

29th August 2011

Mr Anthony Wing
General Manager
Transport and General Prices Oversight
ACCC
By e-mail: transport@acc.gov.au

Dear Mr Wing,

Re: ACCC Draft decision on Viterra's Port Terminal Services Access Undertaking 11 August 2011

We refer to the ACCC's Draft Decision of 11 August 2011.

Emerald supports the amendments to the Proposed 2011 Undertaking reflected in the Revised Draft and concur with the ACCC's indication that the Revised Draft should be accepted if submitted by Viterra for assessment pursuant to s 44ZZA(1).

Emerald was concerned to ensure that the proposed new auction system incorporates a mechanism to rebate auction premiums back to exporters based on export performance. As a genuine exporter we think such a mechanism is an important bulwark against speculative trading of shipping slots. We met with Viterra representatives last week and we received assurances that it is intended that such a mechanism be a feature of the new auction system when introduced in 2012. We trust that Viterra will take the opportunity to assess the CBH system, learn from industry consultation and introduce improvements to the CBH system where appropriate.

We have discussed the proposed transitional arrangements with Viterra and we believe that they are fair and reasonable under the circumstances. In particular the vacation by Viterra of part of the capacity at Port Lincoln and Outer Harbor is an appropriate solution to industry concerns.

While we continue to believe that ring-fencing is not warranted, there should be a prohibition on Viterra Storage & Handling communicating with Viterra Trading on capacity and slots except as part of an all-client e-mail regime. If there is an opportunity for improvement, we think that this requirement should form part of Viterra's undertaking in order to provide the industry with additional reassurance on arm's length dealings between Viterra's divisions.

May we take this opportunity to commend the Commission on the obvious hard work of its staff to gain a deep understanding of the grains industry and to use that knowledge to move the industry towards fair and pro-competitive outcomes.

Yours faithfully

John Warda
Group General Manager
Operations & Supply Chain