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Mr Anthony Wing
General Manager
Transport and General Prices Oversight
ACCC
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24th August 2011

RE: ACCC Draft decision – Viterra Undertakings.

Dear Anthony,

In accordance with the ACCC's request for comments in regard to its draft decision on Viterra's most recent undertakings submission Concordia Agritrading Australia wishes to note that we find a number of the ACCC findings and conclusions positive and encouraging.

We are particularly pleased that the ACCC agreed that the type of conduct and capacity management practices displayed in March 2011 in regard to the booking of peak demand new crop stem space was not acceptable and must be addressed immediately.

However, we would like to highlight to the ACCC that we still have areas of continuing concern which have the potential to restrict both our ability and willingness to operate competitively within the South Australian Grain market.

As mentioned above, we find it encouraging that the following issues have been identified and addressed by the ACCC

- a) Increased transparency as to information regarding:
 - a. Capacity at port
 - b. Stock at port
 - c. Pricing of certain port services
- b) Allocation of capacity
 - a. Introduction of a suitably structured auction system
 - b. Ability to trade capacity
 - c. Ability to move booked slots between ports and periods
- c) The ability for the ACCC to access a copy of the agreement offered to the Viterra trading arm

Issues that remain of significant concern

- a) Stem availability – Port Adelaide / Port Lincoln; Jan-April 2012.

We would contend that the proposal put forward by Viterra to allocate an arbitrary percentage of the estimated capacity to their own trading arm, and the remaining capacity on a first come, first serve basis favours Viterra and maybe 1-2 other exporters who were simply fortunate enough to take advantage of a non-transparent and fundamentally flawed method of peak demand capacity allocation. We would contend that those who acted on March 8, 2011 have no more valid right to access than others now on the pending list for this peak demand capacity.

It could be argued strongly that a fairer way in which to allocate this Jan – Apr 2012 space would be to either (a) allow all those in pending status to bid for this capacity in an interim one-off and suitably structured auction, or (b) ballot out the capacity to all those who currently sit waiting on the pending status list, with a maximum tonnage placed upon any one exporter.
 - b) The strategic advantage associated with the fact that the \$5 per mt booking fee is an internal transfer of funds only for Viterra, and that Viterra's cash flow position benefits directly from having accessed this fee from all other market competitors up to 12 months in advance. We see this as simply unfair to all other exporters. Viterra's suggestion that their position is similar to all others because they operate different profit centres is at best misleading.
- The introduction of an auction system and transferrable slots is a positive move however unless structured appropriately it fails to suitably address this issue.

- c) While access to the port stem itself is a fundamental requirement, the most critical measure of the efficiency of exporting through the port under current arrangements is the time taken (i) accumulating stock into the port and (ii) loading the vessel at the port.

At the moment, if an exporter engages Vittera as their logistics provider by agreeing to utilise Export Select, Vittera controls this activity. At the same time they do not participate in the commercial outcome other than to extract fixed fees for freight etc. Any delays are entirely for the exporters account.

While we would suggest that their direct participation in this commercial outcome would drive a completely different and more proactive behaviour throughout the export supply chain, we are also realistic enough to suggest this request is likely to be met with outright rejection at this stage.

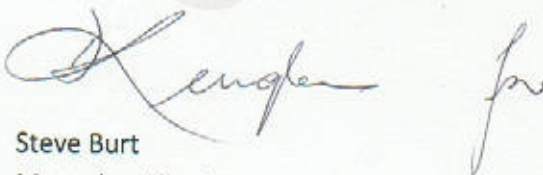
However there is no reason why this process cannot be measured and reported.

As a start Vittera should be asked to report the time taken between the provision of the Notice of Readiness (NOR) by each vessel and the time of completion of loading – every vessel/every port. Vittera may contend, sometimes correctly, that delays may have been caused by factors out of their control. If so, a short summarised list of reasons for delays could accompany such reporting.

In fact every BHC operating under ACCC undertakings should be asked to do the same. This could/would provide a basic but effective high level benchmark for overall port and supply chain management performance.

We appreciate the opportunity to put forward these comments and say once again that it is encouraging to see some of the changes and amendments that are being implemented through this process.

Yours sincerely,



Steve Burt
Managing Director
Concordia Agritrading (Australia) Pty Ltd