

## **Schedule 1**

### **INFORMATION REQUESTED PURSUANT TO S.44ZZBCA**

#### **Differential charges**

1. Based on the reference prices attached to the proposed access undertaking, the ACCC understands that ABA charges an additional \$0.50 per tonne for wheat that is received at port from storage facilities other than those owned by ABA. Please confirm whether this charge is imposed, and whether the rate of \$0.50 is consistently applied to wheat received from all non-ABA storage facilities?
2. Is the differential charge applied to receivals from storage facilities owned or operated by a related body corporate of ABA?
3. Please provide information regarding the basis for this differential charge, including, but not limited to, an explanation of the type of additional costs or risks faced by ABA when receiving grain from third party storage sites.

#### **Liability arrangements**

4. The Storage and Handling Agreement for the 2010/11 season, available on ABA's website, provides that ABA has a liability limitation of \$30 000 per event and an overall limit of \$100 000 for the season. Please provide information on how the quanta of these limits on liability were determined.
5. In relation to each of any claims under the liability regime by ABA Clients, as defined in the Storage and Handling Agreement, since 1 January 2009, please supply the following information for each claim:
  - a) how much was claimed?
  - b) how much was paid out on this claim?
  - c) provide reasons where the amount paid out (b) differed from the amount claimed (a).

#### **Capacity at ABA's port terminal**

6. In relation to port terminal throughput capacity at the port terminal facilities operated by ABA at Port of Melbourne:
  - a) Please advise the maximum monthly throughput achieved at the port terminal. When was this achieved?
  - b) Please advise the estimated maximum monthly throughput capacity of the port terminal.
7. Please provide total throughput (tonnes of grain), for the last three seasons, being:
  - a) 1 October 2008 to 30 September 2009
  - b) 1 October 2009 to 30 September 2010
  - c) 1 October 2010 to the date of receipt of this notice by ABA.
8. Please specify and provide details of any constraints affecting overall throughput capacity at the port terminal, including but not limited to:
  - a) monthly road and rail receival capacity

- b) storage capacity and how that may vary with number of grades stored
  - c) approximate 'on average' duration of storage at port for grain to be elevated
  - d) monthly elevation capacity.
9. Please specify and provide detail around any other variables that affect throughput capacity at the port terminal operated by ABA at the Port of Melbourne.
10. Please list the Intent to Ship Advices submitted by Clients and rejected by ABA relating to shipping slots for the period 1 October 2009 to 30 September 2011.
11. Please provide the following details for all bookings for shipping slots in the period 1 October 2010 to 30 September 2011:
- a) the date the Intent to Ship Advice was received by ABA
  - b) the name of the exporter
  - c) tonnage and elevation period booked
  - d) tonnage executed and actual loading date(s) for those bookings executed on or prior to the receipt of this notice.
12. Please list all requests to split or defer a booking received by ABA relating to bookings for shipping slots in the period 1 October 2010 to 30 September 2011. For each request, please specify:
- a) the original booking and actual shipment to which this request relates, as listed in response to question 11
  - b) details of the Client's subsequent request to split or defer the booking, including the date of the request
  - c) ABA's response to the customer's request.

### **Record keeping**

13. Please confirm whether or not ABA keeps a record of the following:
- a) vessels rejected at the port terminal due to failing survey or otherwise
  - b) cargo assembly times
  - c) truck queuing times
  - d) train queuing times
  - e) port blockouts
  - f) overtime charged
  - g) demurrage incurred by exporters due to delays at port
  - h) average road receipt rate
  - i) Intent to Ship Advices rejected
  - j) Intent to Ship Advice receipt and assessment timeframes
  - k) timeframes for vessels to complete loading.

### **Port Loading Protocols (the Protocols)**

14. The Intent to Ship Advice template (Annexure 1 to ABA's proposed Protocols) does not indicate the time period to which an Intent to Ship Advice relates. Please advise the time span for which a booking is made.

15. Please explain the purpose of clause 9 of the proposed Protocols and its consistency with the timeframes specified in clauses 8 and 20.
16. Regarding the ETA, as defined in clause 22 of the proposed Protocols, please advise:
  - a) When—relative to the time specified with the Intent to Ship Advice—is the Client required to advise ABA of an ETA?
  - b) Is an ETA specified as a single day or a span of days?
17. Regarding clauses 8, relating to an Intent to Ship Advice, and 20, relating to written nomination of a vessel, of the proposed Protocols, how is the ‘loading’ date, to which the 30 day and 21 day respective periods of prior notice relate, established?
18. Please explain the intent of clause 22 in the proposed Protocols.
19. With respect to clause 31 of the proposed Protocols, please explain the circumstances when ABA is likely to not fully accumulate a cargo. Does this have the result that the cargo loaded for a Client is less than the quantity to which a booking relates? Or does it mean that the vessel loading is interrupted and completed later?
20. Regarding cargo accumulation and vessel loading, clause 32 states that ‘... an ability to fully utilise available resources and the ability to fully position stock, may result in vessels loading out of arrival order’. Absent such circumstances, on what is loading order priority based?
21. Clause 12 of the proposed Protocols states that ‘In general, Intent to Ship Advices will be dealt with in the order that they are received’. Please specify under what, if any, circumstances Intent to Ship Advices would not be dealt with in the order received.
22. Following execution of a booking by a Client, have there been instances where ABA has retained residual grain, being grain that was delivered by the Client and not elevated to the ship? If so, please advise:
  - a) whether the Client retained ownership of the residual grain
  - b) the timeframe within which ABA would require removal of the residual grain
  - c) whether ABA imposes any additional costs on storage or transport of residual grain.
23. In relation to clause 38 of the proposed Protocols, please advise within what timeframe ABA’s Chief Executive Officer or appointed representative would provide a final decision in relation to a dispute between ABA and a Client.
24. Please confirm whether the Booking Fee referred to in the proposed Protocols is intended to refer to the Shipping Nomination fee listed in the 2010/11 Charges attached at Schedule A to ABA’s Storage and Handling Agreement. If it does not, please specify where the quantum of the Booking Fee is disclosed or published.

**Information sharing**

25. Please provide details of ABA's internal policies and procedures relating to information sharing with other entities, including Emerald Group Australia Pty Ltd, if any.
  
26. Where ABA receives information relating to stock quantities and/or stock quality of grain by virtue of it being a port operator, but this information is not publicly available, please provide details of whether:
  - a) Emerald Group Australia Pty Ltd has access to this information
  - b) any other parties have access to this information.

## Schedule 2

### 44ZZBCA Commission may request information

- (1) The Commission may give a person a written notice requesting the person give to the Commission, within a specified period, information of a kind specified in the notice that the Commission considers may be relevant to making a decision on an access undertaking application or an access code application.
- (2) The Commission must:
  - (a) give a copy of the notice to:
    - (i) in the case of an access undertaking application--the provider of the service (unless the provider is the person); and
    - (ii) in the case of an access code application--the industry body that gave the application to the Commission (unless the body is the person); and
  - (b) publish, by electronic or other means, the notice.
- (3) In making a determination, the Commission:
  - (a) must have regard to any information given in compliance with a notice under subsection (1) within the specified period; and
  - (b) may disregard any information of the kind specified in the notice that is given after the specified period has ended.

