



**Submission to the Senate Standing Committees on Rural Affairs and Transport inquiry
into the ownership arrangements of grain handling**

17 June 2012

About GPA

Grain Producer's Australia (GPA) as the recognised Representative Organisation (RO) for the grains industry has an obligation to provide an industry response to government given its responsibilities under the Primary Industries and Energy Research Development Act 1989 (PIERD), the Primary Industries (Excise) Levies Act 1999 and the Primary Industries (Customs Charges) Act 1999. Recommendations of the Productivity Commission's review have specifically addressed elements of GPA's responsibilities. These include: over sight of the Grains Research and Development Corporation (GRDC) on behalf of growers; reviewing and setting the grains levy.

Response to Inquiry

(a) such arrangements are in the interests of:

- (i) Australia's farmers;

On 29th May 2008 the Minister for Agriculture Fisheries and Forestry in his second reading speech for the Wheat Export Marketing Bill 2008 stated:

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

And further

"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."

This clearly highlights the governments concern that the development of regional wheat (grain) monopolies could develop and if they did it would be detrimental to effective competition and thus competition for grower's grain.

It is the view of GPA that the three natural regional monopolies have developed and exert significant market power.

It is best to demonstrate this with an example:

In Western Australia CBH is the port terminal operator, provides up-country storage and handling and is the dominant grain marketer. For the season 2011/12 this domination led to CBH using their knowledge of grain stocks and related specifications in a number of ways.

- a. When purchasing canola from growers they are the only marketer offering (who is capable of offering) unlimited oil payments on oil content. In the past marketers paid oil bonuses for oil between 40 and 44 percent. The only reason CBH can offer unlimited payment is they own the storage and can outturn the canola to specification. Other marketers have no choice which grain they receive on outturn as all stock in the CBH system are supposedly virtual stocks;
- b. When selling the canola they are the only ones able to offer canola with a guaranteed oil level, again they control the stocks and outturn specifications. Other exporters are not able to offer grain of this specification as their stocks are virtual; and

- c. CBH was also able to sell high protein APW. Only available to and from them because they control the grain stacks.

As you would be aware the ACCC have ruled against CBH's grain express model and this may provide more flexibility to other exporters for the 2012/13 season.

Figure 1: Analysis of the 2011/12 marketing year shipping stem, top 5 bulk wheat exporters by State.

State	Exporter	% of total bulk tonnage exported
NSW	GrainCorp Operations Limited	47
	Cargill Australia Limited /AWB	26
	Glencore Grain Pty Limited	17
	Queensland Cotton Corporation Pty Ltd	4
	Gardner Smith Pty Limited	2
QLD	Queensland Cotton Corporation Pty Ltd	18
	Viterra Ltd	15
	GrainCorp Operations Limited	15
	Gavilon Grain Australia Pty Ltd	11
	PentAg Nidera Pty Ltd	11
SA	Cargill Australia Limited /AWB	24
	Viterra Ltd	23
	Glencore Grain Pty Limited	13
	Alfred C Toepfer International (Australia) Pty Ltd	11
	Emerald Group Australia Pty Ltd	8
VIC	Cargill Australia Limited /AWB	27
	GrainCorp Operations Limited	18
	Glencore Grain Pty Limited	14
	Emerald Group Australia Pty Ltd	13
	Bunge Agribusiness Australia Pty Ltd	10
WA	CBH Grain Pty Ltd	36
	Glencore Grain Pty Limited	20
	Cargill Australia Limited /AWB	15
	Emerald Group Australia Pty Ltd	10
	Gavilon Grain Australia Pty Ltd	5

Source: Wheat Exports Australia, Report for Growers 2011/12, page 22.

As noted by Wheat Exports Australia in the 2011/12 report both Cargill Australia Limited / AWB and Glencore Grain Pty Limited feature in the top five in four of the five states.¹

The grain industry was deregulated to provide greater competition for growers' grain at the farm gate. This was achieved in 2008 when 20 organisations (at 24 November 2008) had been accredited to export bulk wheat. In the period 1 July 2008 to 10 December 2012 (the

¹ Wheat Exports Australia, Report for Growers 2011/12, page 22.

period in which the Wheat Export Accreditation Scheme was in operation) Wheat Exports Australia accredited 33 organisations to export bulk wheat. On 10 December 2012 only 21 organisations were accredited indicating significant consolidation and a large reduction in the number of exporters competing for growers' grain. As figure 2 shows for the 2011/12 marketing year only 19 exporters were active with four very dominant. There has since been further consolidation.

Figure 2: 2011/12 marketing year wheat exports by exporter and State

Shipper	Wheat 2011/12 (Oct - Sep)						% Total
	QLD	NSW	VIC	SA	WA		
Cargill / AWB	139,489	957,948	813,324	1,262,550	1,274,557	4,447,868	21%
Glencore	54,955	668,415	410,895	664,375	1,644,398	3,443,038	16%
CBH			35,000	340,500	2,923,844	3,299,344	16%
Graincorp	200,293	1,821,926	523,018	110,000		2,655,237	12%
Viterra	211,414	72,568	86,365	1,145,590	229,820	1,745,757	8%
Emerald	112,204		389,874	396,000	757,825	1,655,903	8%
Toepfer	61,565		93,000	573,312	171,688	899,565	4%
Gavilon	157,820		154,000	20,000	422,844	754,664	4%
QCOT	254,895	129,000	102,999		97,431	584,325	3%
Bunge			299,499	230,000		529,499	2%
Dreyfus				266,500	158,805	425,305	2%
Plum Grove				31,000	129,760	160,760	1%
Pentag	145,165					145,165	1%
Mitsui					133,480	133,480	1%
Riverina	12,257				118,050	130,307	1%
Noble		58,141	47,113			105,254	0%
GSPL		88,000				88,000	0%
Concordia				50,000		50,000	0%
Touton	29,546	840				30,386	0%
Grand Total	1,379,603	3,796,838	2,955,087	5,089,827	8,062,502	21,283,857	100%

Source: Australian Crop Forecasters

Figure 2 clearly shows that a small number of organisations control the greater portion of wheat exporters.

Figures 3 and 4 show a similar position for barley and canola for the 2011/12 marketing year.

Figure 3: 2011/12 marketing year barley exports by exporter and State

Shipper	Barley 2011/12 (Oct - Sep)						% Total
	QLD	NSW	VIC	SA	WA		
CBH			25,000	55,000	1,362,372	1,442,372	29%
Viterra			76,000	753,250	77,016	906,266	18%
Glencore	6,750	34,620	339,068	249,500	165,493	795,431	16%
Graincorp		217,506	299,820		4,875	522,201	10%
Cargill / AWB		52,000	176,700	119,000		347,700	7%
Toepfer		25,500	85,000	228,850		339,350	7%
Emerald			181,921	35,000	116,590	333,511	7%
Gavilon				91,000	129,168	220,168	4%
Dreyfus				55,000		55,000	1%
Joe White M					45,887	45,887	1%
Bunge				15,000		15,000	0%
QCOT			13,858			13,858	0%
Noble			8,800			8,800	0%
Grand Total	6,750	329,626	1,206,167	1,601,600	1,901,401	5,045,544	100%

Source: Australian Crop Forecasters

Figure 4: 2011/12 marketing year canola exports by exporter and State

Shipper	Canola 2011/12 (Oct - Sep)					Total	%
	NSW	VIC	SA	WA			
Glencore	129,230	182,205	57,500	247,189	616,124	26%	
CBH				542,531	542,531	23%	
Cargill / AWB	165,924	193,806	16,000		375,730	16%	
Viterra			213,800	57,831	271,631	11%	
Graincorp	64,436	147,921			212,357	9%	
Gavilon				174,648	174,648	7%	
Toepfer		25,000	113,000		138,000	6%	
Noble		25,000			25,000	1%	
Touton	20,700				20,700	1%	
Emerald		16,000			16,000	1%	
Grand Total	380,290	589,932	400,300	1,022,199	2,392,721	100%	

Source: Australian Crop Forecasters

Please refer to figures 6, 7 and 8 for 2012/13 marketing year-to-date details.

This type of market dominance can only mean one thing for growers – less competition.

(ii) Australia's long term food security interests;

Australia is a country currently in a fortunate situation with regard to food security, we produce more grains than we require for domestic consumption.

Unfortunately this situation could change in a very short time. Domestic consumption of wheat for both humans and livestock is typically around six million tonnes per year.² This will increase in a drought and as the nation's population increases.

Figure 5 indicates there have been marketing years (for example 2002/3 and 2006/7) when production has been very low 10 and 11 million tonnes approximately, but exports (under the then single desk) were 9 million tonnes.

In these two years (2002/3 and 2006/7) if domestic consumption was 6 million tonnes and exports were 9 million tonnes Australia required 15 million tonnes of wheat to meet this demand. This is well above the level of production for those years, thus Australia would have had serious food security issues if there had not been carry-over stocks.

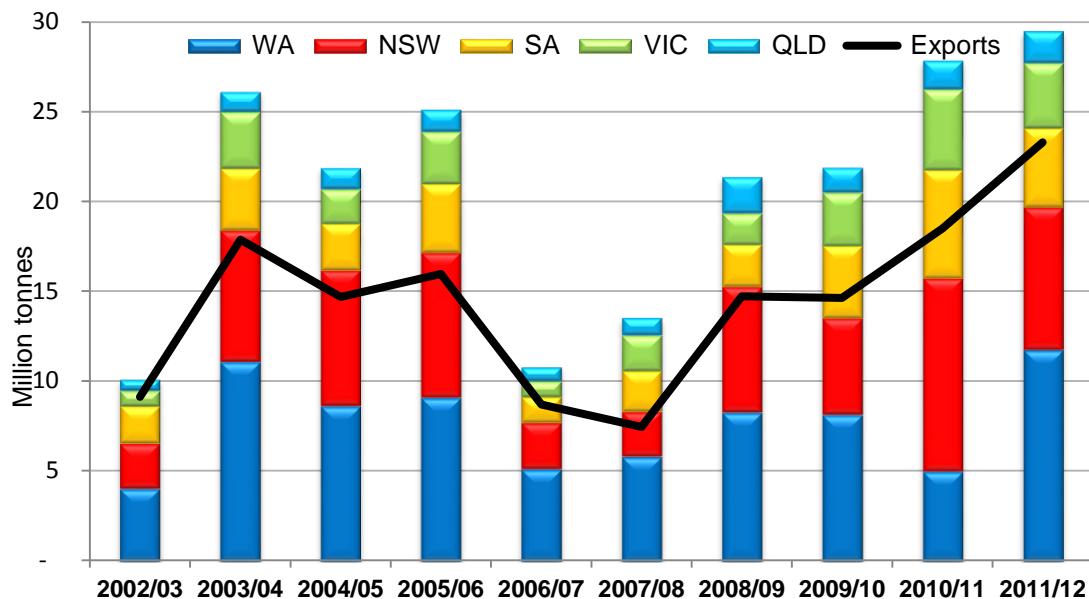
What will happen in the future if there is low production and NO/low carry-over?

Australia could be in a serious food security problem.

- How could we import wheat to supply the domestic market?
- Which countries would we buy from?
- What premium would we have to pay?

² Wheat Exports Australia, Report for Growers 2011/12, page 11.

Figure 5: Comparison of State production and total national exports



Source: Wheat Exports Australia, Report for Growers 2011/12, figure 9.

Please do not let Australia fall into the same situation that America did in 1973 when the crop was oversold and there was serious food security issues.

This problem could be reduced if wheat stocks information was freely available and published in a timely manner as proposed below in part c.

(b) there are potential impacts on competing grain traders' access to grain handling facilities, ports, silos and transport infrastructure;

Grain Producers Australia is of the view that there is an opportunity for the grain export industry to develop and implement protocols that encourage, facilitate and promote transparent access to export grain terminals providing the opportunity and ability to load vessels in a timely cost effective manner.

These protocols must be transparent and robust, enabling all grain exporters the opportunity to fairly access shipping slots. These protocols must ensure that the port terminal operator can't manipulate the booking process for neither their own benefit, nor the detriment of other exporters either financially or time wise.

The higher costs and risk to exporters in booking and executing shipping slots the greater the likelihood of reduced competition for the port terminal operator. This could result in a monopoly on the east coast which will not be positive for any part of the domestic or export industry, which would lead to lack of competition for grower's grain and lower prices.

The current auction systems are not working efficiently. There is too much room for the price of a slot to be driven up by manipulating the bidding.

GPA would like to highlight some findings in the final report of the Senate Standing Committees on Rural Affairs and Transport Inquiry into operational issues in export grain networks, April 2012, page 34;

"3.36 WEA has submitted that there are a number of ways that the efficiency, effectiveness and transparency of shipping arrangements can be improved including greater transparency of nomination fees, tradability of slots by exporters, and partial refund of nomination fees for early cancellation of shipping slots.³⁷

3.37 WEA has also suggested that a mechanism needs to be found to alert exporters of potential congestion or delays or if vessels are running late with the potential of being cancelled. Finally, they submit that a mechanism needs to be found to avoid overbooking or hoarding of slots, in particular by the BHCs' associated exporter.³⁸

3.38 A number of submitters have identified that there is an inherent inequity in the payment of a forfeiture fee in the event of cancelling a shipping slot. They highlight that exporters who cancel a nomination pay a forfeit fee to the BHC. However, when the trading company associated with the BHC cancels a nomination there is no real penalty as the fee is merely paid to their own trading entity.³⁹ "

GPA is of the view that these matters are yet to be addressed.

(c) there are potential impacts for grain traders, and a competitive marketplace, of access to warehoused grain stock information;

There is a diversity of opinion concerning the timely availability of information on wheat stocks. Exporters have consistently indicated to GPA that to have information on stocks available on a silo by silo basis would substantially aid pricing and help target purchases and stock swaps. Having this information readily available would have positive implications for many domestic and export industries including domestic livestock industries.

Growers also hold a variety of opinions on this issue. Some growers have indicated to GPA 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), to generate greater competition for their wheat.

GPA considers transparent information critical to the efficient operation of the market. GPA supports the publishing of stocks information—for example, by silo, by grade—at an aggregated level. This would ensure the market is fully informed yet protects individuals' positions. The bulk handling companies (BHC) clearly use this information which provides them with a marketing advantage.

Other industry participants have indicated the ownership of this information belongs to growers and those that purchase grain on delivery to the system. Grain growers should have the largest determination on how this aggregated information is managed and disclosed.

Upcountry stocks information is not currently published in sufficient detail nor in a consistent and timely manner to be useful to industry. Industry requires detailed and timely information to facilitate accurate pricing and competitive tendering for international contracts.

This results in a significant marketing advantage to the associated accredited exporter of the BHC as indicated in figures 6, 7 and 8.

The Committee has already received submissions regarding this matter from GPA and other concerned parties to previous inquiries. Those being:

- Senate Standing Committees on Rural Affairs and Transport Inquiry into operational issues in export grain networks;
- Senate, Rural and Regional Affairs and Transport Legislation Committee Inquiry into the Wheat Export Marketing Amendment Bill 2012;
- House of Representatives, Standing Committee on Agriculture, Resources, Fisheries and Forestry Inquiry into the Wheat Export Marketing Amendment Bill 2012; and
- The South Australian Parliament Select Committee on the Grain Handling Industry.

The larger percentage of submissions to the above inquiries indicate that the retention of stocks and quality information by BHC's creates market asymmetry and provides them unfair advantage in marketing and trading of grain and reduces effective competition in the market.

The BHC's have tried to counter this by pushing that there is some kind of disadvantage to growers by having transparency of information. Clearly no market can function properly with incomplete or one sided information and failure to provide that information will lead to market failure. This is why the ASX have their listing rules that ensure complete disclosure to prevent this type of market failure.

Wheat Exports Australia noted in its submission to the Productivity Commission Inquiry Report on Wheat Export Marketing Arrangements dated 1 July 2010 (the PC Inquiry Report) that:

- “*Exporters have consistently indicated to WEA that to have information on stocks available at up-country storage facilities with the data aggregated by grade and warehouse position (thus ensuring that the stocks of individual growers/owners were not identified), would aid pricing and help target purchases or stock swaps.*”

The PC found that:

- “*timely and accurate information is important for supporting an efficient bulk wheat export market*”; and
- “*Unequal access to more disaggregated stocks information confers a marketing advantage on the trading bulk handling companies and expects that greater disclosure of this information to all participants would improve the operation of the wheat market.*”

Grain handlers have previously stated that stocks information is not theirs to release, that it belongs to those who are holding the grain in storage i.e. growers, end users or traders.

Figures 2, 3 and 4 clearly shows that for the 2011/12 marketing year exporters with an associated port terminal facility hold dominant shares for wheat, barley and canola exports in the region in which their port facilities are operated.

Figures 6, 7 and 8 shows that the trend (exporters with an associated port terminal facility hold dominant market shares) in 2011/12 (figures 2, 3 and 4) appear to be continuing for the 2012/13 marketing year to date.

Figure 6: 2012/13 marketing year-to-date wheat exports by exporter and State

Shipper	Wheat 2012/13 (Oct - Jun)						%
	QLD	NSW	VIC	SA	WA	Grand Total	
BUAA			50,000			50,000	0%
Bunge			79,000	213,693	55,000	347,693	2%
Cargill	58,700	719,815	332,834	358,415	1,110,127	2,579,891	18%
CBH			356,600	2,129,851		2,486,451	18%
Dreyfus				294,091		294,091	2%
Emerald	114,634		553,984	274,800	499,615	1,443,033	10%
Gavilon				80,000		80,000	1%
Glencore	153,100	265,550	206,826	1,317,844	1,070,950	3,014,270	21%
Graincorp	303,818	1,145,115	265,168	79,250		1,793,351	13%
Mitsui				28,000	260,672	288,672	2%
Noble		89,700	81,888			171,588	1%
Pentag	85,000				30,000	115,000	1%
Plum Grove					336,149	336,149	2%
QCOT	150,515	17,500	245,000	40,049	54,852	507,916	4%
Riverina	5,900			25,055	82,800	113,755	1%
Toepfer			154,424	109,000	204,343	467,767	3%
Grand Total	871,667	2,237,679	1,969,124	2,802,706	6,208,450	14,089,626	100%

Source: Australian Crop Forecasters

Figure 7: 2012/13 marketing year-to-date barley exports by exporter and State

Shipper	Barley 2012/13 (Oct - Jun)					% Grand Total
	NSW	VIC	SA	WA	Grand Total	
Barret Burston				14,335	14,335	0%
Bunge			68,000		68,000	2%
Cargill		179,146	25,000	85,776	289,922	9%
CBH			120,000	923,537	1,043,537	31%
Emerald		45,000	129,000	96,800	270,800	8%
Gavilon				40,779	40,779	1%
Glencore		88,800	554,661	60,000	703,461	21%
Graincorp	45,000	224,934	30,000		299,934	9%
Joe White M			10,093	68,435	78,528	2%
Noble		40,000			40,000	1%
Pentag			35,040		35,040	1%
QCOT		30,000			30,000	1%
Toepfer	50,000		192,610	184,821	427,431	13%
Grand Total	45,000	657,880	1,164,404	1,474,483	3,341,767	100%

Source: Australian Crop Forecasters

Figure 8: 2012/13 marketing year-to-date canola exports by exporter and State

Shipper	Canola 2012/13 (Oct - Jun)					% Grand Total
	NSW	VIC	SA	WA	Grand Total	
Cargill	185,500	114,969			300,469	10%
CBH		50,000	75,000	749,853	874,853	29%
Emerald		149,339			149,339	5%
Gavilon				154,532	154,532	5%
Glencore	223,491	287,708	110,324	242,296	863,819	28%
Graincorp	117,500	84,500			202,000	7%
Noble		25,000			25,000	1%
Toepfer	114,713	235,000	109,500		459,213	15%
Touton		25,000			25,000	1%
Grand Total	641,204	971,516	294,824	1,146,681	3,054,225	100%

Source: Australian Crop Forecasters

GPA is of the view that the following issues are relevant in this matter:

- Grain that has been sold, transferred or delivered by a grower to a buyer is the property of that buyer (usually a company). In most cases this will be a domestic user, trader or accredited exporter.
 - All such industry participants want the publication of aggregate stocks information.
- In the case of grower warehoused grain, the grower retains title to his/her grain, but only the quantity and quality - and not a specified parcel of grain, as on delivery grain is comingled.
 - GPA is of the view that growers would have no objection to aggregated data being published.
- All bulk handlers have installed computerised stocks systems. Growers and traders receive almost instantaneous details on a delivery ticket basis following unloading and taring of trucks.
 - As such, bulk handlers' claims that they cannot provide aggregated and timely information, or that it would be very expensive to do so, needs to be queried.

Historically, stocks information was provided publicly by both Vicgrain Ltd and AusBulk Limited prior to being incorporated into GrainCorp Ltd and ABB Grain Ltd respectively.

The view of industry is that this information should not be considered proprietary to the BHC's as they now operate what were once State-owned enterprises, state mandated monopolies or are grower-owned (in the case of CBH) enterprises, and receive the information as a consequence of their monopoly position.

Thus there appears to be no valid reason not to require all storage facilities which store grain on behalf of other parties for a commercial fee to publish site-aggregated stocks information.

Recently, Tom Vilsack, the US Secretary of Agriculture, was quoted in World Grain Magazine September 2011³ in an article entitled 'Data transparency: hugely important for markets'. The article said:

"[He declared that nations] should share information on stocks and production... We need a concerted effort by the private sector, governments and multilateral institutions to increase transparency and market information, increase agricultural productivity and facilitate trade.

The article went on further to say:

"And it is these market developments that more often than not affect and even determine farmers' decisions about what crops to plant as well as equally important choices that producers make about timing and quantities in marketing of crops. Sheltering farmers from reliable information that will help them make wise decisions, as some nations have sought to do, is a counter to progress in food production as any man made negative could be.

The system in Australia is crippled by a lack of information and accurate description of the crop as it is harvested and delivered into the central storage systems. The bulk handling companies effectively operate regional monopolies and restrict and control the intelligence around up country stocks quantity and quality. This lack of transparency severely impacts the ability of producers and traders to make informed decisions in delivery and aggregation of cargoes.

Transparency of grain stocks information on an up-country site basis should be mandatory. This information should include total tonnage by grade and total warehoused tonnage by grade, this should be published on a central site (freely available) updated daily during harvest and weekly for the balance of the year. This will help the whole industry understand the market place (markets cannot work if only one party has the information) it also helps the government with food security concerns.

With data aggregated by grade by silo there is no way an individual grower could be identified.

Exporters have indicated to GPA that publishing stocks both in volume and quality segmentation by up-country site, would support:

- more efficient execution of export sales, particularly improving scheduling of logistics and port terminal operations

³ *World Grain Magazine*, September 2011, page 6.

- more efficient wheat marketing including improved capacity for arbitrage and swaps
- exporters more closely meeting customer quality specifications
- exporters better servicing their customers.

(d) there is potential for conflict between the responsibility to shareholders and the best interest of Australian producers and consumers;

GPA is firmly of the view that the three regional based monopolies (CBH, Glencore and GrainCorp) have a conflict between responsibility to shareholders and the best interest of Australian producers.

As detailed in (a) (i) above the storage and handlers have natural monopolies. It is to their benefit to be able to offer grain that is differentiated from that of others. But they are the only ones able to do this, as they are the only ones who have access to all stocks information including specifications. They use this information to their own advantage. In this manner no other buyer/exporter is able to make similar offers thus there is no competition, thus the shareholders are advantaged over the grower.

And furthermore on 14th May 2012 at the Senate Rural and Regional Affairs and Transport Legislation Committee, public hearing on the Wheat Export Marketing Amendment Bill 2012, the following was recorded in Hansard pp17 and 18 (Mr Hart was speaking on behalf of GrainCorp):

***CHAIR:** Mr Hart, did you wish to add any more?*

***Mr Hart:** No, other than, as a listed company, we have a responsibility on behalf of our shareholders to generate a commercial return.....*

And further

***Senator NASH:** That is fine. That is my question to both but I would like an answer to: when your primary responsibility is to your shareholders and the development of a voluntary code which, as we have read in the legislation, is going to be for the benefit of the industry as a whole, how can your responsibility to your shareholders not take precedence in any development of a voluntary code?*

On GPA's reading of Hansard this question was not answered.

Thus GPA draws the conclusion that there is a conflict between responsibility to shareholders and the best interest of Australian producers – and the Australian producer is losing out.