



2 September 2014

Ms Lyn Camilleri
Acting Deputy General Manager
Australian Competition & Consumer Commission
Infrastructure & Transport – Access & Pricing
Infrastructure Regulation Division
Email: transport@acc.gov.au

By Email

Dear Ms Camilleri

Co-operative Bulk Handling Limited's proposed change to long term capacity allocation process

1 Background

Mitsui & Co. (Australia) Ltd. (**MCA**) lodged an application for a Long Term Agreement (**LTA**) with Co-operative Bulk Handling Limited (**CBH**) based on the parameters outlined in CBH's proposed undertaking for 2014, as accepted in the draft decision of the ACCC. MCA entered the process of applying for LTA capacity on the basis of its understanding that in the event capacity was oversubscribed and CBH's negotiations with customers were unsuccessful, all capacity within the relevant shipping window would be auctioned.

2 LTAs

MCA is fully supportive of LTAs as a means of allocating shipping capacity and providing certainty to both exporters and bulk handling companies.

However, the actions of CBH in allocating capacity to date have not matched the process CBH outlined in its proposed Port Terminal Rules.

The variations sought by CBH impact on MCA's participation in the LTA process. Accordingly, we respond as follows to questions posed by the ACCC.

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3 Response to questions provided by the ACCC

3.1 Does the proposed clause provide sufficient certainty and transparency about the method by which CBH will allocate LTA capacity should it be oversubscribed?

MCA's position is that there is not sufficient transparency about the method of allocating capacity in the event of oversubscription. The proposed clause contemplates that CBH will take into account three year shipping history, current YTD shipping and consistency of supply.

However, CBH does not explain the weighting given to each of these measures in allocating capacity. There is no consideration given to the trend in an exporter's shipping volumes, whether increasing or decreasing. No mention is made of shipping volumes booked for September onwards for the current season.

The method used to calculate capacity allocation for new shippers is also not clearly defined.

Under the proposed undertaking, shippers have been asked to accept an offer of capacity with limited clarity in relation to how that offer was formulated and the allocation other shippers will receive. Without a clearly defined system for allocation of oversubscribed capacity, it is very difficult for a shipper to determine whether it has been given a fair allocation or if it will be disadvantaged in the marketplace.

3.2 Is the proposed allocation method (i.e. having regard to historical exports of customers) appropriate, and does it appropriately balance the interests of different industry participants and the efficient operation of the facility?

MCA accepts that historical supporters and users of the facilities should not be disadvantaged. However, MCA's position is that CBH's proposed allocation method is not entirely appropriate.

The proposed allocation method assumes that prior performance and behaviour is representative of a desired or preferred shipping profile. During the 3 years prior to the current year, the market was distorted by high auction premiums for capacity, which impacted the volumes exporters were able to secure. A decision not to pay in excess of \$40/mt for a shipping slot in past years should not exclude a party from having an equal right to commit to export from Western Australia for a 3 year period at a \$4 tariff.

3.3 Will smaller or new exporters have sufficient opportunity to obtain capacity through the auction mechanism, if CBH submits an undertaking that includes the proposed clause?

Smaller and new exporters will have sufficient opportunity to obtain capacity through the auction mechanism. However, smaller and new exporters will face increased competition from participants who have received a greater proportion of their shipping needs via an LTA.

Participants who have received a greater proportion of their shipping needs via an LTA will be in a position to pay higher auction premiums for their remaining capacity requirements, due to the lower capital requirements for securing LTA capacity. That is, average cost of capacity for such participants will be far lower than that of smaller or new exporters. A smaller or new exporter will be required to pay higher auction premiums for a larger proportion of its capacity, leading to higher average costs.

The working capital requirements and risks associated with having to buy a greater proportion of capacity at auction mean that exporters with a higher proportion of LTA capacity have a significant advantage over exporters with a higher proportion of auction capacity.

4 Summary

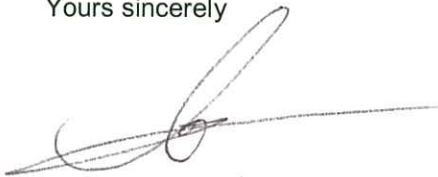
As stated above, MCA supports LTAs as a means of allocating shipping capacity and providing certainty to exporters and bulk handling companies.

However, MCA's view is that:

- CBH must provide greater transparency in relation to its method for allocating capacity in the event of oversubscription; and
- any significant changes to the LTA process should result in a recommencement of the nomination process to allow shippers to adjust their respective LTA requirements accordingly.

Should you wish to discuss this matter please contact Rohan Crockett by telephone on 03 9605 8904 or email at r.crockett@mitsui.com.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shiho Shu', with a long horizontal line extending to the right.

Shiho Shu
General Manager – Food Division
Mitsui & Co. (Australia) Ltd.