

**SENATE RURAL & REGIONAL AFFAIRS & TRANSPORT
LEGISLATION COMMITTEE**

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Inquiry into the Wheat Export Marketing Amendment Bill 2012

Canberra, 14 May 2012

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ASX

AUSTRALIAN SECURITIES EXCHANGE

14 May 2012

MEMO

TO

CC:

FROM: Dougal Hunter

EXTENSION: 7197

Senate Committee: Wheat Export Amendments Bill Opening Address

I would like to thank the Committee for the invitation to present at today's hearing as I believe the provision of grain stockpile information, in an equitable manner to all in the grain industry, is a vital issue for Australia.

My presentation today is made in my capacity as Manager of Business Development for Agricultural Derivatives at ASX Limited. I have no knowledge of market activity concerning any ASX futures contract or any listed company on ASX. I do not own shares or any other interest in either GrainCorp or Viterro. As an ASX employee I do own ASX shares. Any comments made in this presentation concerning ownership of Bulk Handling Companies are based on publicly available information.

ASX hopes the submission already made as well as today's presentation puts forward a clear case as to why Australia should ensure the provision of additional stocks information for Australian grain and oilseed. ASX also notes that these comments are made in the interests of the entire industry but may not reflect the current views of the Bulk Handling Companies which are both vital infrastructure providers for the ASX Grain Futures market as well as potential market users of the contracts.

The continued growth and development of a liquid Australian grain futures market is, in part, dependent on the existence of a robust, independent, accurate and timely data reporting regime for crop estimates and available stocks on hand. Improved data supply would ensure that all market participants have equal access to information to enable efficient pricing in a deregulated market.

It should come as no surprise that ASX, as the operator of the grain futures and options market for Australian grain and oilseed, views greater transparency as a desirable outcome. Successful markets and exchanges around the world have transparency as a core attribute and also have established regulatory regimes within which to operate. Both of these characteristics preserve market integrity and thereby encourage greater investment. With regard to the liberalisation of bulk wheat export marketing, ASX has previously made submissions expressing these sentiments in 2007 and 2008. It is also noted that the New Zealand Stock Exchange (NZX), as operator of the Clear Grain Exchange, has made submissions articulating similar sentiments during the deregulation process.

What are the ASX grain futures contracts and why are they important?

ASX Grain Futures and Options facilitate price discovery in track markets for Australian wheat, feed barley, sorghum and canola. Futures contracts are exchange-traded forward contracts that are standardised, centrally cleared and deliverable.

ASX has two wheat markets listed: NSW Wheat and WA Wheat. In years of supply deficiency caused by droughts, NSW Wheat contract can trade from "export parity" to "import parity" in order to satisfy the domestic market in the eastern states. The WA Wheat contract, however, due to the small domestic market and large production replicates export parity for WA and SA export based trade.



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In October last year, ASX moved the grain futures market from the stock exchange platform to ASX 24 (formerly known as the Sydney Futures Exchange). Since this move, the ASX market is now accessible to the global market and has grown the number of broking and clearing alternatives from 5 on ASX to 12 on ASX 24 (9 Clearing Participants, 3 Trading Participants).

In the ASX submission the use of the Abbreviation BHC for Bulk Handling Companies, is used to reference the five bulk handler networks that are approved bulk handlers for ASX contracts, that is:

- Australian Bulk Alliance Pty Ltd (ABA), a wholly owned subsidiary of Emerald Group Australia which is 50% owned by Sumitomo Corporation of Japan;
- AWB GrainFlow Pty Ltd, a wholly owned subsidiary of Cargill Australia;
- Co-operative Bulk Handling Limited (CBH);
- GrainCorp Operations Limited; and
- Viterra Operations Ltd, presently subject to a takeover proposal from Glencore International.

In regard to the current proposed Wheat Export Marketing Amendment Bill, ASX believes the Commonwealth Government should consider improving the current level of grain stock reporting and explore how this would be facilitated in terms of adequate legislative support and funding arrangements. ASX questions the premise that the arrangements in place, as represented by the Wheat Export Marketing Amendment Bill, are adequate when compared with other, presumably Australian, agricultural industries. In ASX's view, comparing supply chains across agricultural commodities has limited benefit as they all differ slightly. Rather, the structure of the Australian grain industry should be compared with our major competitors, the United States of America and Canada. In this regard, the provision of stock information falls well short of the benchmark set by our competition.

The ASX submission highlighted that established wheat futures markets in North America are underpinned by an industry framework that includes a substantial mix of BHC ownership as well as robust and detailed stock reporting regimes. ASX believes that the stock reporting regime becomes even more important when there is a limited mix of BHC ownership as is the case in Australia.

Wheat Exports Amendment Bill

With respect to the proposed Bill and the issue of greater stock transparency I would like to make the following points:

- ASX's view is stock transparency should include wheat, barley, sorghum and canola.
- The present bill is focussed on Wheat is a legacy issue and as such any measures discussed would be an interim solution.

Many of the arguments to keep the information in the hands of the BHCs are similar to previous defences put forward by AWB when the single desk was originally liberalised.

1. To compete with the Multi-National Companies that already have superior information: ASX notes that 3 of the 5 BHCs are now either part owned or wholly owned subsidiaries of MNC. Also, since the Glencore bid for Viterra, GrainCorp has been the subject of some media speculation. The provision of stock information for the benefit of the Australian grain industry should be applied equally across the board irrespective of BHC ownership.
2. The Australian grain market already has efficient price discovery: ASX notes that while it is improving, the efficiency and liquidity in Australia's grain market does not compare with the efficiency in North American markets where detailed stock information is provided for the benefit of the entire market.
3. Not in the growers' interest that would not improve returns: A simplistic argument that assumes price movements are only ever one directional and growers do not have any alternatives to manage their market risk.
4. Growers don't want greater transparency: ASX notes that grower groups in all states have made submissions calling for greater stock transparency.
5. Growers will not deliver into a transparent system: ASX notes that this is not a view held by all BHCs. Emerald's recent announcement to make their stocks available suggests the proposition that growers will send their trucks elsewhere may be an exaggeration. A liquid future market should encourage grower stocks into the system.



6. Market Perception: ASX notes in that CBH's submission their frustration of unfounded allegations concerning information flows between Operations and Trading. ASX has no reason to believe this is the case and is not making this assertion. In the submission ASX makes the point that the current stock reporting framework needs to be revised to address these market perception concerns and avoid inherent dangers associated with asymmetric market information. Providing stock transparency to all in the marketplace would eradicate such perceptions and enhance market activity across the board.

Voluntary Code of Conduct

ASX welcomes recent announcements made indicating that the BHCs are looking to include greater stock information under the Voluntary Code of Conduct. ASX has not been privy to the discussions held to date. That said, ASX is willing to work with the BHCs in good faith to achieve a satisfactory outcome for the industry. However, in regard to the Stock Transparency issue; ASX views the Voluntary Code of Conduct as an interim measure only for the following reasons:

1. Believe the original intent of the Voluntary Code of Conduct was for port access only and did not cover upcountry stocks, this is not adequate and will need to be addressed.
2. At this stage it is not clear what would happen if one of the BHCs were to opt out of the voluntary arrangement. Market integrity is built on market certainty, for this reason, ASX believes the optimum solution is to replicate our major competitors in USA and Canada and remove this risk. Futures markets offer contracts that trade up to three years in advance. If Glencore's bid for Viterro is successful, this will be the fourth change of ownership for the South Australian Bulk Handling system in the last eight years. If such merger and acquisition activity is to continue this would make a Voluntary Code far from certain.
3. The USDA and CGC are not voluntary systems.

USDA – World Agricultural Supply and Demand Estimates

4. GrainCorp's submission makes the point that global population growth and an increasing protein demand is expected to drive a doubling in international trade of grain in the next decades. ASX notes that the USDA World Agricultural Supply and Demand Estimates (WASDE) report was created following the "The Great Grain Robbery" in 1972. When the former Soviet Union orchestrated a large purchase of US Grain at lower prices than demand indicated.

Grain Trade Australia

I cannot speak on behalf of Grain Trade Australia (GTA) other than to say that ASX is a member organisation of the Association and it was noted in the Grain Export Network report that GTA is an industry body with no legislative powers.

I am presently a member of the Grain Trade Australia (GTA) Commerce Committee (2011-2012) which oversees the continual review of GTA contracts and trading rules. I was a member of the GTA Corporate Governance Committee from 2005 until it was disbanded in 2010.

Background

To date, my career of 14 years has been either directly or indirectly related to marketing and risk management in Agricultural commodities, specifically grain. Before joining ASX, I worked for GrainCorp as a Grain Merchant on the Liverpool Plains in North West NSW during the droughts in 2002 and 2003 which followed on from 5 years working as an agricultural futures broker for ANZ and CBA banks.

Media Release

State Farming Organisations Refute GGL Claims

State Farming Organisations (SFOs) from across Australia have come out in opposition of claims being made by GrainGrowers Ltd (GGL).

AgForce QLD, Victorian Farmers Federation, and Grain Producers SA all wish to reiterate GGL does not represent their views.

National Grains representation comes from Grain Producers Australia (GPA), which is the recognised body under the Primary Industries and Energy Research Development Act 1989 (PIERD).

AgForce, VFF, and GPSA representatives advise that while GGL may be vying for the position of national Representative Organisation for the grains industry it does not hold this position and it should not be inferred or assumed that it does.

Grain industry leaders decided to act this week, following GGL's recent claim it represented the nation's grain growers, in a submission to the House Of Representatives Standing Committee.

The above organisations are concerned by statements by GGL that "...*GrainGrowers became the grain commodity member of the National Farmers' Federation (NFF), ensuring Australia's grain producers were represented at the national agriculture decision-making table...*" and that "...*GrainGrowers now hosts National Quarterly Grower Consultation Forums which aim to bring together State Farm Associations...*".

AgForce, VFF, and GPSA emphasise that GGL is simply a member of NFF, as are many SFO's and commercial companies.

GGL's Quarterly Forums are either not attended by all SFO's and/or do not represent the views of the vast majority of the State-based groups.

The SFO's have attempted to resolve these issues with GGL, however the GGL Board have refused to engage with the collective of State Farming Organisations to date.

Further, some state bodies such as GPSA consider GGL's actions in their respective states, such as South Australia, have only further divided the industry.

A set of principles and structural conditions around national grain producer representation have been developed, termed the "Points of Convergence", and are generally agreed upon by all SFO's.

SFO's have been forced to speak out publicly so that Government representatives and grain growers alike are aware that GGL does not represent the views of State Farming Organisations.

Wayne Newton
President
AgForce Grains



Andrew Weidemann
President
VFF Grains Group



Garry Hansen
Chairman
Grain Producers SA



Opening remarks

Introductions

I would like to begin by introducing ourselves. I am Angela MacRae. I was one of the Commissioners on the inquiry into Wheat Export Marketing Arrangements. With me is John Salerian, who was the Assistant Commissioner for the inquiry.

Thank you for the opportunity to appear today.

Background to the Commission's role and processes

The Commission is an independent body that advises the Australian Government on policy matters referred to it, but does not involve itself in the government's policy making processes after an inquiry is completed. It is in this context that the Commission undertook the inquiry into Wheat Export Marketing Arrangements between October 2009 and June 2010.

Over this period the Commission invited submissions, produced a Draft Report for public comment and further submissions, and held public forums and hearings, before producing a final report to the Government.

The inquiry commenced about 15 months after the introduction the Wheat Export Marketing Act 2008 and associated Accreditation Scheme. While some participants considered the timing of the inquiry premature, this was beyond the control of the Commission because the inquiry dates were set in the legislation.

As is the case with all of its inquiries, the Commission took a community-wide approach, but in this case also recognised the importance of positioning the industry for a successful future in a highly competitive world market. From this perspective, the Commission was mindful that regulation should not impede incentives in the sector to adapt flexibly to changing market circumstances and opportunities, as well as changes in technology - all the way from the farm to the final customer.

Successful transition

The Commission's view was that the transition to competition in the marketing of bulk wheat exports had progressed remarkably smoothly, with 28 accredited exporters, some gaining sizeable market share, exporting 12 million tonnes of wheat to 41 countries in the first year after deregulation. The industry performed well

under the new arrangements, particularly given the difficult international trading conditions, including

- a pronounced commodity price cycle for wheat and other grains
- the global financial crisis
- appreciation of the Australian dollar.

I will now outline our views on the main issues that arose in the inquiry.

Accreditation

While the accreditation scheme was assessed as adding significant net benefit during the transition phase, it was considered to have virtually no benefits beyond that initial transition, while continuing to impose costs. Therefore, the Commission recommended that:

- the Accreditation Scheme be abolished
- Wheat Exports Australia be wound-up
- the Wheat Export Charge on all wheat exports be abolished.

We were conscious of a range of views on this topic, but considered that if the industry wanted an accreditation framework (for example, to manage quality, international reputation and branding) then it could develop, administer and fund its own arrangements.

Access to ports

The Commission considered that access to ports was the biggest issue arising in the inquiry. The focus of the access test in the WEMA was on promoting competition in the exporting of Australian wheat, and this was successfully achieved.

From 1 October 2009, grain port terminal operators had to:

- provide a formal access undertaking that was accepted by the ACCC
- publish daily shipping stem and port access protocols.

The Commission considered that the access test had facilitated market entry by reducing uncertainty; made access easier, quicker and less expensive than might have been the case by relying solely on Part IIIA; and facilitated a smooth transition and reduced the length of the transition period.

However, the benefits of the access test diminish once a commercial and competitive environment becomes embedded, and as well as the ongoing financial costs, the negative impacts on investment in the long term could be substantial because of:

- incentives for wasteful strategic behaviour
- constraints on the scope to deliver and price port terminal services efficiently
- reducing incentives for operators to maintain and expand facilities
- reducing incentives for third party investment.

As a result, the Commission recommended that the access framework continue until 30 September 2014, but once a competitive environment has become institutionalised among the market participants, including port operators, traders and logistics services providers, that the access test be abolished. From 1 October 2014 access matters should be dealt with through the National Access Regime.

However, we considered that port terminal operators should continue to be required to publish daily shipping stems and port access protocols (but that it no longer be a condition for exporting wheat in bulk). This would ideally be supplemented by a voluntary code of conduct to govern port access.

Transport, storage and handling

The Commission observed that, even in the short time since deregulation, competitive pressures arising from clearer price signals, reforms in the transport sector, and changing technology, had led to structural change in the bulk transport, storage and handling system including:

- greater on-farm storage
- rationalisation of receival sites
- rival receival sites emerging
- greater use of large trucks – especially useful to accommodate peak period congestion
- rationalisation of branch lines and rail rolling stock
- increase in container exports.

This all suggested that up-country storage facilities did not require access regulation. However, it is crucial that there is an ability to by-pass the bulk handling system in order to foster competition in the supply chain.

We supported the ACCC review of the exclusive notification in relation to Grain Express in WA as it was one area we identified as a possible impediment to bypass. We understand the notification has since been revoked.

Availability and transparency of market information

Timely and accurate information is important for supporting efficient bulk wheat exports and domestic wheat markets. Historical information (published with some lag) is useful for long-term policy development, and investment and planning decisions by all sectors of the wheat industry.

Provision of more detailed, frequent, and up-to-date information could further facilitate the operation of the market. However, what information is provided, how often and by whom was more contentious and complex.

The Commission saw merit in continuing to provide stocks information monthly, by state. It facilitates the efficient operation of the wheat market and the price discovery process in both the domestic and export markets. However, this information has public good characteristics which leads to no one wanting to pay for it. As a result, there will be inadequate provision of the information without some kind of intervention. Because the information on wheat stocks by state is of benefit primarily to the wheat industry itself, the Commission recommended the information should be funded by the industry through a compulsory payment mechanism, such as an industry levy.

Many in the industry thought further detailed information on stocks (such as by grade and port zone) should also be made available. The Commission did not propose that this information be compulsorily made available, but recognised the value of this information for the efficient operation of the domestic and export wheat markets, and encouraged the bulk handling companies to voluntarily disclose greater levels of detailed stocks information.

'Industry good' functions

The grains industry uses the term 'industry good' functions to describe services provided to the industry that support trade and industry development and affect the performance of the entire industry.

Most of the industry good functions were assessed as having predominantly 'private good' characteristics, even though there may be some spillovers and free rider problems associated with their provision. The costs of any market failure are relatively small because the goods are predominantly commercial in nature. Such

goods can be provided by the industry to the extent they have value for the industry (though the industry may wish to act collectively to provide such goods efficiently). While many pressed for government taking the lead in this area, the Commission concluded that an industry-led body could handle the provision of these industry good functions, such as quality and brand reputation in export markets, through industry self-accreditation mechanisms and the use of logos by accredited members.

Opening Statement – Senate Inquiry into Wheat Export Marketing Amendment Bill 2012

- Thank you Senators.
- Firstly, I note that the Committee has heard references to evidence given to the House of Representatives inquiry by the department late last week.
- I would like to correct the record with regard to these comments.
- With regard to quality standards, the department is aware of activities undertaken in the US and Canada, and the role that the government plays in those markets.
- The comments made by the department in the other place referred to Australian government involvement in certifying quality standards for commodities other than wheat, and outside of potential importing country requirements, within Australia.
- As you know, the government announced its response to the Productivity Commission's inquiry into wheat export arrangements.
- The Bill before you implements this response, and the recommendations made by the Commission.
- The committee has raised and heard debate over legitimate issues within the industry, such as information provision and quality certification.
- However, it must be clear that Wheat Exports Australia does not perform any industry good functions.
- The government does not believe that WEA is the appropriate body to deliver industry services.
- As you have recently heard, the Productivity Commission saw value in the provision of market information, but concluded that if the industry wants this information it should pay for it.
- The Minister and Parliamentary Secretary have indicated, for example in the second reading speech, that the government is willing to assist industry in coming to a solution.
- For example, the government has provided assistance to help industry address the issue, including commissioning independent advice on market information needs across the supply chain.
- Prior to this, the government provided \$3.83 million to implement the Australian Bureau of Statistics/Australian Bureau of Agricultural and Resource Economics and Sciences wheat market information project as part of the 2008 industry transitional package.
- In 2011, the government also funded an assessment of wheat market information needs which recommended options for future delivery and possible funding mechanisms.
- As a result of the assessment, GGL and the GRDC are funding a smaller scale collection of the ABS reports.

- The government has also, as recently as February 2012, commissioned an independent analysis of the availability of wheat stocks information and potential solutions to the issue.
- Participants from across the supply chain were consulted in its development, and we expect that this report will be made available to industry in the coming weeks.
- If industry agrees that a new organisation to deliver industry good functions is required and is prepared to support a levy or other arrangement to fund it, the government will consider that request.