

Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat))(Bulk Cargo Services Pty Ltd, Pinkenba) Determination 2022

The Australian Competition and Consumer Commission makes the following determination under subclause 5(2) of Schedule 1 to the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014* and subparagraph 51AE(1D)(b)(i) of the *Competition and Consumer Act 2010*.

Dated: 7 December 2022

[Signed]

Gina Cass-Gottlieb

Chair

Australian Competition and Consumer Commission

Australian Competition and Consumer Commission

1 Name

This instrument is the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat))(Bulk Cargo Services Pty Ltd, Pinkenba) Determination 2022*.

2 Commencement

This instrument commences at the start of the day after it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

3 Authority

This instrument is made under subclause 5(2) of Schedule 1 to the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014* and subparagraph 51AE(1D)(b)(i) of the *Competition and Consumer Act 2010*.

4 Definitions

In this instrument:

***ACCC*** means the Australian Competition and Consumer Commission.

***bulk wheat*** means wheat to be loaded onto a ship for export but does not include wheat to be exported in a bag or container that is not capable of holding more than 50 tonnes of wheat.

***Code*** means the *Port Terminal Access (Bulk Wheat) Code of Conduct* as set out in Schedule 1 to the *Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014*.

***entity***has the meaning given by section 64A of the *Corporations Act 2001*.

***exempt service provider*** means a port terminal service provider exempted under clause 5 of the Code.

***exporter*** means an entity seeking access to, or using, port terminal services for the purpose of exporting bulk wheat.

***port terminal facility*** means a ship loader that is:

1. at a port; and
2. capable of handling bulk wheat;

and includes any of the following facilities, situated at the port and associated with the ship loader, that are capable of handling bulk wheat:

1. an intake/receival facility;
2. a grain storage facility;
3. a weighing facility;
4. a shipping belt.

***port terminal service*** means a service (within the meaning of Part IIIA of the *Competition and Consumer Act 2010*) provided by means of a port terminal facility, and includes the use of a port terminal facility.

***port terminal service provider*** means the owner or operator of a port terminal facility that is used, or is to be used, to provide a port terminal service.

5 Determination

Under subclause 5(2) of the Code, the ACCC determines that Bulk Cargo Services Pty Ltd (ABN 60 002 207 678) is an exempt service provider of port terminal services provided by means of its port terminal facility at Pinkenba, Queensland.