

27th April 2012

Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Wheat Export Marketing Amendment Bill 2012

The Victorian Farmer's Federation ("VFF") Grains Group would like to provide the following submission to the Senate Standing Committee on Rural and Regional Affairs and Transport, on behalf of Victorian grain producers who will ultimately be impacted by the Committee's findings and the Government's subsequent actions.

VFF Position regarding the proposed Bill

- VFF do not support the proposed Wheat Export Marketing Amendment Bill 2012 in its current form.
- VFF do not support the adoption of the Productivity Commission's recommendation *"...to transition the wheat export industry to full deregulation by: abolishing the Wheat Export Accreditation Scheme and the wheat export charge on 30 September 2012; winding up Wheat Export Australia on 31 December 2012; and removing the access test requirements for grain port terminal operators on 30 September 2014..."*.
- VFF do support the need for a national industry authority to address issues of market failure, and to ensure a transparent, accessible, contestable and competitive grain market.
- VFF consider such an authority is necessary to facilitate and improve market confidence which is a feature common to more efficient deregulated markets, and is currently lacking in a number of areas in the Australian grains industry.

Market Failure & Industry Good

- The Productivity Commission review and industry in general, have identified many examples of market failure and services that require intervention or oversight.
- Debate has focussed on whether government intervention is required to resolve market failure or whether this should be left to the market to resolve of its own accord or through self-regulation including voluntary codes. For example: port access, stocks transparency, shipping stem information, and export quality.
- Further debate has focused on the funding of both intervention as well as industry services and whether such functions were considered a "public good" requiring government funding or an "industry good" that should be funded by industry.

Objects of the Act & Unintended Consequences

- Section 3 of the existing Act remains relevant and achieves the objective: “*to promote the development of a bulk wheat export marketing industry that is efficient, competitive and advances the needs of wheat growers; and (b) to provide a regulatory framework in relation to participants in the bulk wheat export marketing industry*”. Advancing the needs of growers is consistent with industry as a whole as all industry costs are ultimately derived from gross grain (‘grower’) receipts.
- Repeal of Section 86A ironically may have the unintended consequence of increasing regulation of the export grain market. Repeal of this section would result in power over grain exports being vested with State & Territory legislation. For example, re-instatement of the Western Australian Bulk Handling Act 1967 could result in increased regulation of grain and potential anti-competitive impacts in WA.
- VFF do not consider that “*Decisions on whether a bulk wheat exporter is required to satisfy the access test (currently made by WEA) will be made by the Department of Agriculture Fisheries of Forestry*” or whether to exempt an exporter from access provisions for example, are appropriate powers for a government department but should be made by an independent regulatory authority.

Resolution of Market failure & Industry Good

- VFF consider this debate can be readily resolved through an industry authority that sources funding from industry via the existing Wheat Export Charge (“WEC”) on grain producers. This negates the need for public funding and negates the need for continued debate with other industry entities as to who will fund such services. It also demonstrates the degree of farmer support through their willingness to fund the body.
- Like other efficient competitive markets, such as the ASX or the US grain market, VFF consider an authority funded through the WEC should be charged with improving overall market confidence and efficiency by ensuring transparency, integrity, and competition.
- VFF propose a "light touch" oversight body that enables retention of the WEC to provide the required funding and framework to work to the benefit of industry. This can be readily implemented through modifications to the existing Wheat Export Marketing Act.

How a dedicated industry authority can improve market efficiency

- Independence – an industry authority does not have a vested interest but acts in the interest of industry as a whole, and provides the appropriate framework.
 - Transparency of inventory (stocks information) – providing transparency and integrity of stocks facilitates market liquidity and improves market confidence. This is currently lacking in the Australian grains market where stock yet to be traded is not visible to the market place, hampering trade and price signals, and limiting information to a few regional monopoly providers who are custodians of the information but do not own it.
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- Transparency of Grain Quality information – similarly this is required to ensure integrity of stocks by quality (grade) held by warehouse providers in the market. This will assist market participants and exporters transact in confidence. Greater disclosure is required as to outturn quality versus quality of grain received and paid for in the system. This is a current failing of the system as warehouse providers only guarantee outturn to the minimum receival standard. This opens Bulk Handling Companies (BHC's) to question as to whether warehoused grain has been arbitrated or blended when BHCs are meant to act as custodian of warehouse grain. Increased transparency does not prevent owners of the grain from arbitrating or blending grain. On the contrary, transparency should facilitate this value add by all owners whether they be BHC, trader, or grower alike.
 - Export Market Confidence – the flow on benefit of improved stocks & quality integrity will be to maintain the integrity of Australia's grain export reputation. This has suffered since deregulation of the market with numerous complaints that the quality of Australian grain grades has been eroded since deregulation, and that exports are not meeting grain grade specifications. Transparency and oversight does not prevent the market from negotiating commercial contracts, contractual quality standards around grades, and commercial resolution of contract disputes. It will assist transparency of market minimum grade quality standards and enhance Australia's export reputation as a result.
 - Transparency of Shipping stem – provides an independent central point for the market to access shipping stem information. Transparency and integrity of shipping slots, like stocks, is essential to market confidence and ability of market participants to compete and access those shipping slots. VFF do not consider a non-prescribed voluntary code of conduct will facilitate competition given in the long term such a code is unenforceable.
 - Port access – similarly, access to ports and shipping slots is essential to facilitate healthy competition in the market between exporters. Up country storage and the ports are currently predominantly dominated by three regional monopolies. Any further restrictions on information, timeliness, or access will inhibit a competitive and efficient export market and acts as a dis-incentive to competition.
 - Wheat varietal classification (Wheat Quality Australia) – this is an “industry good” service requiring ongoing funding and generally supported across industry. Without a continued ongoing funding mechanism this function is at risk of collapse given the ‘public good’ nature of the service. It ultimately ensures continued long term competitiveness & sustainability of Australian wheat varieties, whether this be end-use (milling performance), productivity increases, improved disease resistance, etc.
 - Consumer Protection – Australia's 25,000 farmers are in effect consumers of a number of financial like products that are not currently regulated, and therefore arguably farmers do not receive the same degree of consumer protection as other industries. For example, grain acquisition contracts and Pools are products displaying similar features to financial instruments however these are not subject to regulation under ASIC or APRA (Corporations Act). Whether they should be and to what degree provides a complicated debate in itself, however the point serves to demonstrate that the industry is not as fully evolved as portrayed by some. A degree of oversight or
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reporting could be provided by an industry authority to afford some consumer protection to the farm sector in this field.

- Governing Legislation (The Wheat Export Marketing Act) - is necessary to ensure the body's independence within the market; provides the funding mechanism (the WEC); and provides the necessary regulatory & compliance powers to both enact the above functions, and to ensure the body has the respect of market participants and to ensure integrity and overall market confidence.

Conclusion

VFF Grains believe the current Bill being considered by Government not only fails to address the existing flaws and inefficiencies in the industry, but actually exacerbates them and may also have unintended consequences through state legislation. It will further erode market confidence; result in continued complaint from the grower sector; erode Australia's international export reputation; fails to address the need for public/industry good services; and exacerbates market concerns around lack of transparency, port access, and competition.

VFF do not consider voluntary codes of conduct will be binding in the long term. The intent of BHCs is demonstrated in existing submissions to the ACCC which already openly dispute the regulation of ports. This only undermines market confidence in BHC's intent to adhere to voluntary codes. The Bill, if adopted, will create an environment where only those select corporates or multi-nationals with deep enough pockets to take an issue of dispute through the ACCC will be able to compete. This in itself acts as a barrier to competition to all.

All efficient competitive markets, for example the share market, finance market, or what is considered one of the most deregulated grain commodity markets in the world in the U.S, all have government backed regulatory oversight. This oversight addresses any market failings and creates the environment for market confidence to facilitate competition and ongoing investment in their industries. They also afford their market participants a degree of consumer protection within the market.

VFF consider the Government is obligated to ensure a similar level of regulatory oversight and market facilitation is retained within the Australian Grains industry. VFF consider an industry representing 25,000 regional farm businesses nationally and worth approximately \$5 billion per annum in production (wheat production alone) to the Australian economy warrants this level of Government involvement at a minimum.

Yours Sincerely,

Grains Group President
Victorian Farmers Federation
