinator;
- (b) how conflicts as between producers contracted to non-DCCC members as a haulage provider and other producers who are not contracted to use their services will be addressed when a DCCC member is performing its Scheduling Coordinator role; and
- (c) what measures will be put in place (e.g. ringfencing) to protect the commercially sensitive information of contracted producers when the Rail Operator is acting as the Scheduling Coordinator as opposed to when it is representing those producers in its capacity as rail haulage contractor. The confidentiality obligations in the draft Charter Agreement are not adequate to deal with this issue.

### **System Rules and Integrated Planning Regime**

The Application for Authorisation and the supporting submission does not fully disclose that the industry participants already have the opportunity to have a direct input into the way in which train services are scheduled through both the proposed System Rules and the Integrated Planning Regime.

#### *System Rules*

The purpose of the System Rules is to specify in detail the way in which Aurizon Network will plan, schedule and control the operation of train services. They may be developed for individual coal systems or across a combination of coal systems.

System Rules are developed in accordance with the process set out in Clause 7.1 and Appendix 1 of Schedule G of UT3. Affected stakeholders are given the opportunity to provide input during the development of the System Rules.

The System Rules include:

- (a) the declaration of System Paths for an Individual Coal System;
- (b) the procedures for Access Holders to submit Train Orders and for Aurizon Network to schedule Train Services in the Intermediate Train Path;
- (c) the procedures for Aurizon Network to schedule the Daily Train Path;
- (d) the relevant critical objectives for Train Services operating in an Individual Coal System or a combination of Individual Coal Systems to assist decision-making for Train Control; and
- (e) a responsible for Aurizon Network to develop monthly, weekly and daily train plans based on train orders lodged. Where there is a conflict, these are resolved by Aurizon Network applying the 'contested train path principles' set out in Appendix 2 of Schedule 3 of UT3.

On 5 August 2013, Aurizon Network submitted draft Northern Bowen Basin (NBB) System Rules to the QCA for approval, which includes the Goonyella, Newlands, and Goonyella to Abbot Point (GAP) system. Consistent with the requirements of the QCA Act, the QCA has sought industry input into the proposed System Rules and will advise Aurizon Network of any changes it considers necessary before approving them.

The matters of concern raised by the Applicants can potentially be matters raised in the development and approval process for the System Rules. While the NBB System Rules are still in consultation, opportunity exists to deal with the claimed issues attach to train scheduling and not just train ordering as is the case with the Proposal.

#### *Integrated Planning Regime*

Aurizon Network has also established an Integrated Planning Regime (IPR) of which Pacific National (PN), Aurizon Operations and DBCT are members.

The IPR is an existing forum which allows the Applicants to participate in proposals to improve train scheduling arrangements.

The purpose of the IPR is to receive and consider requests for continuous improvements to the train scheduling arrangements for trains using DBCT.

Producers have been invited to participate in the IPR on specific improvement projects. To facilitate this process certain producers accepted an open invitation made on behalf of the IPR, to co-locate within the Integrated Logistics Centre in Mackay.

#### **Interim authorisation**

Given the matters discussed, and until there is greater clarity as to the proposed Scheduling Principals<sup>5</sup>, Aurizon Network does not see the need for an interim authorisation.

The Applicants claim<sup>6</sup> that early implementation of the Proposal "*is the only opportunity available to the Applicants (and other stakeholders) to gain valuable experience with industry-led coordination to inform the UT4 [approval] process*".

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<sup>5</sup> See section 7.2

<sup>6</sup> See section 12.1.



UT3 was originally intended to expire on 30 June 2013. No attempt to create the DCCC was made before that date, despite the fact that the DBCT has been operational throughout the life of UT3. There is no suggestion by the Applicants that the interface losses are a recent issue.

UT4 has been the subject of lengthy and detailed consultation with both industry and the QCA. That process continues.

The Applicants claim that interim authorisation will allow the producers utilising DBCT to achieve significant financial benefits earlier. For the reasons set out in this letter, the claimed benefits are at best unlikely to be achieved through the Proposal.

Please do not hesitate to contact our John Stock on (07) 3019 7337 or at [john.stock@aurizon.com.au](mailto:john.stock@aurizon.com.au) if you would like to discuss any aspect of this letter.

Yours sincerely



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