31 March 2023

Committee Secretary
Standing Committee on Economics
PO Box 6021
Parliament House
Canberra ACT 2600
Via: economics.reps@aph.gov.au

Dear Standing Committee,

Re: Inquiry into promoting economic dynamism, competition, and business formation

GrainGrowers welcomes this opportunity to provide a submission on *economic dynamism, competition, and business formation*. GrainGrowers is a voice for Australian grain farmers with individual grower members across the country. We work to build a more profitable and sustainable grains industry for the benefit of Australian grain farmers, through our focus areas of policy and advocacy, grower engagement, thought leadership and active investment in future focused activities for all growers. Australian growers are at the heart of all that we do and the focus of our work.

The grains industry is a regional Australian powerhouse with 22,500 grain farm businesses growing around 65 million tonnes[1] of grains, oilseeds and pulses each year for domestic and global customers. The industry is the steward of an estimated 31 million hectares of land, directly cropping 23 million hectares[2]. Australian grain growers contribute $19.1 billion Gross Value of Production (GVP)[3] to the Australian economy annually. In addition to ingredients for world class food, our grain, oilseeds, and legumes are in high demand for livestock feeds, pharmaceuticals, biofuels, and more. The Australian agricultural sector is striving to reach $100 billion farmgate value by 2030, with the broader agribusiness supply chain working to reach $300 billion. As Australia's second largest agricultural industry, the grains sector will be critical in reaching that ambitious goal.

GrainGrowers' response to the inquiry is outlined below:

a) The effect of a diverse and dynamic business environment on:

<u>Productivity, prices, and better-paid jobs</u>
The grains industry is a large source of upstream and downstream employment and Gross Domestic Product nationally, with value created well before and after the farm gate, extending to regional communities, road and rail, processing facilities, feedlots, supermarkets, restaurants,

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[1] Based on the 3-year average to 2022/23 (ABARES)
[2] Australian Bureau of Statistics (year ending June 2017)
[3] Based on the 3-year average to 2022/23 (ABARES)

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ports, and countless number of other ancillary services. The industry directly employs over 34,000 workers every season, with thousands more employed across the supply chain. In the 2022-23 season, Australian grain, pulse, and oilseed growers contributed a forecast $30.9 billion Gross Value of Production (GVP) to the Australian economy[4].

A diverse and dynamic business environment means growers can access capital, equipment, insurance, and farm inputs at the highest level of competition, choice, and availability. This ensures growers can produce grain and oilseeds at maximised cost efficiency, be globally competitive and able to ensure employees have good working conditions.

Our supply chain resilience to disruption

Our supply chain's ability to withstand disruptions is low by global standards. Growers are heavily reliant on fertilisers and agricultural chemical imports, with only a small manufacturing base domestically available.

Additionally, the majority of farm machinery and equipment deployed in Australia is not manufactured in Australia, with farmers largely dependent on overseas machinery suppliers who may or may not assemble their equipment in country.

This lack of diversity greatly reduces the resilience of a grain growing enterprise when disruptions occur.

If Australia could produce farm machinery and crop inputs at a globally competitive price many of these issues could be abated, but under the current policy settings Australia ranks last in manufacturing self-sufficiency among all OECD countries according to a 2020 report by The Australia Institute[5].

b) The extent to which anti-competitive behaviour and changes in industry structures have contributed to rising market concentration in Australia.

In the grains industry there have been many changes in business structures and concentration of grain, pulse and oilseed buying participants over the past decades since industry deregulation in the mid to late 2000's.

The market went through a phase of deconsolidation, inviting an influx of small to mid-sized participants into export markets that were previously confined to the domestic market. After an initial flurry of new players entering the market post-deregulation, many of these new traders and merchants have either left the Australian market or have modified their operations to now serve in an accumulation function to the large and consolidated players who control most export pathways.

It remains (for the most part) that only well capitalised, predominantly foreign owned market participants, are able to capture the economies of scale of loading bulk vessels for sale, whereas smaller players with less capital are confined to containerised exports, often at a large freight disadvantage to export markets where bulk cargoes are the only viable option. During the COVID pandemic this effect was evident, with containers for grain and oilseed export either unavailable or at a substantial premium, unable to compete with those exporting in bulk vessels.

[4] Agricultural commodities and trade data: March quarter 2023 – Statistical tables (ABARES)
[5] A Fair Share for Australian Manufacturing (futurework.org.au)

This can mean small to medium buyers could be excluded from participating in grain buying markets locally.

The introduction of new ports such as Bunge, Quattro and T-Ports in the last decade has assisted in breaking down otherwise largely monopolised grain export supply chains, giving smaller traders a chance to accumulate for and load vessels.

In relation to ocean freight availability to Australian exporters, many container ship operators no longer call to Australia or certain ports. This has additionally bottlenecked capacity for full buyer competition of growers produce as a flow on effect. There may be a role for government to assist in making it more attractive for global shipping lines to increase services to Australian ports.

c) The extent to which economic barriers—such as regulatory costs and barriers to finance, infrastructure, suppliers, customers and workers—contribute to rising market concentration and slowing business formation rates in Australia

The release of the ACCC's Container Stevedoring Monitoring Report 2021-22 highlights the urgency of port reform to ensure sufficient competition and protect Australia's overall productivity and competitiveness.

The current level of regulation at Australian container ports is not effective and the threat of further regulation in most states is not sufficiently credible to constrain container ports from exercising their market power, particularly in relation to port terminal charge increases. This matter should be addressed as soon as possible.

Additionally Port efficiency must be improved in Australia to reduce supply chain costs and capture the fuller potential of Australian exports and reduce cost and waiting times for farm inputs. As shown below, Australia performs poorly in port performance evidenced by a 2021 World Bank study[6] which benchmarked performance of 351 ports globally. Australia's major container ports (except for Brisbane) ranked among the worst performing 20 per cent of ports, with Brisbane ranked in the bottom 30 per cent.

The rising cost of finance through rapidly increasing interest rates additionally reduces the entry of new participants into the grain and oilseed buying complex, as the ''cost of carry'' is sufficiently higher when accumulating grain for export or domestic sale. This leaves only the larger grain and oilseed players at times in the markets, especially when tendering for larger volume overseas sales contracts.

d) The extent to which businesses consolidating their market power has undermined productivity, stifled wages, made markets more fragile and led to higher mark-ups

GrainGrowers has recently submitted a detailed report to government pointing out large pricing anomalies (discounts) observed for Australian wheat vs. overseas markets during the 2021/2022 marketing season. As a result, GrainGrowers is calling for the Australian Government to initiate an end-to-end investigation into the Australian grains market and supply chain. The structure of the market for Australian grain, pulses and oilseeds is a factor that should be considered during an investigation but is only one of many areas to explore. Adding

[6] The Container Port Performance Index 2021 (The World Bank)

to the fragility of supply chains, driving up cost for consumers, not only in grain related products but all agricultural products in general is a chronic lack of investment in roads, ports, and associated supply chain infrastructure.

On the consumer side, currently large retailers have access to whole-of-industry data on price and volume being offered, while growers only have access to their own data. This provides a significant commercial advantage to the retailers and exposes suppliers to fragility. Open book pricing models used by retailers during tenders and during the performance of contracts also has a similar effect.

e) Drawing on international examples, how Australia could lower economic barriers to competition and business formation, further limit anti-competitive behaviour, and better manage changes in industry structure that would entrench, increase or extend market power

Specifically, modifications the Consumer Competition Act 2010 (the Act) could be made as follows:

- Reduce the high bar and definition that defines "substantial lessening of competition'' so that certain harmful practices could be more easily pursued by the ACCC.
- Modify the Act to recognise other parties rather than the consumer can be subject to and victims of anti-competitive behaviour.
- Increased penalties for anti-competitive conduct, including the use of unfair contract terms.
- An unfair business practice framework be implemented to outlaw such behaviour, above and beyond unfair contract terms.
- Insert unconscionable conduct provisions into the Act for interpretation and use in small to medium enterprises, such as farmers. This would even the playing field and lower legal barriers for small to medium farming enterprises during negotiations and when entering into contracts.

Additionally:

- Increase awareness of the ACCC collective bargaining class exemption.
- Initiatives that increase competition and options to consumers, such as the right to repair for agricultural machinery, be prioritised in any government legislative agenda.
- Formal notification of mergers to ACCC above a certain financial threshold and mergers need to wait for approval by ACCC before the transaction goes ahead.
- A greater focus on the competition implications of proposed mergers including the structural conditions that are changed by the acquisition, significance of the assets being acquired to that market etc;
- Change the evidentiary burden of proof to challenge a merger by changing provisions to state lessening of competition is 'likely' as opposed to 'on the balance of probabilities';
- Where one of the merger parties has substantial market power, an acquisition will be deemed to substantially lessen competition where it entrenches, materially increases or materially extends that market power;
- The competitive effects of other agreements entered into by merger parties can be considered together with the merger as part of the substantial lessening of competition assessment (look at more than just the merger);
- Commitment to funding and expanding the resourcing of the ACCC Agriculture Unit indefinitely.

- A nation-wide analysis on the barriers to entry faced by new firms in the broader agricultural supply chain.
- Outlaw 'open book pricing' where supermarkets, processors and other supply chain firms require farmers to show them their margins and set a price for goods based on this information.

GrainGrowers thanks the Standing Committee for the opportunity to provide a submission to this Inquiry. The grains industry supply chain is a complicated environment that requires cooperation from all participants involved. Growing grain and delivering it to market requires an appropriate policy environment to ensure our industry can thrive in a fair, competitive, and sustainable way.

We would welcome the opportunity to meet and discuss our submission further. Should you require any further information, please contact GrainGrowers' Advocacy and Rural Affairs Manager, Sean Cole

Yours sincerely,

Zachary Whale
General Manager,
Policy and Advocacy