Submission to Senate Inquiry
Operational issues in export grain networks

I am a grain grower from the North Midlands in Western Australia. This submission represents my personal views, as a Western Australian grain grower. Note that I have been a Director of the (former) Grain Licensing Authority of Western Australia (GLA), and am currently a member of Wheat Exports Australia (WEA).

Thank you for the opportunity to comment on this issue, which is critical to every grain farmer in Australia. Specifically within your terms of reference, I would like to address A, B, C and F.

A. 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;

and

B. the degree of transparency in storage and handling of grain and the appropriateness of any consequent marketing advantages;

From a grower's perspective (and it is my understanding that exporters and traders have the same issues) it appears that Bulk Handling Companies (BHC) have been displaying monopolistic behaviour. This behaviour is possible through the use of business rules and their control of operations, which are used as excuses to make trading within the BHC's system difficult for BCH traders. They include:

- virtual stocks (this causes issues especially with canola oil increments);
- moving grain around receival sites;
- fumigation;
- port fees to introduce grain to their system when you have used road freight to port;
- booking out sections of the shipping stem;
- use of grower stocks information;
- rail agreements; and
- accumulation and pricing of grain at port (FOB pricing).

When the then Federal Agriculture Minister Tony Burke introduced the Wheat Marketing Act in 2008 he indicated that the aim was not to remove one monopoly only to have it be replaced by three regional monopolies.

Unfortunately, I believe these fears have been realised. State grain bulk handlers received control of the ports through the largesse of previous State Governments, as a result of the previous wheat export single desk and State based grains monopolies. These BHC's have made minimal commercial investment in developing, building or expanding the Ports or associated storage and handling systems, this has largely been funded by Growers and State and Federal Governments.

As a result they now occupy prime port land that has been bequeathed to them by state governments. Now they claim they built the infrastructure and own the sites so other exporters should have to return them their cost of capital. These sunk costs were in most cases not incurred by the present entities but were paid for or subsidised by the public purse.

BHC's are penalising those in the industry who are trying to develop alternative supply chain models. Currently the benefits of deregulation in the grain industry are being offset by the monopolies that BHC's hold over rail, supply chain and ports.

The Wheat Export Marketing Act (WEMA) does not address any up-country issues. The Bulk Handlers are using their control of the ports to inhibit competition up-country.

Whether this is Grain Express (CBH) or Export Select (Viterra) non-BHC exporters are inhibited by the power of the Bulk Handlers. This takes many forms.

One of the main issues is the control of stocks information. While CBH appear (through the Grain Express exemption) to have ring fenced the stock information away from their marketing arm (who knows what will happen when the Grain Express Exemption is removed by the ACCC), Viterra and GrainCorp use the stocks information to the advantage of their marketing arms:

- GrainCorp has previously stated that this information belongs to them and they will use it to whatever advantage they can.
- Viterra representatives quite openly canvass farmers to sell grain that is warehoused in the system that only Viterra can know about. This puts other grain marketers at a distinct disadvantage to the bulk handlers.

Control of stocks, both the physical positioning and the stack quality are under the control of the bulk handler. They maintain control of this through their control of the up-country supply chain. This also provides them an advantage:

- They are able to commit to contracts knowing they can supply grain of that specification. No other marketer has that knowledge.
- They strategically move grain to port knowing that other marketers are trying to accumulate grain of a certain quality. When a marketer is unable to accumulate or move the grain to port the BHC offers them grain on Free On Board basis (FOB) at higher than expected prices.

This control of the supply chain and exclusion of third party freight providers prevents competition in any form entering the market. Grain express is a prime example where no third party freight providers are allowed to enter the market. If a farmer has grain at a CBH site and he wishes to freight it himself to an alternate site or to another port zone then he must use the CBH provider, if he wishes to arrange his own freight they will levy him an extra delivery fee.

CBH also use this to discourage competition in other areas such as container packing. In WA if you wish to road transport grain to an alternate packer you must pay an outturn fee of $8.50 a tonne or $11.00 for rail. If however you choose to use CBH container packing, these fees are waived, effectively killing off any competition in container packing.

C. equitable access to the lowest cost route to market, including transport options;

Control of up-country storage and grain loading infrastructure gives the bulk handlers an advantage. As they control all the best sites with access to rail it is very difficult for any company to set up an alternate storage business. Rail is a very effective method of restricting competition and is used to the advantage of the incumbent bulk handlers.

As growers we are only able to cost effectively, build a certain amount of on farm storage. This allows us better segregation and greater control of when we market the grain but the benefit is offset when we need to deliver grain to port for export. Grain introduced into the bulk handling system at the point of export incurs the same charges as for grain that has been stored in the system for up to nine months and which may have been handled a number of times in order to get it to port. Extra shrinkage charges are used as a disincentive to deliveries from third party storage providers.

People wishing to use their own supply chain or on farm storage are penalised with substantial charges at the point of delivery. This makes gaining a suitable return on investment in alternate storage and supply chain systems difficult. This has the effect of hand-cuffing growers and traders to the current bulk handling system.

Competition would lead to price transparency in both rail and road freight and storage and handling charges and I believe all growers would be advantaged by this transparency.

F. equitable and efficient access to the shipping stem;

This is another critical area where the bulk handlers can choke competition from the ports.

There are a number of ways that they do this:

- Charge fees for the nomination of a vessel. These fees are a significant impost on exporters with one exception, the bulk handlers own marketing arm for which the money just revolves back into the parent company whether they ship or not.

  This provides no disincentive for overbooking by the BHC’s marketing arm.

Any money that is charged for nomination fees should be held in an independent fund and repaid pro-rata to exporters that actually export. Failure to export would incur the penalty but in this case the bulk handlers would suffer an equal penalty.

- There needs to be an orderly system for booking slots. The system at present in SA is chaotic and completely unfair. The system proposed by CBH in their new access undertaking to the ACCC is even worse where they seek to bring in a base load capacity, reserved especially for large exporters, which in this case would be CBH themselves. This means that nearly all other exporters except CBH would have to compete at auction, while CBH would cherry pick all the best slots.

- Exporters should be able to swap shipping spots with other exporters easily and cheaply. The BHC should charge an administration fee for this swap instead of the exporter forgoing the whole nomination fee.

  In previous years these fees have been shown to distort the market. In the first year of the CBH auction system failure to ship was costly with auction premiums of up to $16 per tonne, booking fee of $3 per tonne, loading fee of $14.10 per tonne. The total fee was so high that exporters could not afford to cancel a vessel or change to ship from another state, the effect was to sell wheat overseas at a loss in order to not lose the fees detailed above.

  Bulk handlers argue that fees reflect the cost of allocating the slot and thus the cost of capital and that on cancellation the exporter should lose the full fee. This is not legitimate, at least in WA and SA, as these are mainly export states (they have a very small domestic market with little trade between states) therefore the grain will at some stage be exported through one of their port terminals, the timing will just be different. I would therefore argue that the transfer of slots should be allowed both inter-company, inter-port and inter-time frame (subject to a schedule to charge for real variable costs).

- The Productivity Commission failed to understand the issues related to port access. They thought that the cost of the Access Undertakings was higher than any benefits gained, however this is false. At one stage in 2010 CBH held in excess of $60 million in auction premiums. The withdrawal of this capital from the grains industry took a tremendous toll. Market distortions are expensive and prove that the industry is not ready for self regulation.

At this stage it is imperative that the ports remain subject to some regulation.

Yours sincerely,

Kim Halbert