



29 August 2011

Mr Anthony Wing
General Manager
Transport & General Prices Oversight Branch
Australian Competition & Consumer Commission
GPO Box 520
Melbourne VIC 3001

Dear Mr Wing

Re: ACCC Draft Decision regarding Viterra's Proposed 2011 Undertaking

Further to your recent announcement, please note that Gavilon fully supports the ACCC's preliminary view that the current system for allocating shipping slots is not appropriate going forward. Gavilon welcomes the introduction of an auction system for the 2012/2013 season and subsequent seasons. Gavilon believes an auction system will provide a fair system for exporters wishing to access capacity at Viterra operated port terminals. Gavilon encourages an auction system which ensures fair redistribution of auction premiums back to the exporters, similar to the current Cooperative Bulk Handling (CBH) model.

However, Gavilon have serious concerns for the proposed 'transitional arrangements' for allocating capacity for the two deep sea ports, Port Lincoln and Port Adelaide, during the high demand period of January to April 2012. Whilst we acknowledge that such 'transitional arrangements' are temporary, we consider the proposed transitional arrangements inappropriate.

Gavilon notes that the Draft Decision document states "Access undertakings are intended to ensure that third party exporters are able to access the port terminals operated by vertically integrated port terminal operators, ensuring fair competition in the market for the export of bulk wheat". It is our view that the proposed transitional arrangements do not provide fair competition to the market for the export of bulk wheat and this will be to the detriment of the South Australian growers.

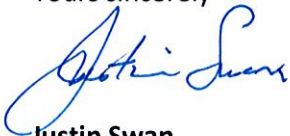
Should this draft decision prevail and become binding, along with other exporters who did not secure access, we will have no other option than to withdraw from or significantly reduce our bids in this market due to the inability to access a single shipping slot from these high demand ports during the high demand period. This will result in lower prices and significantly less competition for grain from South Australian growers as the number of buying parties reduces. By our calculations, a total of 6 – 7 exporters will have access to shipping slots during the period of January to April 2012. Furthermore, the majority of slots are held by only 3 exporters. This is in comparison to some 15 exporters which have access to shipping slots at GrainCorp operated port terminals during the same period. To ensure appropriate competition for grower's grain, the export state of South Australia should have at least the same number of export participants as the more domestic markets of Victoria, NSW and Queensland.

Gavilon also notes that the Draft Decision document states "Submissions indicate that some exporters were unaware that Viterra was accepting bookings for the 2011/2012 season in the absence of an accepted undertaking or certainty regarding terms and conditions of supply" and that this "highlights a problem in having a continually open shipping stem and insufficient information as to whether bookings are able to be accepted". Given this, and the contrast made between the 'hard

opening' date which GrainCorp operates, and further more the higher number of exporters which have the opportunity to export during the high demand period through GrainCorp operated terminals, we believe that fair competition will be encouraged through re-opening the South Australian stem and establishing a 'hard opening' window for the transitional period. At the very least this would provide all interested parties an equal opportunity to participate in the South Australian market and would facilitate the appropriate level of competition for South Australian growers' grain.

Gavilon strongly encourages a process whereby all shipping slot bookings for the high demand period of January – April 2012 is managed through a 'hard opening' process similar to that of GrainCorp thus, amending the transitional arrangements proposed in the Draft Decision. Gavilon believe these amendments are necessary to create appropriate competition across a number of large exporters which will in turn provide better prices to the South Australian grain grower prior to the implementation of an auction system in 2012.

Yours sincerely



Justin Swan

General Manager Marketing
Gavilon Grain Australia Pty Ltd