

Request for information - Allocation of shipping capacity at Viterra Operations' South Australian port terminals

Exporter I notes this unusual situation has created high levels of uncertainty and is possibly an indicator as to the progress we have made in South Australia, as we transition from regulated to a de-regulated environment.

Exporter I believes that the current iteration of concluding access arrangements will be based on the lessons learnt from the 2009 access agreements. Exporter I believes the issue at hand should not occur again as the new access agreements and management of these should cope with this situation.

In essence Exporter I believes the current process to conclude a new access agreement should be what dictates the shipping stem in 2012 and beyond. .

Question 1.

Exporter provided details of nominated bookings.

[confidential]

Question 2.

It is unlikely that Exporter I would have booked capacity to these levels if it wasn't for the pack mentality and/or the fear of being blocked out of elevation capacity

Market intelligence, production / supply and global demand have been taken completely out of play when the stem is speculated upon so far in advance. Under the 'pack mentality', Exporter I's hand has been forced against the fear of being blocked out of elevation capacity. Essentially this behaviour is in contradiction with Exporter I's business (and preferred) model where Exporter I would like to nominate 'just in time' cargoes once it has a physical sale in hand.

Question 3.

[confidential]

Question 4.

The shipping stem being booked to these levels takes all potential business planning out of play. The stem in the current state for season 2011/2012 results in the entire elevation being booked out from January to April 2012, rendering all forms of planning against the crop profile, global demand and historical execution trends. This outcome means that industry will try to match sales against commitment rather than make sales on sound commercial basis and then execute. The outcome of this can lead to dysfunctional markets where the 'tail is wagging the dog'. This is ultimately a sub optimal outcome for the market in general. We are essentially disrupting the true market signals and this will cause wastage.

Question 5.

In response to the question as to whether or not the 'first in first served' capacity allocation system has efficiently allocated capacity for January 2012 to April 2012, the question is somewhat hypothetical and cannot be simply answered.

Firstly all forwarded nominations are in the pending phase so we do not as yet know whether the nominations will be accepted.

More importantly though it is the opinion of Exporter I that it is not simply the first in first served methodology that is in question but the rules, processes and procedures that support this methodology.

At this point Exporter I does not have a new access agreement to cover this period. If Exporter I were to assume there was little change to the 2009 version, then Exporter I would consider there is a real likelihood that some of the forwarded nominations must be in question as to whether they will be accepted.

In summary it is dangerous to assume that Exporter I would not want change to the 2011 undertakings and where this leaves us with the rules, processes, and procedures to support the first in first served model if that is the accepted methodology.

Question 6.

Exporter I would note that there is a process currently under way by the ACCC to agree a Port Access protocol with Viterra for the periods mentioned. In the absence of material change to the 2009 undertakings the current pending nominations should be reviewed as per the current applications made by the relevant companies. If the rules are significantly changed but first in, first served is maintained those companies who have nominated should be invited to resubmit requests as per current applications.

Whilst Exporter I believes the process should unfold as per timelines published, the situation at hand is forcing these 'interim comments'.

Exporter I notes with interest another bulk handling company is not accepting nominations to the stem until they have a new agreed access protocol in place.

Exporter I believes for all periods in 2012 and to 2014 where nominations have not been made they should be dictated by the new 2011 access agreement, (when finalised). By implication no further nominations should be considered until the 2011 access arrangements are finalised.

Whatever methodology is agreed to perform the allocation of shipping capacity, this methodology will only be as effective as the rules, processes and procedures that accompany it.

Exporter I still believes that ultimately whatever system is adopted it must be driven by market conditions and incentives/disincentives. The BHC must be incentivised at an infrastructure level to maximise Free On Board (FOB) throughput. This must be

combined with equality in the process for all marketers including those vertically integrated. Exporter I believes that the rules associated to the access availability need to deliver the above. Exporter I believes this is the function of the current process.

There appears to be two generally agreed methodologies to perform the FOB allocation process, these being via first in, first served and via auction.

Exporter I contends it is the processes, rules and procedures associated with each methodology that will dictate success or failure of either.

In principle Exporter I believes the auction methodology is too restrictive but accept within the current environment and subject to aligning processes associated with auctions, this methodology may be required to function for a period of industry transition to a fully de-regulated market.

Exporter I still supports the 'First in First Served' model but with the correctly aligned processes, procedures and rules that will allow us to avoid the uncertainty of the situation currently prevailing. Exporter I believes the right incentive/disincentive system needs to be in place and to that end we may need to move to a scale up disincentive scheme for those who speculate shipping slots and then do not execute. Exporter I have not modelled this option yet but is happy to discuss the principles.

Exporter I acknowledges the difficult position industry finds itself in but believes that this could have been avoided with more clarity provided by the Bulk Handling Company.