

30 April 2014

For public register

Mr David Salisbury
Deputy General Manager
Fuel, Transport and Prices Oversight
ACCC
GPO Box 520
MELBOURNE VIC 3001

By email: transport@acc.gov.au

Dear Mr Salisbury

Co-operative Bulk Handling Limited – Proposed 2014-2017 Port Terminal Services Access Undertaking

Introduction

This letter sets out comments from Glencore Grain Pty Ltd and Viterro Ltd (together “**the Company**”) in relation to the matters raised in the ACCC’s Issues Paper dated 4 April 2014 concerning CBH’s proposed new port terminal services access undertaking.

The proposed undertaking is largely similar to CBH’s 2011 Undertaking, except for the inclusion of proposed Long Term Agreement (“**LTA**”) arrangements.

The Company’s Views

The Company believes that the direct commercial negotiation of long term agreements between the port terminal operator and exporters is the best method of allocating shipping capacity.

We believe that the industry is mature enough to thrive under LTAs and feedback that we have received from exporters supports this view and the increasing transition to this new environment.

LTAs

The Company agrees with a number of matters set out in CBH’s application and supports the proposal to offer LTAs. In particular, we consider that:

- LTAs offer significant benefits to both the infrastructure owner in assuring continued use of existing assets and to exporter customers in ensuring security of execution beyond the immediate demand period.

In our view, LTAs will become increasingly important as genuine commercial negotiations represent the most efficient way for port terminal operators and exporters to strike an appropriate balance between the flexibility and certainty they each require;

- The ability to negotiate commercial long term access agreements with all port terminal operators will allow Glencore Grain to give certainty to end-user customers, which in turn will provide certainty for ongoing demand for Australian grain in the global marketplace, which ultimately benefits growers;
- A further desirable outcome of LTAs should be to reduce the overall level of auction premiums risked by the exporter and reduce the capital tied up in premium pools ; and
- The Company supports LTAs as a desirable outcome which would encourage investment along the supply chain.

Details of the submission

The Company supports some of the detail of CBH's submission as outlined below:

- We believe that the early expiry of the proposed undertaking is appropriate and sensible in the event that a mandatory code of conduct is introduced;
- We believe that the three year timeframe is acceptable (although our preference is for a longer timeframe). We also consider that the 34 per cent of capacity reserved for 'near term' acquisition is more than adequate;
- The Company considers that the minimum 600,000 tonnes per annum LTA commitment is appropriate, given the shipping profile (i.e. panamax vessels) out of Western Australia.

Allocation of Capacity

The Company believes that the industry is mature enough to deal with a pro-rata system of allocation, and we therefore consider that the CBH proposal on this issue is acceptable in the context of the overall proposal.

Due to the demand profile for shipping slots at different times of the year, we believe that the port operator should have a level of discretion as to the mode and method of allocating of shipping slots.

Overall the structure of the LTAs is acceptable to us as an exporter. We recognise that individual port terminal operators have a legitimate interest in ensuring that LTAs serve their specific business and operational requirements. It is very important that this is given appropriate weight in assessing the proposed new access undertaking.

Other issues in the undertaking

The Company comments on the other issues raised in the undertaking as follows:

- In relation to common stock, the Company believes that co-mingling grain in a common stack is appropriate and necessary for the efficient execution of grain in the Australian context, and the approach taken to outturn standards is consistent with existing provisions across bulk handling facilities in Australia; and

- In relation to the provision to remove a port from the undertaking, the Company considers that all ports in Australia should be subject to the same level of regulation, including all new port operations regardless of geographical location. Any disparity in regulation between ports will lead to a market distortion and ultimately inefficiency in the market, particularly at those areas where ports with different regulatory regimes compete for the same grain. Ultimately this means growers will be paid less for their product and the cost to execute grain will be inflated. This also reflects our comments in relation to GrainCorp's proposed amendments to its access undertaking.

If the ACCC has any questions in relation to the matters raised in this letter, the Company would be pleased to assist.

Yours sincerely

Damian Fitzgerald
Director Legal