

Mr David Salisbury
A/g General Manager
Transport and General Prices Oversight
ACCC
GPO Box 520
MELBOURNE VIC 3001

9th March, 2012

Re: Consultation Paper – Viterra Operations Limited Proposed auction system for allocating port terminal capacity

Dear Sir,

We would like to make the following submission in regards to the Consultation Paper, proposed auction system for allocating port terminal capacity.

The Auction System as proposed does not provide a strong enough deterrent to speculative bidding and/or manipulation.

We believe that there are alternative methodologies that can be built into the proposed Auction System to ensure a level playing field and promote a more competitive environment for all parties.

To avoid speculation and/or manipulation it is prudent to ensure there is only one primary method of allocating shipping capacity, this being the auction system. The subsequent alternative that capacity can be secured under First In / First Serve (FIFS) at a lower financial risk leaves the auction open to manipulation when such method is in place as a secondary allocator of capacity. We are of the belief that the functionality of the auction would be improved if slots that were undersubscribed could be booked at the current running bid. The remaining capacity would then remain open under auction conditions to be bided upon. The continual closing of slots within auction as they reach equilibrium would reduce the length of auction and also provide a disincentive to speculating on the premise the participant could be locked in.

We do in fact recognise that capacity can become available within the 'prompt' 30 – 45 day window of a slot opening and the industry should not be penalised if additional capacity or forfeited capacity does become available. To ensure capacity is awarded to those who value it most, the capacity becoming available within the 'prompt' window outside of auction acquirement should still be awarded under the FIFS method. The last determined market value (auction premium) achieved at the preceding auction for the relevant Port / period would apply. Any acquirement under such method would also be included within the auction pool and rebate process.

With the auction being the sole allocator of capacity exclusive of 'prompt' capacity where the market would acquire FIFS capacity at the market value within the preceding auction, we would also recommend more frequent auctions to allow participants the opportunity and confidence to acquire capacity throughout the season.

We strongly believe that frequent auctions as the primary allocator of capacity exclusive of 'prompt' capacity as outlined above would inhibit speculative behaviour. If frequent auctions are held this also allows the bulk handler to adjust capacity throughout the prevailing season once able to assess infrastructure performance resulting in a much more

transparent and realistic determination of available capacity. The publication of capacity 10 business days prior to an auction is sufficient.

We suggest as a minimum quarterly auctions in preference to the one Harvest Shipping and two Non-Harvest Shipping auctions. This also aligns to the demand profile where buyers generally only buy 60-90 days in advance rather than the entire capacity being auctioned and/or acquired well in advance. Quarterly auctions will also ensure the industry does not have large amounts of capital tied up as advance payment, which in turn adds cost to the Australian supply chain.

We support the publishing of acquired capacity at the conclusion of the auction. This would be a significant enabler of a liquid secondary market.

There is a bigger role to be played by the Auction Review Committee (ARC). To lessen manipulation the ARC should be a truly independent umpire with the ability to remove a proportion of a bidder's bid if the capacity in round one exceeds the bidders capacity to execute. This could be undertaken relatively quickly by checking the history of export execution by the bidder compared to the tonnage bid for or requesting an export plan from the bidder to support their tonnage bid. We believe the timing required for such review would not compromise the integrity of the auction.

To strengthen independence of the ARC we believe the ARC should have an independent Chair.

An effective secondary market can only operate in our opinion with an effective method of transferring shipping slots. Consideration should seriously be given to a platform being created that will facilitate transfer in the secondary market.

Unfortunately the events that have occurred within recent auctions only lead to additional rules and parameters being required to facilitate a fair and level playing field for all. We have seen participants intentionally manipulate recent auctions to impose financial burdens on competitors, when being operated as one of two systems for allocating capacity. The removal of subsequent methods for allocation, closing of slots in balance, greater powers of the ARC with the auction as the primary allocator of capacity and 'prompt' capacity awarded at the market value would inhibit the gaming behaviour.

Yours sincerely,