

Application for port exemption

Viterra has requested the Australian Competition and Consumer Commission (ACCC) exempts our bulk wheat port terminals at Outer Harbor, Inner Harbour, Port Giles, Wallaroo, Port Lincoln and Thevenard from Parts 3 to 6 of the Port Terminal Access (Bulk Wheat) Code of Conduct.

Since 2014, when the Code was introduced, the environment has changed significantly and the high level of regulation of the Code is no longer required.

- Many new port terminal operators have entered the market.
- There is excess port terminal capacity across South Australia and Australia.
- Increasingly, traditional “catchment zones” for grain grown in South Australia are flexible and outdated concepts.
- The domestic demand for grain in South Australia and Australia has increased significantly.
- Exporters have obtained increased certainty and entered the market in significant numbers.
- Viterra’s contracting arrangements with exporters have become increasingly sophisticated, with long-term agreements and other mechanisms to manage and share supply chain risks.
- If Viterra is inefficient, or our terms of access – including our fees – are unreasonable, grain buyers will use alternate supply chains in South Australia, interstate or overseas.

1

Exemption will benefit growers and exporters

The environment our export customers operate in is volatile. Their needs are specific and can change quickly. The heavy and inflexible nature of the current regulation is unsuitable for this environment.

Reduced regulation at our port terminals will enable us to better respond to our customers' needs, innovate and provide more competitive, flexible and efficient services to our grower and export customers.

An exemption would encourage exporters to buy grain from South Australia, increasing competition for South Australian grain and benefitting growers.

2

Exemption will promote efficiency

Due to the unequal application of the Code, the burden and costs of regulation have been borne largely by the South Australian wheat industry. An exemption for Viterra's port terminals would result in our regulatory costs and impacts decreasing significantly.

Exemption would assist Viterra to engage commercially with third-party exporters. This would facilitate efficient allocation and use of infrastructure, support lower supply chain costs and increased investments and increase the competitiveness of South Australian grain in global markets.

3

Exemption will not be to the detriment of competition for port terminal services

Grain buyers and exporters source and move grain globally depending on grain prices, input costs and freight differentials. Therefore, Viterra and South Australian growers are subject to significant competition from other Australian and global grain producing regions, and Viterra competes with port terminal providers elsewhere in Australia and the world.

South Australian grain is transported to South Australian port terminals or to other port terminals or domestic customers across Australia depending on market factors, including the price that can be achieved, handling fees and freight costs (both within Australia and sea freight to export).

With excess port terminal capacity available, Viterra is incentivised to provide transparent, reasonable and non-discriminatory access to encourage the use of our facilities.

4

Viterra has limited ability to exercise market power as a result of vertical integration

Vertical integration with Glencore Agriculture is not anti-competitive. It is widely recognised that vertical integration typically promotes efficiencies that can be passed onto customers. Viterra should not be subject to regulation only because of vertical integration.

The Essential Services Commission of South Australia after its detailed review of the South Australian bulk grain export supply chain in December 2018, found no evidence of Viterra using any market power to disadvantage competition, and that we are an efficient and well-managed firm that is receptive to customer needs and pursuing innovation.

5

There is no market failure that justifies the full application of the Code

Viterra has been providing exporters with fair and open access to our port terminals since well before the introduction of access regulation. The Code was intended to be a transitional arrangement as the industry moved to full deregulation. Viterra considers that there is no failure of competition in any market that justifies the significant restrictions that the full application of the Code places on Viterra.

Exemptions have been granted to the vast majority of port terminals in Australia, suggesting that the regulatory regime has moved to a reliance on general competition law under the *Competition and Consumer Act 2010* (Cth).