

MALLESONS STEPHEN JAQUES

Mr Anthony Wing
General Manager
Transport & Prices Oversight, Wheat Access Section
Australian Competition & Consumer Commission
GPO Box 520
Melbourne VIC 3001

24 September 2009

Attention: Ms Sarah Sheppard

Dear Mr Wing

GrainCorp Operations Limited - Port Terminal Services Undertaking

We refer to the draft determination issued by the ACCC on 6 August 2009 and the further draft determination issued by the ACCC on 23 September 2009.

1 Purpose of letter

The purpose of this letter is to formally withdraw the Port Terminal Services Undertaking provided by GrainCorp to the ACCC on 15 April 2009 and to formally lodge a revised Port Terminal Services Undertaking, including the Port Terminal Services Protocols in Schedule 3 and the the Standard Terms in Schedule 5, for consideration by the ACCC under section 44ZZA(3) of the *Trade Practices Act 1974 (Cth)* (“TPA”).

2 Documents for lodgement

We attach the Port Terminal Services Undertaking, executed by GrainCorp Operations Limited on 24 September 2009, including the Port Terminal Services Protocols in Schedule 3 and the Standard Terms in Schedule 5.

GrainCorp has amended the Port Terminal Services Undertaking, Port Terminal Services Protocols and Standard Terms in light of the ACCC’s draft determinations and in light of further discussions with the ACCC. GrainCorp now considers that the Port Terminal Services Undertaking, including the Port Terminal Services Protocols and Standard Terms, is in a form appropriate to be accepted by the ACCC, having regard to the matters in section 44ZZA(3) of the TPA.

As the Commission is aware, section 24(2) of the *Wheat Export Marketing Act 2008 (Cth)* (“WEMA”) requires the Port Terminal Services Undertaking to be in place by 1 October 2009 in order for GrainCorp to satisfy the ‘Access Test’ under the WEMA and to be eligible for accreditation as a wheat exporter.

GrainCorp requests that the ACCC:

- approve the attached Port Terminal Services Undertaking, including the Port Terminal Services Protocols and Standard Terms, before 1 October 2009; and
- formally notify Wheat Exports Australia of its decision.

3 Public register

We confirm that this letter may be placed on the public register.

If you have any questions, or if we can be of further assistance, please contact either Stefanie Benson on (02) 9296 2435, or myself.

Yours sincerely



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Partner

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