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Deputy General Manager  
Infrastructure & Transport - Access & Pricing Branch  
ACCC  
GPO Box 520  
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Dear Mr Schroder,

**Applications seeking exemption from certain provisions of the Port Terminal Access (Bulk Wheat) Code of Conduct: Victorian wheat ports exemption assessment**

I refer to the recent applications seeking exemption from certain provisions of the Port Terminal Access Code of Conduct ("Code"), including GrainCorp Operations Limited's Geelong and Portland terminals and Emerald Logistics Pty Ltd's Melbourne port terminal.

Co-operative Bulk Handling Limited ("CBH") welcomes the opportunity to provide a submission to the ACCC in regards to port access regulation exemptions, as it relates to the Code.

CBH as a cooperative is a unique organisation with a core purpose of creating and returning value to Western Australian grain growers.

The cooperative has constantly evolved, innovated and grown with operations extending along the value chain from grain storage, handling and transport to marketing, shipping and processing. As Australia's biggest cooperative and a leader of the nation's grain industry, CBH is controlled by approximately 4,200 grain growers.

This submission, while seeking to be succinct, aims to provide the ACCC with CBH's position on the above exemption applications sought under clause 5(2) of the Code.

**Port access regulation**

CBH does not support unnecessary supply chain regulation as it invariably leads to inefficiencies, market distortion and increased costs that are ultimately borne by the grower.

In CBH's view, port access regulation, rather than enhancing efficient operation of export chains tends to create an environment of unnecessary and excessive cost, making Australian grain less competitive in world markets.

Not only does port access regulation cost Australian grain growers millions of dollars every year, it also restricts the flexibility with which port operators and grain marketing

organisations can respond to changing market conditions, be it price or seasonal influences on production that occur with agricultural commodities. This lack of flexibility increases the likelihood of international customers seeking grain from alternative origins of supply, resulting in significant opportunity costs.

In their submission Emerald indicate that they are not able to adequately service customer requirements due to operational constraints placed on them by rigid port access regulation.

If commercial solutions are not available due to regulations it is likely to lead to a permanent decline in the profitability and relevance of not only Melbourne port terminal, but any Australian port as an export facility.

It is essential that port terminal operators are able to offer flexible and innovative supply chain solutions to their exporter customers, including but not limited to providing the security of long term access and tailored export programmes.

Rigid regulatory impediments and drawn out procedures for amending port terminal rules and allocation approvals do not provide export customers with sufficient certainty of export execution when purchasing Australian grain. To compound this, without a long term view of port capacity demand, port terminal operators do not have the sufficient signals to drive infrastructure investment.

This lack of flexibility, efficiency and uncertainty makes Australian grain less attractive on the international market and has a direct impact on the net farm gate return for Australian growers. In this instance CBH is generally supportive of opportunities to reduce supply chain regulation and reduce the flow on impacts to growers.

### **Competitive constraints and low barriers to entry**

CBH supports the submissions by Graincorp and Emerald to be exempted from Parts 3 – 6 of the Code on the basis of regional competition constraints and low barriers to entry. In this situation, CBH believes the need for regulation is unclear given both the ability for new entrants to build new terminals as shown by Bunge's proposed terminal in Geelong, as well as the competitive constraints from existing competing terminals.

The submissions by Emerald and Graincorp indicate that GrainCorp's Geelong and Portland terminals face significant competition from Emerald's Melbourne terminal and vice versa, as grain that is to be exported through these terminals flows from the same geographical region.

At the same time one of Emerald's major customers, Bunge, has announced its intention to build its own port terminal at Geelong. Also, Graincorp have stated in their submission:

*“All GrainCorp's major export customers are large multinational traders that are many times larger than GrainCorp with access to significant capital and overseas grain markets. They have demonstrated their financial ability, despite excess port capacity, to build and invest in new port terminals”.*

These arguments and evidence provided clearly indicate that barriers to entry are low and that growers have alternative supply chain options. In particular, there are no barriers for new entrants to build port terminal services in Victoria. Actual and potential new entrants provide a competitive constraint on existing grain export terminals. Based on these arguments CBH supports both Graincorp and Emerald's submissions to have their Victorian wheat port terminals exempt from Parts 3 – 6 of the Code.

Once again CBH is grateful for the opportunity to provide comment to the ACCC regarding port terminal exemptions and further commends the Government on their focus on reducing regulatory red tape.

We would be very pleased to provide the ACCC with further detail, should it be required. Our Manager of Government and Industry Relations, Ms Brianna Peake can be contacted direct by way of [Brianna.Peake@cbh.com.au](mailto:Brianna.Peake@cbh.com.au).

Yours sincerely  
*For: Co-operative Bulk Handling Limited*



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Dr Andrew Crane  
**Chief Executive Officer**