

Senate Rural Affairs and Transport References Committee

**Questions on Notice – Wednesday, 31 August 2011
PERTH, WA**

Inquiry into operational issues in export grain networks

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**SENATE RURAL AFFAIRS AND TRANSPORT
REFERENCES COMMITTEE**

Inquiry into operational issues in export grain networks

Public Hearing Wednesday, 31 August 2011

Questions Taken on Notice – GrainCorp Operations Ltd

1. HANSARD, PG 15

CHAIR: Now I am going to try something on you. In the last harvest in the August quotes forward, there was about a \$25 to \$30 spread between feed and ASW. By harvest time, that spread was \$100 or thereabouts. Some people who had a delayed harvest because it kept raining, and I know who they are, were refused entrance to their contracts for some operators—I am not saying GrainCorp necessarily—because you closed the contracts out before they could fill them because there was an end of December date on the contracts. Was that not a bit unfair?

Mr Hart: Sorry, Senator Heffernan, I would have to take that on notice. In GrainCorp's circumstances around how we manage our grower contracts, I think we certainly—

2. HANSARD, PG 16

Senator NASH: In your submission on page 4 under matter A you say:

No evidence has been presented to support a view that GrainCorp has not provided fair and open access on commercial terms to parties seeking access to GrainCorp's grain storage, handling, or port elevator infrastructure.

Who does have the view that you have not provided fair and open access?

Mr Hart: That is a good question.

Senator NASH: Are you saying that there is not any evidence?

Mr Hart: Obviously there have been various submissions over time around access issues. I think there have been varying versions of what access means for different people, but we are very proud to say that we have an open access system. I think the point that we would make is that we have been able, compared to other parts of Australia, to enter into formal, long-term agreements for port access, which suggests to us that we can agree good commercial terms with our customers to provide access to our infrastructure. We certainly have a strong commercial incentive to provide access, given the low level of utilisation of our ports and certainly the significant additional storage capacity that we generally have in average years.

Mr Johns: Yes, and our customers actually acknowledge the fact they do get access. For example, AGEA, in their submission to the ACCC process of this year, acknowledged that they did get good access to the ports and the access system was working very well.

Senator NASH: Sorry, gentlemen, I am just running a bit short of time here. But thank you for that. With that point you make, you are obviously responding to an accusation that you have not provided fair and open access. So could you just take on notice for the committee: who is it that has levelled that charge that you were responding to by saying, 'no evidence'? If you could do that for the committee, that would be very useful.

Mr Johns: Yes, certainly.



GrainCorp

28 September 2011

Standing Committee on Rural Affairs and Transport
Suite SG 62
PO Box 6100
Parliament House
Canberra ACT 2600

RESPONSE TO QUESTIONS ON NOTICE

1 HANSARD PG 15

GrainCorp is not able to provide commentary on the commercial contractual arrangements between individuals or organisations where it is not a counterparty, and as such is not able to make comment on the activities of grain traders during the 2010-11 grain harvest.

GrainCorp did have forward contracts for grain in place with growers, and supply problems related to wet harvest conditions did cause complications for a small number of growers.

Where problems did occur, particularly where the supply of particular grades of wheat and barley were disrupted due to wet harvest conditions, GrainCorp worked on a case-by-case basis within the terms of the relevant contract to resolve those problems, to the mutual satisfaction of both parties.

2 HANSARD PG 16

GrainCorp's statement that no evidence has been presented at any time to support the imposition of port access regulation is not related to a response to a claim made by a particular party, as suggested by Senator Nash. It is a statement of fact, relating to both the historical and current context within which the debate about industry regulation is occurring.

During the 2008 Senate Inquiry into the removal of the bulk wheat export monopoly, a number of submissions proposed that regulation of access to gain export elevators beyond the provisions of the Trade Practices Act was required because there was a *belief* on the part of several parties that port elevator owners *would* deny access to competing exporters.

In other words, the port access regulations were imposed on the presumption of intended behaviour by GrainCorp (and others), not based on any evidence, either to hand at the time or that has emerged since.

GrainCorp has stated in a number of public and private submissions that no evidence has been presented of the company denying access to any grain exporter seeking to use GrainCorp's port elevators, as no evidence of such behaviour exists.

If evidence of such behaviour were to exist, it is appropriate to assume that it would have been conveyed to the ACCC or Wheat Exports Australia for investigation. As no investigation has occurred, it is logical to conclude that no evidence exists to support the need for such an investigation.

The context in which GrainCorp's statement is made not only relates to the apparent lack of evidence of access denial, but it also relates to the *need* for the current port access regulations. Without evidence the *need* for port access regulation, it has not been established that regulation of port access is in any way warranted.



GrainCorp

GrainCorp is on the public record seeking an assessment by the National Competition Council of the appropriateness of the current access regulations. In the absence of such an assessment, the current access regime is neither fair nor based on a credible evaluation establishing the need for such measures.

The current bulk wheat export regulation –

1. Was not based on a fair and independent assessment of the need for port access regulation,
2. Subjects GrainCorp and other infrastructure owners to discrimination by imposing conditions that are not applied to competitors, and
3. Denies legal rights open to infrastructure owners in other sectors of the economy under the Competition and Consumer Act (2010).

Furthermore, the regulations discriminate in favour of foreign owned grain traders with no asset investment in Australia, and penalises companies that have billions of dollars invested in grain handling infrastructure that employ thousands of Australians.

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Questions Taken on Notice – Cargill/AWB (Australia) Ltd

1. HANSARD, PG 21

Senator XENOPHON: Going to the attachment of El Zorro Transport Solutions, where, in relation to the Pinnaroo line, GWA was \$59,400 compared to the next-dearest quote, by V/Line, which was \$6,224. Was that the subject of a complaint to the ACCC?

Mr McBride: I cannot recall because it was done under the AWB banner prior to the acquisition. I would need to check whether or not a complaint was made to the ACCC on that and get back to you, if that is okay.

Senator XENOPHON: If you could take that on notice I would be very grateful.

2. HANSARD, PG 22

Senator EDWARDS: We have read your submission and we heard evidence yesterday and had a discussion with other people over the last two days who are actually bulk handlers. I am sensing that if I told you that we would be interested in canvassing with all players the establishment of a national shipping stem register, which is live and available for auction at any time, you would be in favour of that—across the country, from coast to coast?

Mr McBride: A national register?

Senator EDWARDS: Across all ports, all shipping stems, available daily and live.

Mr McBride: I had not thought about that. At the moment I think we are in that place in Western Australia, anyway, and South Australia probably looks like heading that way.

Senator EDWARDS: You can take it on notice. I am not here to jump you.

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ANSWER: Cargill understand that SA rail, and subsequently GWA, is under the regulation of the Essential Services Commission of South Australia (ESCOSA) not the ACCC. Cargill raised this issue recently with the South Australian Government Select Committee on the Grain Handling Industry.

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ANSWER:

Cargill's overall position regarding port access is that it should be done on commercial terms between the operators and exporters however this is unlikely to occur in the short to medium term. As a result, while Cargill see some issues with the current port access arrangement, the auction system approach to port access is the most appropriate in absence of direct commercial negotiations.

Cargill would be prepared to look at a national shipping stem register however cannot commit support for a register without further details on how it would work.

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Questions Taken on Notice – WA Farmers

1. HANSARD, PG 34-35

CHAIR: Yes, I know. You said earlier that, if the conditions that prevailed in the east and in South Australia prevailed over here, a lot of your members would not be in business still. What did you mean by that?

Mr Simpson: I very simply mean that their costs for every tonne of grain that they put through the system would be—and again I cannot give you the exact figure—higher by \$10, \$15, \$20 or whatever it is. The last half a dozen years, most of which have been very tough, would have been enough to break some people.

CHAIR: Can you take that on notice and give us an explanation of that. It was a throwaway statement, but we would like to see what the figures are.

Ms Whitfield: There was some information forthcoming from Viterra towards the end of last year as to how much they had put up their prices, with the extra money going into their shareholders' pockets. It was sort of: 'Yes, this is good; we're making extra profit for our shareholders.'

CHAIR: What I was referring to was the sweeping statement you made that New South Wales, Queensland and Victoria were in the same boat. You might care to take that on notice and explain to me where they are worse off than you are.

Ms Whitfield: In terms of price for the services?

CHAIR: Well, your man just said a while ago that what happened in New South Wales happened over here—that a good few of your members would be down the chute. I just wondered what that was based on. Please take it on notice.

Mr Simpson: Would you like to see those figures? We can produce them for you if you would like to see them.

CHAIR: Take it on notice, but include Queensland, Victoria and New South Wales, because we are trying to find out how much the South Australian growers got touched for but we have not been able to find out yet. Senator Nash.

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Questions Taken on Notice – CBH Group

1. HANSARD, PG 47

CHAIR: The more that goes on the rail the bigger your bonus, is that true?

Dr Crane: You are very fixated on my bonus.

CHAIR: It is true though, isn't it?

Dr Crane: No, my bonus is not incentivised by a percentage on rail. I am incentivised though by saying that our grower communities prefer grain on rail. That putting that million tonnes on road—

CHAIR: You might take that on notice. The model that is used for your bonus?

Dr Crane: Yes, okay.

Ms. Jeanette Radcliffe
Committee Secretary
Senate Standing Committee on Rural
Affairs and Transport
Parliament House
Canberra ACT

Dear Ms. Radcliffe

Re:

SENATE RURAL AFFAIRS AND TRANSPORT
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CHAIR: You might take that on notice. The model that is used for your bonus?

Dr Crane: Yes, okay.

Response:

Bonuses are paid across the business on the basis of a number of factors including but not limited to performance measurement against some or all of the following criteria;

- Grower value return on capital
- Safety performance across the group
- Performance in achieving staff engagement
- Net promoter score

More specifically Dr. Crane is not directly remunerated against a performance measurement of aggregate tonnes of grain on rail nor aggregate tonnes on road.

Yours sincerely

Paul Scott
Government Relations Manager
CBH Group
30 Delhi Street, West Perth WA 6005