



Submission – Port Terminal Services Access Undertaking

by

INTERTEK – Oil, Chemical & Agri

to

Australian Competition and Consumer Commission (ACCC)

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Summary

Intertek – Oil, Chemical & Agri (Intertek) has prepared a submission in response to the Australian Competition and Consumer Commission (ACCC) invitation for public submissions on the undertakings proffered by the Port Operators. The submission deals with access to terminal operational areas by superintendent companies, employed by and acting on behalf of, accredited exporters.

This submission deals with issues outside the access undertaking supplied by the three named port operators but we feel it pertinent to the question of access for accredited exporters who are not Port Operators.

It will refer to one Port Operator company policy (Graincorp) which we feel is restrictive to the performance of our business on behalf of accredited exporters. It will suggest that undertakings made by Port Operators include guaranteed access for third party superintendents to operational areas of grain terminals to witness sampling and compositing operations as well as the quality monitoring of the cargo during loading of the vessel.

As suggested in the ACCC issues paper we have included background information on our company including, areas of expertise, experience, quality certifications and services offered.

Intertek Submission

Intertek and other third party superintendent companies have had access to many grain terminals world wide and particularly around Australia and New Zealand and we have always had access to operational areas. It is recent policy from some Port Operators which goes against a long tradition of giving superintendents' access to operational areas of terminals.

We would also make the following observations on some points raised by some Port Operators in their communications with us:

- 1) OHS - we have our own internal OHS requirements and are cleared to work as superintendents at Incitec Chemical Plants as well as Caltex, Shell, Mobil and BP refineries around Australia to name just a few dangerous working environments. We have attended site specific induction training and our staff possesses the necessary photo ID which is site specific. We are certain we can work together with all Port Operators to fix any concerns about OHS for their terminal sites.
- 2) Operational – we have in the past worked closely with terminal staff to ensure our presence does not interfere with the smooth operation of the site during the vessel loading. We remain ready to fully co-operate with terminal staff, follow their instructions and follow site safety rules.
- 3) Maritime Security - Our staff have the necessary MSIC cards and photo ID for attendance in security sensitive areas such as refineries and chemical plants and to do work on Australian and American warships. If additional security clearances are required for Port Operators grain terminal sites then we are ready and prepared to obtain such clearances and associated ID as they may reasonably require.
- 4) Client confidentiality – The Port Operators and the superintendants have a mutual client, the exporter. Intertek has existed as a company for over 100 years and has achieved this milestone by keeping client information confidential. We have operated under specific confidentiality agreement with many companies in the past and we stand ready to sign similar agreements with Port Operators to help alleviate any concerns they may have in this area. Of course such an agreement can not be formulated to prevent us from reporting our findings to our customer.

We are very concerned that the policy of some Port Operators unnecessarily restricts the exporter and/or importer in their right to appoint an independent superintendent to supervise the loading of the vessel and overseeing the collection of samples or monitor quality during loading (as required). The Exporter can still appoint of course but the superintendent is very restricted in what they can do on site.

There appears to be an apparent disparity between Port Operator policies in the grain industry with the practice in many other industries or even the grain industry in other

countries. It would seem that while we are able to gain access to refineries, off shore oil rigs, and chemical plants, supervise loading and discharge operations, conduct sampling and testing of millions of barrels of crude oil, refined petroleum products and toxic and corrosive chemicals we can not do the same with a grain ship and be granted access to operational areas of a grain terminal.

Some current Port Operator policies restrict our ability to defend our client (and the Port Operator) from overseas claims. Policies which restrict our access to operational areas of grain terminals (either by company policy or imposition of extra fees) means the chain of custody of samples can not be established by the superintendent. We are dependant on a party (Port Operator) with direct financial interest in the cargo to supply a sample which will be used to generate documents that will release payment of substantial sums of money.

Conclusion

The industry as a whole and the accredited exporters in particular will benefit from a modification of the current access undertaking by Port Operators to allow access to operational areas of grain terminals (including testing equipment) by third party superintendent companies acting on behalf of the exporter. Such access to be sufficient to:

- 1) Allow a chain of custody for samples to be established including witnessing samples being drawn and being present for the preparation of sub and shipping composite samples.
- 2) Conduct testing or witness such testing, on terminal equipment to monitor the quality of the cargo during loading.

Such access to terminal operational areas and equipment should not have special fees charged by the Port Operator to the superintendent or the accredited exporter. Nor should such fees be loaded into the normal commercial fees charged to the accredited exporter by the Port Operator.

Many buyers and exporters of Australian grain would expect the systems in Australia to allow appointed superintendents to have access to operational areas of grain terminals in a safe and organised way. Further they would expect that these superintendents can work with Port Operators so that the sampling and testing of cargoes can be undertaken to ensure the third party independent witness can maintain a chain of custody on samples being drawn.

Having this access would mean that we can take a greater roll in defending quality claims (perhaps even helping to avoid them) made overseas against Australian export cargoes of wheat and other grains and pulses.



Appendix 1 - Company Background

Intertek is one of the world's largest commodities and products testing companies, carrying out a wide range of testing, inspection and certification services. The **Intertek** global network consists of laboratories and offices located in over 120 countries.

Intertek group services cover virtually every industry and product including:

- Agriculture
- Petroleum & Chemical surveys
- Laboratory and technical services
- Environmental, general, research & development, analytical services
- Marine Surveying
- Minerals
- Calibration services
- Foreign Trade Standards
- Consumer products and textile quality assurance

Intertek operates a network of petrochemical and chemical laboratories in Australia that can provide a multitude of services to the Agricultural, Minerals and Petroleum Industries.

Intertek works to internationally recognised Standards and has a worldwide record of independence and impartiality with a pedigree dating back to 1885.

All **Intertek** operations in Australia are fully committed to Quality Assurance such that all operations throughout Australia are certified to AS/NZS ISO 9001:2000 Standard. All Intertek Caleb Brett laboratories in Australia are accredited by NATA to ISO/IEC 17025 - 1999 Standard for a majority of tests performed

A short list of major Australian and International entities to whom **Intertek** is currently a major service provider includes:

Gardner Smith Pty Ltd
Pentag Pty Ltd
Riverina (Australia) Pty Ltd
Peters Commodities Pty Ltd
Mobil Australia Pty Ltd
BP Australia Pty Ltd
Shell Pty Ltd
Caltex Australia Pty Ltd

Intertek is committed to the Australian agricultural industry and is a member of GTA, Australian Renderers Association and supporter of Pulse Australia. In addition we are members of FOSEA and the International Federation of Inspection Agencies.

Appendix 2 - Graincorp Company Policy on access to Terminal Facilities by Superintendents

Policy on provision of samples for Cargo Superintendents

In order to ensure the safety of all persons on GrainCorp sites, to protect matters of confidentiality and to maintain the accuracy of samples taken of vessels loading at GrainCorp ports, this document outlines GrainCorp's policy on these issues.

Notification

1. The Terminal Manager must receive written notification from the relevant GrainCorp client authorising an external organisation to superintend and access samples of the loaded cargo, prior to the commencement of the loading of the vessel.
2. This notification is to include the extent of the authorisation, the amount of samples required and the contact details for the representative of the external organisation.
3. The Terminal Manager will forward this information to the Technical Services person on site.

Site Access

1. All persons accessing a GrainCorp site must undergo a site specific induction. These can be arranged by contacting the Terminal Manager at the relevant export terminal prior to the day of loading of the vessel (or must be escorted by an employee of the Terminal at all times).
2. Representatives of external organisations must contact the Terminal Manager prior to the commencement of loading of the vessel to gain permission for site access.
3. Representatives of external organisations will be given a guided tour of relevant sections of the plant, including the sample room, prior to commencement of vessel loading and will then be escorted to a safe and suitable waiting area. The taking of samples by GrainCorp staff may be observed once or twice per shift – it will not be possible for representatives of external organisations to remain in the sample room or laboratory.
4. Access to the vessel during loading is at the discretion of the exporter and ships' master.

Sample Provision

1. At all times, samples representing cargo loaded to a vessel, will be provided by GrainCorp.
2. There will be no sampling performed within the terminal by representatives of external bodies.
3. Authorised samples will be provided to representatives of external bodies at the completion of the vessel consistent with point 1 of 'Notification' above.

Fees

1. GrainCorp may charge a fee for service for the provision of the above services where the demand for samples is in excess of that normally provided. Details of these fees can be obtained from the Manager Technical Services and Divisional Manager Ports.

In addition Graincorp has stated:

“Access to operational areas by Cargo Superintendents during vessel loading has never been permitted due to OHS, operational, maritime security and client confidentiality requirements.”