

Submission to the Australian Competition and Consumer Commission, regarding Viterra Operations Limited Proposed auction system for allocating port terminal capacity from Grain Producers SA Ltd.

Overview

Grain Producers SA Ltd (GPSA) is a recently formed organisation that seeks to represent all grain producers in South Australia.

The views expressed in this submission are consistent with the views previously expressed by the South Australian Grains Industry Committee under the chair of Michael Schaefer which operated from 2008 to February 2012.

GPSA sees the need for an equitable, transparent and efficient method of allocating capacity. GPSA sees an auction system as a more suitable method of allocating capacity rather than the first come first served system that is currently applied.

The main outcomes that must benefit the industry from the auction system is:

- Open and transparent access for all exporters
- Efficient and timely auction participation
- Fees from auction allocation returned proportionally to all parties who ship
- Cancellation of an auctioned slot by Viterra would result in the same real financial penalty as a competitor exporter and not just be a transfer from the trading entity to the storage and handling entity

Submission

This submission has been prepared in a manner to address issues for comment in the ACCC consultation Paper.

Issues for comment:

(a) Does the proposed auction system satisfy the principles that the primary method of allocation of capacity is by auction and that slots should be allocated to those clients that value them most?

(b) Does the auction design adequately prevent inefficient 'gaming' or manipulation of the auction result? If so, what would be necessary to prevent this?

The auction system should be robust enough to prevent excessive rounds of bidding. Any slots that have been bid on twice at the same price in a subsequent round should be knocked down to the bidder rather than these slots having to be bid on in subsequent rounds. This would then allow for faster allocation of slots and potentially see less rounds.

There should be a system in place to prevent bidders withdrawing bids and then reverting to a first come first serve basis. A letter of credit (LC) lodged with the auction operator would ensure bidders honour bids, however this system would require excessive funds for the exporters to have on tap to participate in the auction.

A fairer system could see bidders who do not honour bids, being precluded from the next round of auctions therefore penalising bona fide exporters for pulling bids.

Precluded bidders may need to lodge an LC for the subsequent round of auctions before participating.

Does the proposed timetable for auctions meet the needs of exporters?

The timetable for auction rounds seems appropriate given a lead time of the auction being around 6 weeks prior to the first of the shipping slots.

The proposed two auctions for the post-harvest slots enables exporters to gauge likely grain production for the state and therefore be more confident in their idea of demand for shipping capacity.

Issues for comment:

(a) Does the combination of the auction system and the first come, first served system encourage or allow exporters to withdraw bids for capacity from an auction and instead obtain capacity through the first come, first served system and should this be curtailed?

(b) Is the two-day period between publication of capacity available through the first come, first served system and the opening for nominations appropriate?

(c) Is there sufficient transparency with respect to the allocation of capacity through the first come, first served system?

(d) Does the on-line system provide all exporters with equal opportunity to book capacity through the first come, first served system?

(e) Is there sufficient clarity and certainty as to the operation of the first come, first served system?

Viterra's current practice of publishing a shipping stem including details of all bookings and nominations made regardless of whether a vessel has been named is a preferred model to the CBH model.

The publication of the nomination date and acceptance date of first come first serve bookings needs to be included in the protocols. This allows for transparency and auditability of the allocation system.

Issues for comment:

(a) Is the determination of capacity made available through the auction sufficiently transparent?

(b) Do the timeframes for publication of capacity to be offered at auction meet the needs of exporters?

The determination of capacity should reflect the capacity available in a previous year. Where capacity varies to a previous year, an explanation must be provided for the change in capacity.

Issues for comment:

Are the above parameters relating to the making available of additional capacity appropriate to ensure that an auction is the primary means of allocating port capacity?

GPSA considers the making available of additional capacity of more than 50,000 tonnes rather than 200,000 tones through the auction system more appropriate.

Issues for comment:

Is the proposed design of the Auction Premium Rebate appropriate?

The auction premium rebate distributed on a pro rata basis appears to be a disincentive to all exporters, including Viterra, to purchasing more capacity than is reasonable.

The system must ensure that exporters unable to ship due to the slot being inaccessible (eg, through fire at the terminal) or stock not available at the port terminal or other reason outside of the exporters control have their premium refunded or rolled into a subsequent slot, at the discretion of the exporter.

A Letter of Credit would likely be preferable to a trust account as it would likely provide the same level of comfort for the auction administrator, without the need to calculate finance costs.