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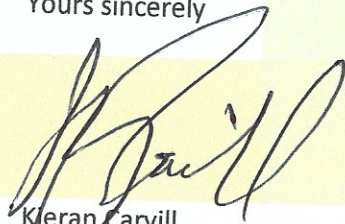
**Re: Comments in response to the ACCC's Draft Determinations on  
Viterra Australia Pty Ltd  
Exemption assessments of port terminal services**

I am pleased to submit T-Ports comments on the Draft Determinations dated 6 October 2020 on Viterra Australia Pty Ltd (Viterra)'s application for exemption from parts 3-6 of the Competition and Consumer (Industry Code - Port Terminal Access (Bulk Wheat)) Regulation 2014 (The Code).

Further information request or questions can be addressed to:

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Yours sincerely



Kieran Carvill  
CEO  
T-Ports

## Comments on ACCC identified matters:

### The upcountry storage and handling market in SA

While the up-country storage market has a lower barrier to entry (lower Capex) than port operations market, the margins earned from such facilities are also lower. Other than T-Ports own development of storage at Lock to support our Port loading operations, there has not been noticeably significant recent development from third parties in that market nor on-farm storage. T-Ports agree with the ACCC observations:

“.... the ACCC notes that ESCOSA has indicated that most of the above-noted third party storage providers are relatively small in scale, and that many of them serve the domestic and container export markets. The ACCC understands that third party storage operators may also service particular markets and production processes. As such, they may not provide a storage facility for the purpose of grain warehousing or accumulation for the export market.”

### The interaction between container, domestic and bulk export markets

T-Ports concurs with the ACCC understanding that Australia's domestic markets are generally considered within the industry to have 'first call' on grain, with the amount of grain remaining after demand in domestic markets has been satisfied often referred to as the 'exportable surplus'. This means that the domestic market does not provide a competitive on the bulk export market.

The container export market seems to be concentrated on specific grains/grades into selected export destinations and not seen as a realistic alternative to bulk exports. The 22mt (maximum) that can be handled in a single 20ft TEU is no match to even the smaller bulk ships loading 30,000mt.

### The degree of competitive constraint that domestic consumption, in SA and interstate, places upon Viterra's operations

As highlighted above, SA domestic has the 'first call' on supply (approx. 1.2M tonnes), and once satisfied, then the balance of supply becomes the exportable surplus. The domestic consumption places a volume constraint on available supply but no competitive constraint on Viterra's operations.

### The expected behaviours which would indicate that a PTSP is subject to sufficient competitive constraints

If the PTSP has a vertically integrated owner then the behaviour of the PTSP cannot be viewed or monitored in isolation from the behaviours of its owner. Refer further discussion below.

Viterra's bundling of services – including the effect of this and any interaction with Viterra's position at port and upcountry

Further cements their dominance in multiple segments of supply chain. Refer further discussion below.

The CRA materials

T-Ports will declare that we have not reviewed the CA materials in any great detail, but have considered the ACCC discussion and commentary of the materials included in the draft determinations.

T-Ports comments on some key assumptions:

- 1) The use of 2017-18 export figures as a 'representative' season.

T-Ports believes that recent trends would see Glencore taking a greater share in the exporters using port facilities, but also note that the 2018-19 figures have been distorted through low production volumes. Given this anomaly, for this sort of analysis the 2017-18 figures are OK.

- 2) That Glencore's trading margins are \$1.50 per tonne.

In the absence of any empirical evidence, it would appear that this base point is extremely low, and while we note it is based on an ESCOSA range of \$1-\$2 we have not delved deeper into the ESCOSA report.

A simple return on working capital calculation would say that for \$300 to be used on buying a tonne of wheat, then say minimum 5% return on capital would be \$15 (per annum). Given that grain is held on average for say 6 months (mid-point between 3 and 9 months) you would look to be earning an average of \$7.50 on every tonne traded. T-Ports would have been more comfortable with an assumption of \$5-\$10 per mt.

- 3) That Viterra's port terminal margins are \$10 per tonne.

This also appears low. The analysis should consider gross margins before any capital recovery or fixed costs. T-Ports would have been more comfortable with an assumption of \$15-\$20 per mt.

- 4) That 60 per cent of third party exporter volumes will switch to competing terminals (or the domestic or containerised markets) in response to Viterra denying access to its port terminal services.

This is the hardest assumption to forecast and justify. We find it hard to believe that 60% (approx. 2.0M tonnes) would move to alternative terminals. If Viterra completely denied access, there would be next to no option for exporters to "switch" to other PTSPs (the analysis did not consider T-Ports being operational), the only realistic assumption is that they would have to leave the SA grain trading/accumulation market, and closer 100% (not the remaining 40%) would be picked up by Glencore as the only grain marketer/exporter that had access to any export supply chain. The existing alternatives identified in the analysis would not have the capacity to take on significant additional volumes.

- 5) That Glencore's trader margin increases by \$5 per tonne as a result of reduced competition from exporters sourcing grain from growers.

The number of players in the trader/accumulation market has reduced dramatically over the last few years. Many small/mid size accumulators have either been forced out or chosen to leave the industry. Grain exporters not only need access to infrastructure and services, but also rely on the liquidity offered from trading & "swapping" parcels of commodities with other market participants

to meet and/or optimise available stock quality and location for shipping. Anecdotal conversations suggest that these players were being frozen out of the liquidity in this sector of the market. The market is being dominated more and more by a reduced number of large grain trading businesses. Note that Glencore/Viterra has a combined margin on tonnes traded/exported in the order of \$20-\$25 per mt, and has a tremendous capacity to squeeze out competitors who are only working with the trading margin of \$5-\$10.

Either through a lack of appetite for risk or some other factors, the gap between wheat futures prices and prices being offered to growers appears to have widened over the corresponding period. If this trend continues, or is amplified by Glencore taking ever increasing share, then an additional \$5 per mt would be a likely, if not minimum scenario. This \$5 is not extracted from system efficiencies, but taken straight out of the growers return.

#### The Draft Determinations more broadly

The draft determination discusses the potential for anti-competitive behaviour from a vertically integrated PTSP, and also recognises the difficulties in evidencing this sort of behaviour in internal transactions. T-Ports asserts that the very nature of a vertically integrated PTSP requires the behaviour across all entities and all legs in the entire supply chain be monitored. It is the ownership of the ports that underwrites the ability for Glencore to exert these behaviours. What T-Ports is experiencing and witnessing is the way Glencore is using its significant market presence in grain trading, up-country storage, freight co-ordination and port operating services to dominate the South Australian grain industry at every level.

T-Ports is disappointed that the determinations treat Port Adelaide differently from the other ports. By forming "alliances" and isolating "enemies" at the trader level, Glencore secures the loyalty of these allies through all of the Viterra Ports. If a marketer wants to ship out of Giles, Wallaroo, Lincoln or OHB, they can't afford to make an "enemy" of Glencore by for example, using T-Ports at Lucky Bay or other PTSP where they are operating. This circular inter-dependence between traders and port operators is how competitive response is being implemented.

It is a grey scale between what is normal commercial operations and defensive behaviour and further grey scale between defensive and anti-competitive behaviour.

T-Ports assert that when a market dominator behaviours are clearly being targeted at selected customers or locations, then they are clearly in the defensive/anti-competitive grey scale.

*Covert behaviour example:* We have received feedback from some in our grower community that Glencore/Viterra have been targeting selective premiums to growers in the Lucky Bay catchment zone with "delivery" or "volume" bonuses. We cannot confirm this targeting other than on a hear say basis. When these premiums are not available to growers outside of this zone who may also reach the same volume thresholds, it infers that margins made from these growers are being used to cross-subsidize & fund the premiums & bonuses being offered to the selected few. Again, the combined Glencore/Viterra margins of \$20-\$25 per mt offer great scope for these premiums, and the values being offered (in addition to the premiums discussed in the next example) would seem to exceed the normal trading margins of Glencore alone.

*Overt behaviour example:* While drafting this response, T-Ports took a snap shot of Glencore public pricing for one grade of wheat (APW1) on a single day (12 Nov 2020). What we wanted to test, was the difference in "at port" pricing and "up-country" site pricing. Under normal trading convention, we would expect to see the difference between a site price and the port price to be the GTA Location Differential. The results of this test are attached as attachment 1. The results show several sites where the price offered to growers is

somewhat more than the port price less GTA LD. Premiums are being offered of up to \$6.89 per mt. Arguably, Glencore may have freight deals that result in actual costs being less than the LD, and they are passing that on to the grower, but when you start plotting the sites on a map and consider the size of each premium, they are clearly focussed on sites that are in the T-Ports Lucky Bay catchment zone, and in the Pt Pirie catchment zone, which we assume is responding to the ADM initiative to ship from Pt Pirie. Where there is no competing PTSP, the premiums are not applied.

## Summary

Viterra is clearly the dominant provider of Port Terminal services in South Australia, and operates as a vertically integrated PTSP via its ownership by Glencore. Glencore and Viterra do not operate in isolation from each other, quite the opposite. The combination of Glencore/Viterra is a behemoth looming large over the SA grain industry.

The behaviour of the combined Glencore/Viterra entities needs to be monitored if not regulated to minimise the chances of anti-competitive behaviour.