

QRN Reference: WA/Grain/CBH_PTSU_20110913
Telephone: 132332

13th September 2011

Mr Anthony Wing
General Manager
Transport and General Prices Oversight
ACCC
GPO Box 520
Melbourne VIC 3001

Dear Mr Wing,

**Cooperative Bulk Handling Limited (CBH)
Proposed Port Terminal Services Access Undertaking
Australian Competition and Consumer Commission (ACCC)
Draft Decision 23 August 2011**

Thankyou for the opportunity to make a submission with regard to the ACCC Draft Decision and CBH's Draft Revised Undertaking, Port Terminal Services Agreement and Port Terminal Rules dated 16th, 16th and 9th of August 2011 (the Revised Draft) respectively.

QR National Freight (QRNF) is the operating division of QR National that specialises in the transportation of bulk mineral commodities, agricultural products, mining and industrial inputs, general and containerised freight. QRNF is an experienced provider of transport logistic solutions to the grain industry, particularly in Western Australia and it is in that capacity that we provide the following comments.

QRNF is encouraged by the amendments included in the Revised Draft, and provides further discussion on the ability to accumulate bulk wheat on the landside and the capacity allocation mechanisms in the Port Terminal Rules for the ACCC to consider prior to making a final decision on the Revised Draft.

In QRNF's submission on 27 May 2011, QRNF stated its view that one of the key elements of port capacity was the ability to accumulate bulk wheat on the landside on a just in time basis to then transfer to the shipping position for loading onto vessels. Currently in the Standard Access Agreement (the Agreement) at clause 5.1(a) Bulk Wheat Receiving Services will not be available for more than 21 days before the ship's estimated time of arrival. This period for accumulation is

effectively reduced to 19 days given the requirements of clause 7.3 of the Port Terminal Rules (the Rules). It is QRNF's view that the 21 day requirement is too prescriptive and does not take into consideration the prevailing circumstances that relate to the inbound logistics that is the available port storage, train paths and ability to accept road transport. Whilst theoretically the 19 days may be sufficient, as ports become more constrained the ability to get the required paths to meet that timeframe are not guaranteed.

QRNF suggests amending clause 5.1 of the Agreement to allow that CBH will guarantee a minimum availability of 21 days to provide Bulk Wheat Receival Services, as is currently contemplated, and that the parties will agree the accumulation plan in good faith giving consideration to the circumstances at the time. This would seem to reflect the intention of clause 8.1 of the Rules and would require consequential amendments to clause 8.2 of the Rules.

Clause 3.2(b) of the Rules state that the Port Operator is able to determine at its discretion additional Capacity whilst considering a number of elements including the supply chain arrangements. Given it is envisaged during the term of this undertaking that the supply chain arrangements will include parties other than CBH, it is QRNF's view that the determination should include consultation with industry.

QRNF acknowledges the requirements in the proposed Port Terminal Services Access Undertaking at clauses 6.2 and 10.8 regarding the non discriminatory provision of access and no hindering. This obligation on CBH should be included in both the Agreement and the Rules given their stand alone nature once an agreement is executed to ensure resolution of any dispute under the same.

For any queries regarding this submission please contact Tim Collins, General Manager Agribusiness or Rachel Martin, Manager Track Access.

Regards,

per Rachel Martin
Rachel Martin

Mr Ken Lewsey
Executive Vice President and Chief Executive Officer
QR National Freight