

26 September 2019

Scott Sanderson
Australian Competition and Consumer Commission
Infrastructure & Transport – Access & Pricing
Via Email: scott.sanderson@accc.gov.au

Re: Viterra Wheat Port Code Exemption Assessment

To Whom it May Concern,

Thank you for the opportunity to provide a submission to the Australian Competition and Consumer Commission (ACCC) regarding Viterra's application to be exempt from the Wheat Port Code.

GrainGrowers is a grain farmer representative organisation with more than 17,000 members across Australia. GrainGrowers' goal is to build a more efficient, sustainable and profitable sector that benefits Australian grain farmers and the wider grain industry. GrainGrowers believes that the Port Terminal Access Code (the Code) should be upheld to ensure fair, equitable and transparent access to port terminal services is retained.

The Code plays an important role in encouraging competition at all grain ports across Australia and is imperative for the export-oriented Australian grains sector. The Code provides assurance to growers that there is a framework, with independent oversight, in place to encourage competition and monitor performance at ports.

Should an application for exemption be granted GrainGrowers believes applicants should provide evidence that the Code and requirements associated with Parts 3 to 6 are placing an unfair burden upon the enterprises' ability to operate. If the situation were to arise in which all Port Terminal Service Providers (PTSP) were granted exemptions due to the hindrances of needing to comply with Parts 3 to 6 of the Code, GrainGrowers would question the effectiveness of the Code.

GrainGrowers' supports the yearly reports published by the ACCC into the Australian grain export shipping industry. These Port Monitoring Reports present information that assists in ensuring transparency of the port terminal service providers and issues they may be facing.

Whilst it is appropriate for the ACCC continue to enforce the Code within the current regulatory and policy environment, there are further steps that need to be taken to ensure the grain industry remains competitive. These include:

(1) Grain Stocks Reporting

The introduction of mandatory and nationally consistent grain stocks reporting in Australia would remove the unfair and anticompetitive information asymmetry that currently exists within Australia's grains industry. The need for stocks reporting was highlighted in the 2010 Productivity Commission report into Wheat Export Marketing Arrangements. At a minimum, a national grain stocks reporting scheme must include inventories of major grains by state.

A nationally consistent and comprehensive grain stocks reporting system would also assist in the management of biosecurity and would also allow more informed policy decisions with regards to matters such as imports.

(2) ACCC market study of the Australian grain industry

The grains industry is characterized by many growers (~22,000) and a small number of bulk handling companies who facilitate most freight to port and monopolistic infrastructure. This structure, coupled with the associated significant information asymmetries which exist across the sector, foster a potentially anticompetitive market environment. While numerous reviews into the Australian grains industry have been conducted, including the ACCC review of the Wheat Port Code and annual operating reports, there has been no work undertaken to examine the complexity of the systems within the grains industry and whether regulatory instruments such as the Port Code are the right fit within a modern Australian grains industry 11 years post deregulation.

GrainGrowers requests the Federal Government empower and ensure adequate resourcing to the ACCC to conduct a comprehensive review of the Australian grains industry. The anticipated outcomes from the review are to improve efficiencies, remove barriers, highlight shortcomings within the current industry code and regulatory frameworks. We expect that a review would improve the competitiveness of Australian grains industry and prepare for challenges into the future. The ACCC has previously recognised that there are competition issues within the Australian grains industry which they are currently unable to consider because they are outside the remit of the Code. As an export orientated industry, it is critical that our supply chains are efficient and globally competitive.

GrainGrowers requests that the ACCC takes into consideration the recommendations made in this submission. Further, GrainGrowers is available to meet you at your convenience to discuss our concerns in more detail. Inquiries should be directed in the first instance to Amelia Shaw, Policy Manager of Rural Affairs on (02) 9286 2000 or via amelia.shaw@graingrowers.com.au.

Yours sincerely,



David McKeon
Chief Executive Officer