



21 May 2013

Mr David Salisbury  
Deputy General Manager  
Fuel, Transport and Prices Oversight  
ACCC  
GPO Box 520  
MELBOURNE VIC 3001  
Email: [transport@accc.gov.au](mailto:transport@accc.gov.au)

Dear Mr David Salisbury

**CBH - proposed variation to 2011 Port Terminal Services Access Undertaking 30 April 2013 & ABA Pty Ltd proposed Port Terminal Services Access Undertaking 30 April 2013**

Cargill Australia has no issues or concerns regarding CBH - proposed variation to 2011 Port Terminal Services Access Undertaking 30 April 2013.

Regarding ABA Pty Ltd proposed Port Terminal Services Access Undertaking 30 April 2013, Cargill Australia's only issue is regarding Section 2.3 Stock swap arrangements. Cargill Australia is of the view that stock swaps need to be specified as 'time based' swaps with the same grade & quality and would only occur if agreed to by both parties, however agreement not to be unreasonably withheld. Grade and quality need to be taken into account especially around potential canola stock swaps.

Cargill Australia would recommend an industry standard clause for time-based swaps be used that protects the party whose stock has been swapped forward.

For example: Cargill agrees to sell the X tonnage to Y Grain Company free in store Port Kembla for title transfer 30/04/2013, track payment and Y Grain Company agrees to sell same tonnage to Cargill free in store Port Kembla to be transferred on 13/05/2013 by COB. If replacement stocks are not transferred by the due date, Y Grain Company agrees to Cargill the vessel demurrage rate per day until balance has been transferred upon receipt of proof from Cargill that the late transfer of replacement tonnage has resulted in the delay of the vessel loading. Vessel demurrage rate is as per Charter Party.

Please direct any questions to me on 03 9268 7362 or [peter\\_mcbride@cargill.com](mailto:peter_mcbride@cargill.com)

Yours sincerely

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

**Peter McBride**  
**Director Corporate Affairs**  
**Cargill Australia Limited**