



Exempt service provider status assessments under the Port Terminal Access (Bulk Wheat) Code of Conduct

GrainCorp Operations Limited - Port of Portland

Issues paper

Date 7 February 2019

Summary

The Australian Competition and Consumer Commission (ACCC) is seeking views on whether it is appropriate for the ACCC to determine GrainCorp Operations Limited (GrainCorp) to be an exempt service provider of port terminal services provided by means of its port terminal facility at the Port of Portland (Portland).

Exempt service providers are not required to comply with Parts 3 to 6 of the *Port Terminal Access (Bulk Wheat) Code of Conduct* (the Code) in relation to port terminal services provided through specified port terminal facilities.¹ Accordingly, exempt service providers are not required to (among other things) have their process for allocating access to their port terminal services approved by the ACCC, allocate capacity according to the Code's non-discrimination and no hindering obligations, or publish information on expected port capacity, performance indicators, or stocks at port.

The Code states that in making a determination that a port terminal service provider (PTSP) is an exempt service provider the ACCC must have regard to the matters listed at subclause 5(3) of the Code. The ACCC will consider these matters in subclause 5(3), along with submissions provided in response to this issues paper, prior to making its draft determination.

GrainCorp has provided a submission in support of exempt service provider status at Portland. Further details of this submission are set out as relevant in section 2 of this issues paper. The submissions are available on the ACCC's website for interested parties to consider.²

Riordan Grain Services (RGS) also operates a port terminal facility at Portland. RGS has applied to be an exempt service provider and in October 2018 the ACCC published an issues paper seeking views on RGS' application. In response to that issues paper, GrainCorp provided the ACCC with an application seeking exempt status for its port terminal facility at Portland. The ACCC intends to assess competition in the market for port terminal services at Portland, in order to determine whether to grant or not grant exemptions to GrainCorp and/or RGS at Portland.

The ACCC invites comments in response to this issues paper by **5.00pm EST on 28 February 2019**.

Further information on the ACCC's exemption role is available at **Appendix A**.

¹ Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014, s.4(8)

² See <https://www.accc.gov.au/regulated-infrastructure/wheat-export/wheat-export-projects>

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1. Introduction

The Code commenced on 30 September 2014 and regulates the conduct of bulk wheat port terminal service providers. It was prescribed by regulation under section 51AE of the *Competition and Consumer Act 2010 (Cth)* (CCA).

The Code provides that the ACCC or the Minister for Agriculture may exempt a port terminal service provider from the application of Parts 3 - 6 of the Code in relation to port terminal services provided at a specified port terminal facility. Exempt service providers face a lower level of regulation, as they remain subject to only Parts 1 and 2 of the Code. The obligations under each of the different Parts of the Code are discussed further in section 1.2.

This section sets out why the ACCC has a role assessing whether PTSPs should be determined to be exempt service providers, what that assessment process will involve, and how interested parties can participate in the assessment.

1.1. How the ACCC will assess whether it is appropriate to determine GrainCorp to be an exempt service provider

The ACCC is assessing whether it is appropriate to determine GrainCorp to be an exempt service provider of port terminal services provided by means of its port terminal facility at Portland in Victoria.

In deciding whether to determine a PTSP to be an exempt service provider, the ACCC is required to consider the matters listed at subclause 5(3) of the Code:

- (a) the legitimate business interests of the port terminal service provider
- (b) the public interest, including the public interest in having competition in markets
- (c) the interests of exporters who may require access to port terminal services
- (d) the likelihood that exporters of bulk wheat will have fair and transparent access to port terminal services
- (e) the promotion of the economically efficient operation and use of the port terminal facility
- (f) the promotion of efficient investment in port terminal facilities
- (g) the promotion of competition in upstream and downstream markets
- (h) whether the port terminal service provider is an exporter or an associated entity of an exporter
- (i) whether there is already an exempt service provider within the grain catchment area for the port concerned
- (j) any other matters the ACCC considers relevant.

To inform its consideration of these matters, and consistent with the exemption guidelines,³ the ACCC considers that it is appropriate to seek the views of interested parties.

The ACCC is therefore conducting a public consultation during which interested parties are invited to comment on specific questions and matters relating to the appropriateness of GrainCorp receiving exempt service provider status at Portland.

³ ACCC, Guidelines on the ACCC's process for making and revoking exemption determinations, October 2014.

The ACCC will assess whether it is appropriate to determine GrainCorp to be an exempt service provider at Portland, and at the same time assess whether it is appropriate to determine RGS to be an exempt service provider at Portland. The ACCC will consider the matters listed at subclause 5(3) and the views expressed by interested parties during the course of the ACCC's public consultation process. The ACCC will then make its determinations on whether to exempt or not exempt GrainCorp and RGS at Portland. The ACCC has previously considered issues relating to the Victorian grain market in its consideration of exemptions for GrainCorp's and Emerald's Victorian facilities in 2015,⁴ and RGS' facility at Geelong in 2017.⁵ Interested parties may wish to make reference to those previous decisions.

1.2. What a determination of a port terminal service provider as an exempt service provider means

Unless exempt, PTSPs are required to comply with Parts 1 to 6 of the Code (that is, the entire Code).

PTSPs that are determined by the ACCC or the Minister of Agriculture to be exempt service providers are:

- only required to comply with Parts 1 and 2 of the Code
- **not** required to comply with Parts 3 to 6 of the Code

in relation to the specified port terminal facility.

Part 1 of the Code contains general provisions about the Code.

Part 2 of the Code requires all PTSPs to deal with exporters in good faith, publish a port loading statement and policies and procedures for managing demand for their services, and make current standard terms and reference prices for each port terminal facility publically available on their website.

Part 3 of the Code requires a PTSP:

- not to discriminate in favour of itself or its trading business or hinder third party exporters' access to port terminal services,
- to enter into an access agreement or negotiate the terms of an access agreement with an exporter to provide services if an exporter has applied to enter into an access agreement and certain criteria are satisfied, and
- to deal with disputes during negotiation via specified dispute resolution processes including mediation and arbitration.

Part 4 of the Code requires a PTSP to have, publish and comply with a port loading protocol which includes an ACCC approved capacity allocation system.

Part 5 of the Code requires a PTSP to regularly publish its expected capacity, stock at port information and key performance indicators.

⁴ ACCC, ACCC Determinations – Exemptions in respect of Emerald's Melbourne Port Terminal Facility, GrainCorp's Geelong Port Terminal Facility and GrainCorp's Portland Port Terminal Facility, 25 June 2015.

⁵ ACCC, ACCC Determination – Exemption in respect of Riordan Grain Services' Geelong Port Terminal Facility, 28 July 2017.

Part 6 requires retaining records such as access agreements and variations to those agreements.

Exempt service providers are still required to comply with general competition law.

1.3. Consultation

The ACCC invites interested parties to provide their views on whether it is appropriate for the ACCC to determine GrainCorp to be an exempt service provider of port terminal services provided by means of its port terminal facility at Portland.

Section 2 of this issues paper contains what the ACCC considers to be key questions and issues relevant to the ACCC's assessment, as well as information provided by GrainCorp in support of exemption.⁶

The ACCC invites interested parties to respond to these questions, comment on the information provided by GrainCorp, and provide any additional information they consider relevant to the ACCC's assessment.

1.3.1. Making a submission

Please address submissions to:

Mr Matthew Schroder
General Manager
Infrastructure & Transport - Access & Pricing Branch
ACCC
GPO Box 520
MELBOURNE VIC 3001

The ACCC prefers that submissions be sent via email in Microsoft Word format (although other text readable document formats will be accepted). Submissions should be sent to both of the following email addresses:

transport@acc.gov.au

michael.eady@acc.gov.au

1.3.2. Due date for submissions

Submissions must be received before **5.00pm AEST** on **28 February 2019**.

1.3.3. Confidentiality of information provided to the ACCC

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request.

Sections of submissions that are claimed to be confidential should be clearly identified. The ACCC will consider each claim of confidentiality on a case by case basis. If the ACCC refuses a request for confidentiality, the submitting party will be given the opportunity to

⁶ Submissions by GrainCorp are available on the ACCC's website at: <https://www.acc.gov.au/regulated-infrastructure/wheat-export/wheatexportprojects>

withdraw the submission in whole or in part. The ACCC will then conduct its assessment in the absence of that information.

For further information about the collection, use and disclosure of information provided to the ACCC, please refer to the *ACCC & AER Information Policy – collection and disclosure of information*, available on the ACCC website.

1.3.4. Further information

If you have questions about any matters raised in this document, please contact:

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2. Matters for comment

On 29 November 2018, GrainCorp provided a written application to the ACCC seeking to be determined an exempt service provider of port terminal services provided by means of its port terminal facility at Portland.

GrainCorp has previously applied to be an exempt service provider at Portland. In June 2015 the ACCC made a determination not to grant GrainCorp an exemption in respect of its port terminal facility at Portland.⁷

The ACCC will consider whether to determine GrainCorp as an exempt service provider in relation to services provided by means of its port terminal facility at Portland, having regard to the matters listed in subclause 5(3) of the Code including any material changes in circumstances since its previous determination.

The ACCC invites interested parties to provide submissions commenting on the specific questions and matters within this paper relating to the appropriateness of GrainCorp receiving exempt service provider status at Portland.

Interested parties are encouraged to reference the matters listed in subclause 5(3) of the Code in their response.

GrainCorp's application was provided in the context of an application made by RGS to be an exempt service provider at Portland. On 26 October 2018 the ACCC published an issues paper in relation to RGS's application.⁸ The consultation period for submissions on RGS' application has closed. The ACCC requests that submissions in response to the present issues paper primarily relate to GrainCorp's application. However, the ACCC recognises that comments relating to the appropriateness of an exemption for GrainCorp may consider the possibility of RGS being determined an exempt service provider, and that matters raised may be relevant to both applications.

The ACCC will then consider whether to determine RGS and/or GrainCorp to be exempt service providers in relation to services provided by means of their respective port terminal facilities at Portland.

Additional details to the information extracted below is available in GrainCorp's submission in support of its application, available on the ACCC's website.

2.1. Legitimate business interests of the service provider

In making a determination to exempt or not exempt a PTSP, the ACCC is required to consider the PTSP's legitimate business interests. Therefore the ACCC is seeking views on how removing the obligation to comply with Parts 3 to 6 of the Code would impact on GrainCorp's business interests.

In relation to the interests of the service provider, GrainCorp submits that granting an exemption to GrainCorp's Portland Port terminal would:

- Allow GrainCorp to compete commercially for the export of bulk grain;
- Support operational flexibility to improve service and reduce supply chain costs;

⁷ ACCC, ACCC Determinations – Exemptions in respect of Emerald's Melbourne Port Terminal Facility, GrainCorp's Geelong Port Terminal Facility and GrainCorp's Portland Port Terminal Facility, 25 June 2015.

⁸ ACCC, ACCC Issues paper – Riordan Grain Services Exemption Assessment, 26 October 2018.

- Provide equity with the competing export container packers (that are not regulated) and RGS, assuming it is exempt from the Code; and
- Reduce the overall level of regulation and cost of compliance.⁹

Key questions and issues

1. *How and to what extent are the legitimate business interests of GrainCorp affected by having to comply with Parts 3 to 6 of the Code when providing port terminal services?*
2. *In what ways would an exemption for GrainCorp impact on the efficient operation and use of its port terminal facility at Portland?*

2.2. Access to port terminal services

Subclause 5(3) requires the ACCC to consider the interests of exporters who may require access to the relevant port terminal services when determining whether to exempt a PTSP. Therefore the ACCC is seeking views on how the interests of access seekers will be impacted by removing obligations on GrainCorp to comply with Parts 3 to 6 of the Code, including the access seekers' ability to secure fair and transparent access.

GrainCorp submits that a reduction in the level of regulation of Portland will enable GrainCorp to operate more flexibly, innovate with its customers and freely compete to provide an efficient export pathway for customers.¹⁰

In relation to the ability of third parties to secure access, GrainCorp submits:

GrainCorp's track record at exempt terminals indicates that it continues to provide third party exporters with access to its infrastructure after exemptions have been granted.

Were its Portland facility to be exempted, GrainCorp would have similar motivations to continue providing access, including underutilised infrastructure and strong countervailing competitive pressure from competing operators, containers and the domestic market.¹¹

GrainCorp submits that, over the last three completed shipping years, 52 per cent (433,058 tonnes) of grain exports from its Portland terminal have been elevated by third party access seekers (and that at least one of these switched to use RGS facilities last year). GrainCorp exports accounted for 48 per cent (408,244 tonnes) of total grain exports from the Portland terminal.¹²

GrainCorp submits that capacity is substantially underutilised with an average capacity utilisation of 33 per cent. The terminal is increasingly used as a niche terminal or used to 'top-up' vessels from Geelong or other ports.¹³ There are currently no grain vessels booked to load at Portland for the 2018-19 shipping year and GrainCorp considers this situation is unlikely to change.¹⁴

⁹ GrainCorp, Submission in support of exemption, November 2018 (GrainCorp Submission), p5.

¹⁰ GrainCorp Submission, p5.

¹¹ GrainCorp Submission, p5.

¹² GrainCorp Submission, p4.

¹³ GrainCorp Submission, p3.

¹⁴ GrainCorp Submission, p3.

Key questions and issues

3. *If GrainCorp is not required to comply with Parts 3 to 6 of the Code (including the dispute resolution, non-discrimination, and capacity allocation system approval obligations), would exporters still expect to be able to negotiate access to port terminal services at Portland on reasonable commercial terms?*

2.3. Grain catchment area

In making an exemption determination, the Code requires the ACCC to have regard to the public interest, including the public interest in having competition in markets. In order to assess the level of competition between providers of port terminal services the ACCC considers that it is necessary to examine the grain catchment area or port zone that will feed the port and the substitutability of different ports or the domestic market.

In regards to the grain catchment area for Portland, GrainCorp submits:

Victoria's relatively small geographic area and the consequent dominance of road transport means that, for most grain growing areas, the road distance (and cost) to sell grain to the domestic market or to Melbourne Container Terminals is comparable to that of moving it to alternative destinations, including ports in Melbourne, Geelong and – for some growers in North West Victoria – Adelaide.¹⁵

Key questions and issues

4. *What regions should be considered part of the Portland zone? That is, where is bulk grain exported from Portland typically sourced from?*

2.4. Competition in bulk grain port terminal services

As noted, the ACCC considers that, in determining whether to exempt a PTSP an important consideration is whether a PTSP is incentivised to provide exporters with fair and transparent access due to competitive pressures. One of these potential pressures is from other PTSPs. The ACCC is also required to have regard to the promotion of efficient investment in port terminal facilities.

The ACCC therefore seeks to assess the current and reasonably anticipated levels of competition in port terminal services at Portland. In particular, the ACCC is considering the levels of capacity, demand and spare capacity at Portland. Riordan Grain Services currently operates a mobile ship loading facility at Portland and has also applied to be an exempt service provider by means of its port terminal facility at Portland. The ACCC has published its issues paper in relation to Riordan's application.

The ACCC has previously considered similar issues in 2015 in relation to GrainCorp and Emerald's Victorian facilities, and in 2017 in relation to Riordan's Geelong facility.

¹⁵ GrainCorp Submission, p3.

On the level of competition that GrainCorp's port terminal facility at Portland provides, GrainCorp submits:

Grain loading capacity at the GrainCorp's Portland facility is substantially underutilised (Figure 3). From a grain exporting perspective, the terminal has been playing an increasingly niche role, meeting specific customer demands as required, or being used to 'top-up' vessels from Geelong or other ports. The great majority of bulk grain exports from Victoria are serviced through the terminals at Geelong and Melbourne.¹⁶

As noted above, GrainCorp also submits that it is constrained by "[s]trong competition within country and export grain infrastructure across Victoria."¹⁷

Key questions and issues

5. *To what extent do the services offered at Riordan Portland or by PTSPS at other facilities, represent a viable competitive alternative to the port terminal services provided by GrainCorp at Portland, or vice versa?*
6. *What characteristics or factors are relevant in comparing the services provided at GrainCorp's Portland port terminal facility and other port terminal facilities? How do these characteristics or factors affect the level of competition between GrainCorp's Portland port terminal facility and other port terminal facilities?*
7. *For grain produced in the Portland port zone, to what extent are other ports a economically viable alternative destination to Portland (i.e. do PTSPs at Portland compete against PTSPs at the other Victorian ports and the Adelaide ports)?*
8. *Are there capacity constraints at Portland or is capacity currently underutilised? If capacity is constrained, when and how often does this occur, and what factors affect this?*
9. *In what ways would an exemption for GrainCorp impact on the likelihood of efficient investment in port terminal facilities?*

2.5. Competition in upstream, downstream and related markets

The ACCC's assessment of whether it is appropriate to exempt GrainCorp at Portland requires the consideration of the public interest (including the level of competition between providers of port terminal services at Portland, and the promotion of competition in upstream downstream, and related markets).

In order to make that assessment, the ACCC considers that it is relevant to assess the level of competition in the bulk export supply chain, as well as the container export and domestic markets, and the extent to which these affect the level of competition of port terminal services at Portland.

Storage and transport services

A bulk grain exporter's access to transport and/or storage services may have an impact on the exporter's ability to access port terminal services. Accordingly, the ACCC considers that the level of competition in the upcountry supply chain is relevant to the level of competition in

¹⁶ GrainCorp Submission, p3.

¹⁷ GrainCorp Submission, p. 5.

the market for port terminal services. The ACCC notes that its examination of competition in the upcountry supply chain in this exemption process is limited to the extent to which it impacts on fair and transparent access to port terminal services.

On the market for upcountry storage, GrainCorp submits that over the past three completed seasons, the share of Victorian production received into GrainCorp's network has ranged between 36 per cent to 39 per cent.¹⁸

On the market for transport services to Portland, GrainCorp submits that commodities are received via rail or road:

The terminal's catchment is not clearly linked with established rail lines. The terminal has relatively poor rail access compared with alternate options, due to weight restrictions on its feeder rail lines, and the fact that rail freight to the port travels a circuitous route via Ararat.¹⁹

Domestic and container markets

The ACCC also considers that the domestic and container export markets compete to some extent with the bulk export market for grain, which will vary in high and low production years.

Containerised grain exports are not a direct substitute for bulk grain exports, but they may provide a viable alternative export path for some growing regions, niche and high quality products, or for particular destinations. The ACCC's Bulk grain ports monitoring report 2017-18 noted that in the 2017-18 shipping year, container exports made up 37 per cent of exports while bulk exports made up 63 per cent of exports.²⁰ In the 2016-17 shipping year container exports contributed 28 per cent to exports and bulk exports made up 72 per cent.²¹ In Victoria, containerised grain is primarily exported via the Port of Melbourne.

GrainCorp submits:

Bulk grain exports are generally restricted to the surplus remaining after domestic and container demand is satisfied. This means that bulk exports are highly volatile, ranging from 990,000-4.85 million tonnes over the past three years.²²

GrainCorp submits that the domestic market consumes on average 40 per cent of Victorian grain production, and that the container market generally has first call on export grain and has grown rapidly, averaging 1.4 million tonnes per annum in the past three completed export seasons.²³ GrainCorp submits that in drought years, container exports account for up to 70 per cent of total grain exports from Victoria.

¹⁸ GrainCorp Submission, p. 3.

¹⁹ GrainCorp Submission, p3.

²⁰ ACCC Bulk grain ports monitoring report 2017-18, <https://www.accc.gov.au/publications/serial-publications/bulk-wheat-ports-monitoring-reports/bulk-grain-ports-monitoring-report-2017-18>

²¹ ACCC Bulk grain ports monitoring report 2017-18, <https://www.accc.gov.au/publications/serial-publications/bulk-wheat-ports-monitoring-reports/bulk-grain-ports-monitoring-report-2017-18>

²² GrainCorp Submission, p2.

²³ GrainCorp Submission, p2.

Key questions and issues

10. *What level of competition is there between upcountry storage and handling facilities servicing Portland? Do third party facilities or on-farm storage provide a competitive constraint?*
11. *What transport services do producers and exporters use to transport grain to Portland for export? How much grain is transported to Portland by rail (if any) and how much by road? What level of competition is there in the provision of these transport services?*
12. *In light of the answers to questions 10 and 11, how does the level of competition in upcountry storage and transportation currently impact on an exporter's ability to secure fair and transparent access to port terminal services at Portland?*
13. *With regard to fair and transparent access to port terminal services, how would an exemption for GrainCorp at Portland impact on competition in the upcountry and transportation markets, and the upcountry supply chain as a whole?*
14. *To what extent do domestic demand and containerised exports provide a competitive constraint on bulk grain exports at Portland?*

Appendix A: Exemption assessments under the Code

The Code, prescribed by regulation under section 51AE of the *Competition and Consumer Act 2010* (CCA), commenced on 30 September 2014. The Code replaced the previous regulatory framework provided for by the *Wheat Export Marketing Act 2008* (WEMA), which required vertically integrated providers of port terminal services to provide the ACCC with access undertakings.

The purpose of the Code is defined at clause 2 as:

The purpose of this code is to regulate the conduct of port terminal service providers to ensure that exporters of bulk wheat have fair and transparent access to port terminal services.

Port terminal service providers must comply with the Code

The Code applies to PTSPs. A PTSP is defined as:

the owner or operator of a port terminal facility that is used, or is to be used, to provide a port terminal service.

where:

port terminal service means a service (within the meaning of Part IIIA of the CCA) provided by means of a port terminal facility, and includes the use of a port terminal facility.

and:

port terminal facility means a ship loader that is:

- (a) at a port; and
- (b) capable of handling bulk wheat;

and includes any of the following facilities, situated at the port and associated with the ship loader, that are capable of handling bulk wheat:

- (c) an intake/receival facility;
- (d) a grain storage facility;
- (e) a weighing facility;
- (f) a shipping belt.

Obligations on port terminal service providers

Non-exempt PTSPs are required to comply with all six Parts of the Code. PTSPs that are determined by the ACCC or the Minister of Agriculture to be exempt service providers are not required to comply with Parts 3 to 6 of the Code.

Part 1 of the Code contains general provisions about the Code.

Part 2 of the Code requires all PTSPs to deal with exporters in good faith, publish a port loading statement and policies and procedures for managing demand for their services, and make current standard terms and reference prices for each port terminal facility publically available on their website.

Part 3 of the Code requires a PTSP:

- not to discriminate in favour of itself or its trading business or hinder third party exporters' access to port terminal services,
- to enter into an access agreement or negotiate the terms of an access agreement with an exporter to provide services if an exporter has applied to enter into an access agreement and certain criteria are satisfied, and
- to deal with disputes during negotiation via specified dispute resolution processes including mediation and arbitration.

Part 4 of the Code requires a PTSP to have, publish and comply with a port loading protocol which includes an ACCC approved capacity allocation system.

Part 5 of the Code requires a PTSP to regularly publish its expected capacity, stock information and key performance indicators.

Part 6 requires retaining records such as access agreements and variations to those agreements.

How a port terminal service provider can be determined to be an exempt service provider

Exempt service provider determination by the ACCC

Subclause 5(2) of the Code provides that the ACCC may determine a PTSP to be an exempt service provider of port terminal services provided by means of a specified port terminal facility. Subclause 5(3) of the Codes provides that the ACCC must have regard to a list of matters in making a determination under subclause 5(2) of the Code. The ACCC can subsequently revoke an exemption determination under subclause 5(6) of the Code.

Exempt service provider determination by the Minister for Agriculture

Subclause 5(1) of the Code provides that the Minister for Agriculture may determine that a PTSP is an exempt service provider if the Minister is satisfied that the provider is a cooperative that has:

- (a) grain-producer members who represent at least a two-thirds majority of grain-producers within the grain catchment area for the port concerned; and
- (b) sound governance arrangements that ensure the business functions efficiently and that allow its members to influence the management decisions of the cooperative.

The ACCC does not have any role in exemptions under subclause 5(1).

How the ACCC will conduct its assessment process

On 16 November 2014 the ACCC released its *Guidelines on the ACCC's process for making and revoking exemption determinations* (the Guidelines).²⁴

The Guidelines state that, when a port terminal service provider submits an exemption application, the ACCC will seek to conduct its exemption assessment and decide whether to make an exemption determination within 12 weeks.

²⁴ The guidelines are available on the ACCC's website at <http://acc.gov.au/publications/process-guidelines-for-making-revoking-exemption-determinations>.

This timeframe may vary where the ACCC conducts a public consultation process, and/or requests information from the port terminal service provider. Generally, the length of any consultation period(s) will extend the ACCC's timeframe for the exemption assessment.

Each exemption assessment process may be different and may include requests for information, consultation with interested parties, and a draft determination before the ACCC makes its final determination. The Guidelines, which are available on the ACCC website, provide further detail around the ACCC's process for making and revoking exemption determinations.

Indicative timeline for assessment

Submissions on this issues paper close at **5.00pm EST** on **28 February 2019**.

As noted above, the ACCC considers it likely that it will release a draft determination, but may proceed directly to publish a final determination if it considers it appropriate to do so.

The ACCC notes that the timeframe for assessing the exemption application will depend on the nature and timeliness of information provided by interested parties.