



# Australian Grain Export Pty. Ltd.

ABN 92 073 563 185

FIRST FLOOR, 67 SOUTH TERRACE ADELAIDE SA 5000

Telephone (08) 8832 2800 Fax (08) 8832 2311

Email [age@australiangrainexport.com.au](mailto:age@australiangrainexport.com.au)

General Manager  
Infrastructure & Transport – Access & Pricing Branch  
ACCC  
GPO Box 520  
MELBOURNE VIC 3001

By email: [transport@acc.gov.au](mailto:transport@acc.gov.au); [katie.young@acc.gov.au](mailto:katie.young@acc.gov.au); [luke.sheehan@acc.gov.au](mailto:luke.sheehan@acc.gov.au)

**Subject: Viterra exemption application under the Wheat Port Code of Conduct**

## **1) *The upcountry storage and handling market in SA***

Viterra are the largest provider of upcountry services in the Adelaide catchment zone, by a very significant margin.

Viterra charge an additional fee for grain from outside their upcountry system to go through their ports, in addition to this fee there is an additional shrink charged. This has the effect of reducing competition in upcountry storage when the grain is executed through a Viterra port.

The upcountry storage is intrinsically linked to the port it feeds. There is no comparative integrated supply chain of grain in the Adelaide zone, either for scope, for rail logistics, or for access for deep water. Outer Harbour and its associated upcountry feeding silos are the only access to this supply chain. To not be guaranteed access to this supply chain pipeline has major ramifications for companies such as AGE who forward price contracts to growers up to 3 years into the future based on this execution pathway. As these prices are based on the most efficient (cheapest) supply chain to the destination pricing point – via a one port load from a deep sea port capable vessel of over 60,000mt, to not be able to access this cheaper pathway will disadvantage the marketer and eventually prevent them from participating and adding competition to the forward pricing market.

## **2) *The interaction between container, domestic and bulk export markets***

SA, in each port zone is forecast to remain export focused through to 2030 and beyond according to the AEGIC reports.

Outer Harbor is the only deep water grain berth in Adelaide. Cargill and Semaphore are direct competitors to only Inner Harbour. The impacts of loading rate differentials and the Vessel chartering advantages of a deep sea port over a smaller port have been well documented. It is why we support Inner Harbour being removed but not Outer Harbour.



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With respect to containers, we note:

- Containers represent only a small amount of total exports even from the Adelaide catchment area 288kmt pa on a 5 year average
- The majority of exports in containers from Adelaide are pulses. Outer harbour exports of pulses are insignificant, therefore containers are not in competition with that facility
- Viterra themselves are a major packer of containers in Adelaide, to point to the Viterra container division as a constraint on Viterra bulk ports is not an argument.

Its AGE's view that Inner Harbour can mount a case for sufficient competition to become exempt but Outer Harbour has no direct comparison on scale or market influence.

### **3) *The degree of competitive constraint that domestic consumption, in SA and interstate, places upon Viterra***

Victoria provides only very marginal competition for SA grain, even less in a normal production year. Domestic consumption in SA is insignificant to influence the export supply chain as we are always in an exportable surplus situation.

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

#### *a. No loss of competition in buying grain*

Removal of current regulatory protection for exporters will have a likely effect on grain demand, pricing and competition. CRA makes the assumption that Glencore's "traders margin will increase by \$5/mt as a result of reduced competition" (pg56 ACCC assessment paper) ~ the ACCC port monitoring report shows about 2.3mmt total exports through Inner Harbour and Outer Harbor in 2017/18, around half of which is executed by Glencore. This would mean that Glencore would be able to pay growers \$5/mt less for their 1.15mmt of exports - meaning Adelaide grain growers would receive \$5,750,000 LESS for their grain, if the CRA analysis is correct. This extra 'margin' could also be used to bolster Viterra site pricing in areas where there is upcountry competition.

#### *b. Clarity on access, especially for those in direct competition upcountry or in trading.*

The absence of current regulatory constraint will likely allow Viterra to provide favourable access to their own trading arm. ACCC said " Viterra has an incentive to favour Glencore over other exporters at it's Outer Harbor facility " ACCC assessment paper pg 136. Favourable terms could be not just in terms of favourable pricing, but could be on access to peak capacity, logistics, and flexibility.



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It is AGE's primary concern, that once we have forward purchased product in Viterra's upcountry system we are effectively 'locked' into using their port. Our reservations are that we will always be forced into the least cost effective pathway – ie Inner Harbour or impediments are placed to restrict the movement out of their system, both logistically and more importantly financially. The 'bundling' of services between upcountry and the port have been explored, but the simple pricing mechanism of inflating the upcountry charge and lowering the port charge (whilst effectively excluding 3<sup>rd</sup> party users access) is very real. Viterra will argue by raising the cost of upcountry charges will push product to other upcountry service providers but without access to the least cost pathway this is a moot point.

Viterra referencing CBH's submission noting "Once CBH was exempted from the Code and was no longer subject to a regulatory drawn-out approval process, the LTAs CBH subsequently negotiated created considerably enhanced access certainty and flexibility of service for export customers" unfortunately does not pertain to Viterra as a Globally owned company motivated by profits for their own entities. Contrasting this, CBH is motivated to provide the best returns to their constituents via ever escalating competition for their grower tonnes whilst maintaining the lowest execution costs possible as this flows back to all their members via better prices therefore returns for their members. This does not apply to the SA model.

### *c. The presence of a viable, actual, comparative alternative*

No current viable alternative to Outer Harbor currently exists, it is the only deep water port in the Adelaide draw zone where all forward contracts are priced via the NTP (Natural Terminal Port) pricing system.

Moreover, Outer Harbor is important to users of Semaphore and Cargill's berth as neither can fully load Panamax vessels and would likely require access to top-up at Outer Harbor. Comparing Outer Harbour to Semaphore is not a comparison that is likely to withstand scrutiny. Having little regulatory constraints on behavior at the only deep water port is unlikely to be what the proponents of building Outer Harbor had in mind.

If 3rd party access to the belt at outer harbor was permitted, this assessment may change.

Cargill have not yet exported a tonne of grain under their own banner.

### *d. Significant sharing of the efficiencies with the rest of the industry, especially with growers*

ESCOSA noted that Viterra has so far not chosen to share efficiencies with growers, even though their profits were at the upper end of what ESCOSA deemed "acceptable".



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

Glencore is the major exporter in each zone, and with the exception of Thevenard and Port Giles, the major exporter during peak periods. (ACCC assessment paper pg 49). Looking at the SA export task as a whole, Glencore seem to be able to access premium slots already with little constraint. Further reducing safeguards can have a very significant effect for the exporter and the growers.

The bundling of services can have the effect of reducing costs, however reducing the cost in one aspect of the “bundle” (eg export select) while maintaining or increasing the cost in others is worrying. Little transparency over the methodology for the setting of export select rates is available.

A reduction in competition is expressed in the CRA data (pg 56 ACCC assessment data). This reduced competition would likely flow on to transport providers, those providers not favoured by Viterra will be farther marginalized.

## **6) *The CRA materials***

The CRA material is not compelling, or persuasive

- ACCC acknowledged that it has been unable to test the economic assumptions in the CRA model.
- It would seem that ACCC give equal weight to submissions, however with some submissions it is likely that Viterra had influence over the content and they are not therefore independent.
- CRA use misleading theoretical data ~ citing theoretical capacity of 3.6mmt at Lucky Bay, this undermines their credibility, especially when the same standard is not applied to Viterra ports. (Outer Harbour at 2200mt/hr, by their measure could export over 19mmt in a year...)
- CRA are not independent, their report is paid for by Glencore and acknowledge that the entity that would benefit most from a reduction in regulation is Glencore themselves.

## **7) *The Draft Determinations more broadly***

We agree with the assessment to retain current regulatory safeguards at Wallaroo, Port Lincoln, Port Giles and Thevenard.

Inner Harbour does have direct competition at Semaphore. Cargill have not yet begun exports, but the argument for exemption from the higher level of the code where it pertains to Inner Harbour is, in our opinion, reasonable.



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With the port of Outer Harbor we would strongly argue against a reduction in regulatory safeguards – with no direct competition in regard to deep sea port efficiencies, no competition in up country supply efficiencies (only Viterra has rail discharge facilities), will lead to a reduction in competition and a two-tiered pricing system that will only serve to destroy grower value. The incentives for building and operating alternative storage upcountry is severely damaged. In short, while competition is potentially emerging in SA, there is no alternative deep water port in the Port Adelaide zone that the exporter or grower can access.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Martin', written in a cursive style.

Tim Martin  
Managing Director  
Australia Grain Export Pty Ltd