



Australian Government

Wheat Exports Australia

**Submission to the Senate Standing Committees on
Rural Affairs and Transport**

**Inquiry into operational issues in export grain
networks**

30 May 2011

About WEA

Wheat Exports Australia (WEA) was established on 1 July 2008 following legislative changes to Australia's wheat export arrangements. WEA is an Australian Government agency within the Department of Agriculture, Fisheries and Forestry (DAFF) portfolio.

Established under the *Wheat Export Marketing Act 2008* (the Act), WEA's primary role is to administer the *Wheat Export Accreditation Scheme 2008* (the Scheme). The Scheme allows the accreditation of bulk wheat exporters who meet specified 'fit and proper' criteria and for WEA to exercise monitoring and enforcement powers to ensure that a competitive bulk wheat export market exists, providing growers with more choice in the marketing of their wheat.

The primary objective of the Act is "to promote the development of a bulk wheat export marketing industry that is efficient, competitive and advances the needs of wheat growers".

Further detail on WEA's operations and functions including:

- a) WEA 2009–10 Annual Report
- b) Report for Growers 2008/09 and 2009/10
- c) WEA Corporate Plan 2010–13.

can be found on the WEA website at www.wea.gov.au.

Response to Inquiry

The Terms of Reference of the Inquiry are:

1. Any risks of natural, virtual or other monopolies discouraging or impeding competition in the export grain storage, transport, handling and shipping network, and any implications for open and fair access to essential grains infrastructure;
2. The degree of transparency in storage and handling of grain and the appropriateness of any consequent marketing advantages;
3. Equitable access to the lowest cost route to market, including transport options;
4. Competition issues arising from the redelivery of grain;
5. The absence of uniform receipt, testing and classification standards and practices and any implications for growers and/or for Australia's reputation as a quality supplier;
6. Equitable and efficient access to the shipping stem; and
7. Any other related matters.

The following sections address each of the Terms of Reference.

1. Any risks of natural, virtual or other monopolies discouraging or impeding competition in the export grain storage, transport, handling and shipping network, and any implications for open and fair access to essential grains infrastructure.

Key export statistics

For the 2009/10 marketing year (1 October to 30 September):

- 83% of all wheat exports were in bulk
- bulk wheat exports from Australia totaled 12.1 million tonnes
- there were 18 active accredited exporters.

No exporter dominated the bulk wheat export trade. The largest exporter accounted for 25% of bulk wheat exports, with the top six exporters accounting for 79%. The top 10 importing countries accounted for 78% of the export volumes.

Minister Burke (then Minister for Agriculture, Fisheries and Forestry) stated in his second reading of the *Wheat Export Marketing Bill 2008* that:

“One of the concerns identified during consultation was the risk of a single wheat export monopoly being replaced by three regional monopolies.

There were varying views on how to manage this risk, and the government considered a number of options to meet the principle of ensuring effective competition without imposing an unnecessary regulatory burden on business.

The government was also mindful that imposing a significant regulatory burden on the supply chain would only result in increased costs being passed back to growers.

So we have decided to impose specific requirements on accredited exporters that operate bulk grain terminals at ports, as these are the facilities with natural monopoly characteristics and are the infrastructure bottleneck in the export supply chain.

Unless all exporters can obtain access to these critical facilities on fair and reasonable terms then one of the major objectives of the policy could be frustrated.

Compliance with these requirements will be a condition of accreditation”.

In order to accommodate these requirements, the Act requires an accredited bulk wheat exporter or associated entity that owns, operates or controls port terminal facilities to have passed an access test in relation to those port terminal services.

Port access test

Under section 5(1)(e) of the Scheme, if an exporter or an associated entity, as the case may be, is the provider of one or more port terminal services it must pass the access test to be eligible for accreditation.

In order to pass the access test the exporter or its associated entity must:

- comply with the continuous disclosure rules (through the publication of a shipping stem for each port terminal on its website)
- have in place a port terminal service access undertaking that has been accepted by the Australian Competition and Consumer Commission (ACCC).

The aim of the access test is to ensure fair access to port terminal services for all accredited exporters.

WEA's accreditation and monitoring process has attempted to ensure that the three Bulk Handling Companies (BHCs) that operate bulk wheat port terminals provide fair and reasonable access to all accredited exporters. The three BHCs and their associated accredited exporters are noted in Figure 1.

Figure 1: Accredited exporters and associated BHC with access undertaking

Accredited Exporter	Associated BHC (Port Terminal Service Provider)
GrainCorp Operations Limited	GrainCorp Operations Limited
Viterra Ltd	Viterra Operations Limited
CBH Grain Pty Ltd	Co-operative Bulk Handling Limited

The BHCs currently have access undertakings approved by the ACCC for the period 1 October 2009 to 30 September 2011. Each BHC is currently in the process of seeking to renew its undertaking for a further three years.

Notwithstanding the associated costs for terminal operators, the access undertakings have provided a mechanism for ensuring equitable access to port terminals.

Continuous disclosure rules

As a condition of accreditation WEA requires the accredited exporter to have documented processes in place for complying with the continuous disclosure rules referred to in section 24(4) of the Act in relation to each port terminal service it provides.

If an associated entity of the exporter provides port terminal services, WEA's condition of accreditation provides for the accredited exporter to use its best endeavours to ensure that the associated entity complies with the continuous disclosure rules.

For each bulk wheat export terminal, WEA downloads and analyses the shipping stem on a daily basis and monitors compliance of the accredited exporter or its associated entity with the continuous disclosure rules. Any anomaly on the stem, e.g. unexplained changes in the order of shipping, is identified and followed up as necessary.

Also, WEA has undertaken four shipping stem audits since 2008 aimed at ensuring compliance with the Act and, in particular, administration of the shipping stem.

The most recent audit conducted by WEA was on the Viterra shipping stem in 2010. WEA published a joint press release with Viterra Ltd outlining a number of findings of the audit. A copy of the press release can be found at Attachment A.

The access test and WEA's oversight of shipping stems and compliance with the continuous disclosure rules have contributed and will continue to contribute to fair access to those services for other accredited exporters.

Figure 2 shows that the three accredited exporters associated with a BHC, account for between 18% and 39% of bulk wheat exports through the related port terminals.

Figure 2: Percentage of bulk wheat exported by BHC or related accredited exporter via its respective port terminals

Region	BHC	Bulk wheat exported by BHC via its terminals as a percentage of total region exports		
		2008/09	2009/10	2010/11
Qld, NSW, Vic	GrainCorp	33	38	38
SA	Viterra	37	18	23
WA	CBH	38	39	37

Source: WEA analysis and shipping stem information

2. The degree of transparency in storage and handling of grain and the appropriateness of any consequent marketing advantages.

Wheat stocks information

There is a diversity of opinion concerning the timely availability of information on wheat stocks. Exporters without an associated BHC have consistently indicated to WEA that to have information on stocks available on a silo by silo basis would substantially aid pricing and help target purchases and stock swaps. They consider that having this information would have positive implications for both domestic and export industries.

Additionally, these exporters have indicated that this information should be available on an upcountry silo basis with the data aggregated by grade and warehouse position. Aggregated data would ensure that no individual grower is identified.

Some growers have indicated to WEA that they object to the information on their warehoused wheat being passed on to the related trading arm of the BHC. Other growers would prefer to have the information on their warehoused wheat made available to all traders (not just the BHC trading arm), in order to generate greater competition for their wheat.

The current unequal access to such information results in a significant marketing advantage to the associated accredited exporter of the BHCs. Greater disclosure of stocks information to all participants would improve the transparency and operation of the wheat market, potentially resulting in greater competition for growers' grain and a more transparent and efficient market.

WEA is of the view that leaving it to the discretion of BHCs' to voluntarily publish up-to-date upcountry wheat stocks information is unlikely to be effective. Some BHCs have indicated that they believe this information is their proprietary information and that it provides them with a competitive advantage.

To reduce or eliminate this competitive advantage WEA advocates the separation (ring-fencing) of each company's bulk handling and marketing divisions as is currently the case between Co-operative Bulk Handling Limited and CBH Grain Pty Ltd as part of the ACCC's acceptance of Co-operative Bulk Handling Limited's "Grain Express" exclusive dealing notification.

3. Equitable access to the lowest cost route to market, including transport options.

Road versus rail transport options

A significant outcome of the new wheat marketing arrangements for growers is that they can now take greater control over the marketing of their wheat, both in terms of who they sell to and the timing of those sales.

To facilitate these choices some growers are increasing their on-farm storage capacity and improving the standard of that storage to maintain the integrity of the grain. Alternatively, they are warehousing their grain in the bulk handling system for longer periods.

The limited availability of rail transport and the inability of the rail system to cope with the volume of grain movements to port, particularly in peak times, have led to an increase in road transport. This situation is further exacerbated in good harvest years, such as the most recent harvest throughout eastern Australia.

Wheat handling and transport systems are having to become more flexible to accommodate the variety of choices now being exercised by growers and traders.

Experience from the USA has identified substantial benefits in having cost-effective rail freight available for transporting grain to port. US bulk handlers have found that it enables longer-term forward planning which has assisted grain shipments, creating a situation where there is less rail capacity available for unplanned transactions. As a result, more forward planning on the part of US bulk handlers has led to:

- an auction mechanism for rail services
- cost premiums for shipping during seasonal peaks
- penalties (rail demurrage) for late, reduced or cancelled shipments
- ability to trade rail slots (guarantees/obligations).

The development of more coordinated access to both rail and port terminal services has the potential to provide Australian exporters with similar efficiencies and cost advantages.

WEA is of the view that a competitive rail network is critical to a cost effective and efficient grain logistics system within Australia.

4. Competition issues arising from the redelivery of grain.

Redelivery fees

Exporters have objected to BHCs charging excessive fees for redelivery and shrinkage for grain delivered to a BHC port terminal from other storage providers. As a result, third party storage providers need to discount their own fees on export grain to ensure exporters are not disadvantaged.

Exporters and growers believe the redelivery fees are too high and an additional shrinkage adjustment is not necessary.

Another related practice that is also claimed to unfairly reduce the competitiveness of third party storage is where the BHC combines receipt and storage charges. There is a direct time-based cost in storing grain - the longer grain is stored the greater is the cost. By not reflecting this time-based cost component in its charges, a BHC is discouraging storage in third party facilities when that grain will ultimately be transferred back to the BHC (typically for export)

and hence attract the same BHC storage fee irrespective of the length of time the grain is in the BHC's system.

Growers and exporters have expressed to WEA that they are seeking greater cost-reflectivity and transparency of all fees, including those charged for redelivery of grain.

5. The absence of uniform receipt, testing and classification standards and practices and any implications for growers and/or for Australia's reputation as a quality supplier.

Wheat quality

Mandatory objective testing has been introduced for a range of commodities including wool and meat, with substantial benefits for both customers and producers. Although objective measurement of wheat quality has improved over the last decade, wheat is lagging other commodities in this regard. Advances in objective grain quality measurement include :

- i) the development of a prototype instrument to measure weather damage of wheat at delivery, by compression; and
- ii) photographic measurement of grain to identify grain defects such as staining.

It is known that Near Infrared technology (NIR) can be used as a “drafting gate” for falling numbers (NIR technology has the ability to identify low falling numbers as opposed to high falling numbers) to assist in increasing grain throughput at delivery sites during wet harvests.

The use of a uniform, standard objective testing regime on receipt of all grain can form the basis of wheat stocks information and assist to:

- develop the long-term competitiveness of the Australian wheat industry by effectively meeting the particular needs of key customers in target markets
- enable product differentiation strategies to be implemented
- encourage greater segregation for developing niche markets
- tailor Australian production systems and varieties in our unique environment to satisfy our discerning customers
- ensure that all grower deliveries are assessed objectively, and reduce cause for concern about bias or unequal assessment.

Objective measurement requires standardised systems including standard measurement methodology, materials and accredited operating staff. This will ensure accuracy within the allowable limits of each wheat classification.

It is in the best interests of the wheat export industry to ensure accurate objective measurement of grain receivals, to enable the correct segregation and provide the ability to export grain to the quality requirements of each customer. This will protect Australia's reputation as a producer of high quality, clean grain.

6. Equitable and efficient access to the shipping stem.

Shipping stem details

Under section 24 of the Act, if an exporter or its related body corporate operates a port terminal service, the continuous disclosure rules require that the party publish a shipping stem which must be updated daily. The shipping stem must contain the following detail:

- ship name
- nomination time
- nomination acceptance time
- quantity of grain to be loaded
- estimated load date.

Based on feedback from exporters, WEA is of the view that this information should be augmented with the following information:

• Port terminal	• Destination country
• Exporter	• Commodity
• Volume (tonnes)	• Vessel name
• Date and time of nomination received	• Date and time nomination accepted
• Estimated arrival time	• Expected loading commencement time
• Estimated departure time	• Date of berthing
• Date vessel named	• Date of completion/execution

As mentioned in point 1, WEA has undertaken a number of audits on BHCs to ensure compliance with continuous disclosure rules in addition to other areas pertinent to accreditation. The audit program plays an important role in monitoring and improving the operations of accredited exporters. It has achieved an enhancement of governance, financial and risk management arrangements surrounding the shipping stem in addition to greater transparency of the published shipping stems.

WEA has been generally pleased with the response of accredited exporters to audit findings, such as the efforts made by port terminal operators to improve the accuracy and presentation of the shipping stems in accordance with the audit's recommendations. These outcomes have been beneficial to the export wheat industry.

Port capacity

Exporters have indicated to WEA that current capacity tables published by BHCs lack the information required to make informed decisions on stem bookings. Exporters encourage BHCs to publish the available weekly elevation capacity for each port to improve the transparency of information and maximise out-load capabilities. Supporting this, WEA notes:

- It is difficult for exporters to plan shipments when there appears to be no fixed in-load capacity (road and rail) and vessel loading capacity is determined by the number of shifts (1 x 8 hr vs 3 for 24 hrs) the BHC has available to work.
- BHCs have gone some way towards addressing this with the publication of various port capacity tables but these are limited in their information and inconsistent between

BHCs. An exporter cannot verify from the current tables the amount of capacity available at each of the ports.

- Each BHC should be encouraged to publish capacity tables that clearly identify available capacity.
- This will also provide transparency of the cost associated with surge capacity (in the form of an extra charge that is usually levied at harvest to cater for the use of extra road freight).

Management of the shipping stem

Following substantial feedback from exporters, WEA is of the view that the method of booking shipping slots should be standardised. If this is not possible, then at a minimum, the process should be transparent and equitable for all exporters.

The Productivity Commission Inquiry Report into Wheat Export Marketing Arrangements, 1 July 2010, noted that although aspects of the auction system (applied by CBH) can be improved, it supports its continuation (subject to modifications) and thinks that other port operators might consider adopting a similar system where there is a likelihood of excess demand for port capacity at certain points in time.

Shipping slots should also have more flexibility, to improve port efficiency and utilisation of loading capacity.

Many suggestions have been made within the industry to increase the efficiency, effectiveness and transparency of shipping arrangements. WEA encourages the industry to work together to improve current arrangements. Listed below are some identified potential improvements based on industry feedback:

- Greater transparency of nomination fees
 - Currently nomination fees vary for each BHC for no apparent reason. The large differential in nomination fees between South Australia and Western Australia has been used by exporters as a reason for selective cancellation of shipping slots.
- Tradability of slots by exporters (a modest administration charge would be reasonable)
 - Booking shipping slots is a significant financial burden especially for smaller exporters because large sums of capital are tied up for long periods of time.
 - WEA is aware of one exporter choosing to surrender its accreditation because of the high costs involved with booking a shipping slot.
 - All slots should be tradable or swappable (not on a secondary market, but at the same original cost) to avoid profiteering and speculation. This will also overcome cancellations and forfeiture of slots, which will increase port terminal capacity and efficiency.
 - There are a number of reasons why a vessel may not arrive for its nominated load on time, or why vessels are not nominated for a particular slot. The tradability/ swapping of slots between exporters would increase the capacity of the terminal (this happens overseas where the exporters negotiate with one another and then come to the terminal operator with a solution).
- Partial refund of nomination fee for early cancellation (the refund amount should be dependent on the number of days prior to loading that the nomination is cancelled)

- This will encourage exporters to submit cancellations earlier than is the current practice, providing opportunity for other exporters to use the cancelled slot and thereby improving the efficiency of the port terminal operations.
- Bookings should not simply “disappear” from the stem as is currently the case.
 - A ‘descriptor’ is required to explain why a ship has been removed from the stem, either the ship was loaded and has departed, or it was moved to another port or cancelled, thus signaling available capacity for other exporters.
- A mechanism is required to alert exporters of potential congestion/ delays and if vessels are running late (with the potential of being cancelled).
- A mechanism is needed to avoid overbooking of slots (hoarding), especially by the BHC’s associated exporter. Such process should be documented and auditable.
- A related issue is the treatment of nomination fees on cancelled bookings. Exporters who cancel a nomination forfeit the fee to the BHC. However, when the trading company associated with a BHC cancels a nomination, there is no actual penalty to the group as the fee is merely forfeited to another operating entity within the same group.
 - A number of alternative arrangements have been proposed to counter this inequity, including the depositing of forfeited fees (minus any legitimate costs incurred by the BHC) in a separate account that is ultimately distributed amongst all exporters who utilised their slots.

In summary, there are a number of issues associated with the management of the shipping stem where improvements can be made to ensure better equity and access for all exporters and provide for a more transparent and auditable process.

7. Any other related matters.

Since July 2008 WEA has been monitoring compliance of accredited exporters with the new wheat export marketing regulatory requirements. This process has identified to exporters and WEA a number of beneficial outcomes for both the wheat export industry in general and individual exporters in particular.

Bulk exporters have indicated to WEA that:

- the accreditation process has led to enhanced governance and risk management processes for their businesses
- accreditation from a government agency has proved a useful marketing tool for exporters in their engagement with growers and international customers
- the accreditation process has heightened awareness of the importance of End Point Royalties in supporting market oriented breeding of wheat varieties
- the accreditation process has demonstrated conformance with National Residue Survey priorities.

The objectives of the Act are:

- (a) to promote the development of a bulk wheat export marketing industry that is efficient, competitive and advances the needs of wheat growers
- (b) to provide a regulatory framework in relation to participants in the bulk wheat export marketing industry.

From WEA's perspective, the implementation of the Scheme is assisting the achievement of the objectives of the Act through the accreditation of multiple exporters now competing for a share of Australian bulk wheat exports.

WEA considers that the transition from the previous highly regulated bulk wheat export arrangement to a more competitive environment has occurred relatively smoothly.

WEA has been rigorous in implementing the provisions of the Scheme to ensure compliance with the eligibility criteria and that accredited exporters meet the 'fit and proper' test. WEA continues to monitor accredited exporters within the terms of the Scheme.

Pleasingly, there have been no cases of financial failure of/ by the companies involved or any known incidents where accredited exporters have failed to meet their contractual obligations to growers or buyers.

WEA recognises that the transition to a more deregulated marketing environment has involved substantial structural change, which is impacting on the whole supply chain. This adjustment is expected to continue as the Australian export wheat industry develops its competitiveness, improves its efficiency and advances the needs of wheat growers and the bulk wheat export marketing industry generally, as envisaged by the Act.

If you have any questions regarding this submission, please contact Peter Woods on (02) 6202 3430.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Woods', with a long, sweeping flourish extending from the end.

Peter Woods
Chief Executive Officer



JOINT MEDIA RELEASE
WHEAT EXPORTS AUSTRALIA & VITERRA LTD
Viterra commits to improved Export Stem Arrangements

30 November 2010

Wheat Exports Australia (WEA) today announced the outcome of an external audit conducted to review the compliance of Viterra Ltd with its obligations under the *Wheat Export Marketing Act 2008* (the Act).

One of WEA's roles is to review on a regular basis the activities of accredited exporters to ensure they are complying with the conditions of their accreditation and requirements of the Act. As part of its monitoring program, WEA can arrange to have an independent external audit conducted at any time during the exporter's period of accreditation.

Peter Woods, WEA Chief Executive Officer, said "In light of some issues that arose during the 2009/10 marketing year, WEA organised an independent audit of Viterra's administration of the shipping stem. The audit's conclusions identified a number of areas for improvement, including tighter administration of excess vessel bookings, more timely cancellation of bookings that are not going to be used and immediate updating of the shipping stem when slots become available.

"WEA found Viterra co-operative and keen to identify opportunities to ensure the shipping arrangements work to the best advantage of all accredited exporters," Mr Woods said.

In particular, and as an outcome of the external audit, Viterra Ltd has agreed to a process of internal review of policies and procedures relating to Viterra Operations Ltd's administration of the shipping stem and compliance with the continuous disclosure rules. Dean McQueen, Viterra's Executive Manager Grain, said Viterra was committed to working constructively with WEA in the interests of an open and transparent system of managing shipping stem bookings.

"Since taking ownership of the business, Viterra has taken significant steps for the purpose of continuous improvement to our systems for the benefit of the industry as a whole," said Mr McQueen.

Mr Woods said that WEA was confident that the outcome of the external audit would lead to improved disclosure of daily shipping stem information and transparent management of vessel nominations by Viterra Operations Ltd.



Australian Government
Wheat Exports Australia



ATTACHMENT A

Background

To maintain export accreditation, vertically integrated wheat export companies, such as Viterra Ltd, are required by the Act to pass an 'access test'. WEA monitors compliance with the Act and conditions of accreditation. There is no change in Viterra's wheat export accreditation as a result of the external audit arranged by WEA.

ENDS.

FOR FURTHER INFORMATION PLEASE CONTACT:

WEA

Mary-Lois Wilson
Senior Operations Officer
Ph : 02 6202 3443

Viterra Ltd

Jane McBride
External Communications Manager
Ph: 08 8304 1368