



Australian
Competition &
Consumer
Commission

13 May 2009

Mr Dave Poddar
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By email: dave.poddar@mallesons.com

Dear Mr Poddar

Re ABB Grain Ltd Port Terminal Service Access Undertaking

I refer to the access undertaking from ABB Grain Ltd (ABB) for its port terminal services at Port Adelaide, Outer Harbour, Port Giles, Wallaroo, Port Lincoln and Thevenard (the Undertaking) submitted to the ACCC on 16 April 2009 for consideration under Part IIIA of the *Trade Practices Act 1974* (the Act).

I note that ABB has not provided the ACCC with its proposed standard terms and conditions for access to port terminal services for the supply of bulk wheat for 2009/2010 (Proposed Standard Terms).

In this regard, I refer to the ACCC's letter of 25 February 2009 and associated information paper, wherein it was suggested that operators develop an indicative or generic access agreement as the basis for negotiation.

Without viewing the Proposed Standard Terms, we anticipate that it will be difficult for the ACCC to assess the likely impact of those Proposed Standard Terms and the Undertaking on the factors in section 44ZZA of the Act to which the ACCC is required to have regard.

Accordingly, we request that you provide the Proposed Standard Terms to the ACCC by **20 May 2009** in a form upon which the ACCC can conduct public consultation.

Under section 44ZZBC of the Act, the ACCC must use its best endeavours to complete its assessment of the Undertaking within six months from the date it was submitted. However, as noted in my letter of 17 April 2009, this is likely to be dependent on ABB providing complete information in response to ACCC information requests. A prompt response to this request will assist the ACCC in its timely assessment of the Undertaking.

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Please contact me on (03) 9290 1804, or Sarah Sheppard on (03) 9290 1992, if you have any questions in relation to the above.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Anthony Wing', with a horizontal line extending to the right.

Anthony Wing
General Manager
Transport & General Prices Oversight