

**South Australian Farmers Federation Grains Industry Committee;
Response to Viterra Proposed Port Terminal Services Access Undertaking
2011; August 2011**

The South Australian Farmers Federation Grains Industry Committee (SAFFGIC) agrees with a number of decisions expressed by the Australian Competition and Consumer Commission (ACCC) in its draft decision regarding Viterra Operations Limited Port Terminal Services Access Undertaking.

These are:

1. Improved management of the shipping stem
2. Improved publication of information and disclosure of grain stocks held
3. Improved and equitable access to competitor storage providers
4. Greater transparency of "upcountry fees" ie. Export Select and qualification of third party storage providers for Export Select Rebate

SAFFGIC also recommends that:

- ACCC powers should extend to all grain commodities not only wheat
- ACCC powers should extend along the whole supply chain
- ACCC must review Port Loading Protocols (PLPs) in 2014 and until there is competition in the whole grain supply chain in South Australia
- Arbitration of negotiations between Viterra and access seekers regarding the Proposed 2011 Undertaking and PLPs remains with ACCC rather than move to a review by court procedure.

1. Management of the shipping stem

SAFFGIC supports the need to change the management of the shipping stem.

As presented in several submissions, Viterra Trading division has the ability to book shipping slots at favourable terminals, in excess of its historical shipping capacity. There is no financial disincentive for cancellation of the booking fee paid by Viterra Trading to Viterra Operations as the company as a whole is no worse off.

The movement to an auction system has in principle support from SAFFGIC however;

- Viterra Ltd, as a whole entity, must experience the same financial penalty as competing grain exporters should slots be cancelled or transferred.

- Therefore a system involving all access seekers wanting a slot, to lodge a letter of credit (LC) for a booking fee, with the fee to be rebated to the actual exporter for that slot should be established
- An auction system would then be used to determine the premium paid to allocate high demand slots to overcome the current “first in best dressed” system
- Transfer fees should not apply to transfer of slots between exporters unless there are changes in the type of commodity to be shipped advised at short notice.

The above system prevents:

- Viterro Trading, purchasing slots at auction with payment made to Viterro Operations, only then to cancel that slot for no financial penalty, as is the case under the current system.
- The establishment of a secondary market of speculative booking of slots for sale / transfer

2. Publication of information and disclosure of grain stocks held

Currently there is no ring fencing mechanisms in place to preventing Viterro Operations disclosing stock information to Viterro Trading which would then provide the whole company a commercial advantage over competing traders.

SAFFGIC refers to its original submission in that;

Information on commodity, grade, quality and tonnage of grain (per cell / bunker) delivered to any Viterro or Grain Trade Australia (GTA) member bulk handler and are Viterro Third Party Approved to be provided in real time free of charge to the market.

Total receipts, carryover, export and domestic out turn for all grains, be provided to the market on a real time basis by the same entities outlined above.

That growers have the right to “opt in” to warehouse disclosure of commodity, tonnage, quality and site to be available daily to be viewed by traders.

Grain held in bulk storage is considered “co-mingled”. The information on commodity, quality, tonnage and cell is regarding the co-mingled grain held on behalf of growers and traders, not individual loads delivered by growers or tonnages owned by individual entities.

3. Equitable access to competitor storage providers

In South Australia there are only a handful of “Approved Third Party” storage providers. They account for around 500, to 600,000 tonnes of capacity, whereas Viterra has a capacity in excess of 10 million tonnes.

Deliveries from Approved Third Party Bulk Handlers are charged additional fees to delivers through the Viterra port system. There is no other way of loading bulk vessels in South Australia. These fees include; port in loading fee (\$2.20 per tonne rail \$3.40 per tonne road), receival at port service fee (\$2.50 per tonne wheat and feed barley, \$3.80 per tonne for malt barley and POA for pulses) and shrinkage (0.35% cereals, 0.5% pulses) equating to approximately \$7.00 per tonne for wheat delivered by road.

Non Approved Third Party Bulk Handlers such as grain growers with on farm storage pay an additional receival fee of \$10.70 per tonne to access port facilities. These Non Approved Third Party Bulk Handlers may have obtained or are seeking ISO9001 quality accreditation. In Victoria, grain growers can deliver straight from on farm storage to port for a third party access fee of \$0.50 per tonne (ABA) and \$1.54 per tonne (GrainCorp).

SAFFGIC supports:

- Improved transparency of the approval process for third parties
- The approval process should be included within Port Services Access Undertaking
- Arbitration of disputes for non approved third parties denied approval, should be arbitrated by the ACCC
- Port in loading fee, shrinkage costs should be reduced to reflect the expense of the service being requested
- Fees for access from competitor storage be published by Viterra
- Removing the Export Select rebate and instead reducing the Export Select Fee, as receivals from third parties have difficulty accessing rail through Genesee Wyoming Australia (GWA)
- Access to non approved third parties is price prohibitive, SAFFGIC acknowledge that process have not been tested through publish-negotiate-arbitrate as non approved third parties are not included in Port Services Access Undertaking
- Proposed amendment by Viterra under 6.3.3 refers to Approved Third Party Storages does not address the Approval process for Third Party Storage. Does not allow for negotiation and arbitrage for “non approved” third party.

4. Export Select / Export Standard requires greater transparency

Currently “Approved Third Party” storage providers are precluded from participating in the Export Select program. Therefore the “Approved Third Party” storage providers can not access the rebate provided to Viterra upcountry sites.

There is a lack of transparency for rail access costs to grain buyers. Currently Viterra lease rolling stock from GWA and arrange freight on behalf of grain buyers through the Export Select program. Viterra purchase around 34% of the grain in South Australia, however arranges the rail freight on behalf of the other 66% of buyers.

SAFFGIC recommends that rail access charges be published by Viterra being the expense incurred from GWA. This should also be included as part of the 2011 Undertaking and therefore subject to publish-negotiate-arbitrate procedure.