



13 May 2011

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

Dear Sir/Madam,

The Pastoralists' and Graziers' Association of WA (Inc) (PGA) is a non-profit industry organisation, established in 1907, which represents primary producers throughout Western Australia. The Western Graingrowers Committee specifically represents the interests of PGA grain growing members, who produce a significant percentage of Western Australian grain every year.

All of our members are grower-shareholders of the Western Australian bulk handling cooperative, Cooperative Bulk Handling (CBH).

To varying degrees from year to year, our members sell grain through CBH Grain, through one of the competitors of CBH Grain, and/or in their own right (domestically and internationally) in direct competition with CBH Grain.

Deregulation of wheat export marketing in 2008 was another step forward in a long process of change for the Australian wheat industry. Western Australian wheat growers have benefited from movement from a regulated to an open and contested marketing environment.

As a result of the liberalisation of grain marketing in 2008, Western Australian grain growers immediately benefited from a substantial improvement in basis. The introduction of more than 20 competing buyers into what was previously a closed market was beneficial to growers, especially at a time of great volatility in international and domestic financial markets.

While much progress has been made, there remain challenges. Deregulation of wheat export marketing has exposed underlying problems, primarily in the bulk handling of export wheat, that were naturally hidden within the regulated system. Western Australia is Australia's largest wheat exporting state, and across all commodities, approximately 90% of the average 10 million tonne crop is exported. Bulk exports of grain go through 4 ports (Kwinana, Geraldton, Albany, Esperance), which are controlled by one bulk handler, CBH.

In 1987-88 the McColl Royal Commission identified the appalling culture of bulk handlers.

Perhaps the most read section of the 1988 McColl Royal Commission report...was that which detailed the costs of moving grain from the paddock to the port. The Commission found the system of grain distribution did “not meet the criteria of economic efficiency, cost effectiveness and integration” principally because “most grain is channelled along a restricted number of predetermined paths with minimal scope for using lower cost paths.” The commission found fault with the BHA’s practice of pooling transport costs and charging growers an average price. “Hence, inefficient facilities are over-utilised, efficient facilities are under-utilised, and the cost of undertaking the grain distribution task is again higher than it would otherwise be.” Because the grain distribution system operated in “an environment largely devoid of competition,” inefficiencies have proliferated.

--A Shared Harvest by Whitwell & Sydenham; 1991; McMillan Education Australia; pgs. 148-150

Grains Industry Review, a report by Accenture in August 2002 commissioned by GrainCorp, stated:

“High costs to growers are being caused by barriers to competition and efficiency in the supply chain, grower services, and the operation of the single desk”

And

“Opportunities for others to provide value for growers are being constrained.” The conclusion of Recommendation 1 was “What is needed is a more open, contestable supply chain...”

In short, the report advocated the benefits of competition in driving cost reduction.

The monopolistic control of the supply chain by bulk handlers exists because of historical protection within the regulated marketplace.

In Western Australia, bulk handler CBH emerged as the monopoly provider of port terminal services and upcountry storage and handling services.

Since 2008, CBH has supplied grain storage and handling services on the condition that growers and marketers use CBH’s supply chain coordination services, and that they acquire transport services from CBH nominated carriers. Because this forced tying of services contravenes the Trade Practices Act, CBH has operated “Grain Express” under an ACCC Exclusive Dealing Notification. ACCC began the process of re-assessing the EDN last year and issued a draft ruling in December in which revocation of the exclusive dealing notification was recommended. A final ruling is expected by mid-June.

In a submission to the Productivity Commission’s Review of Wheat Export Marketing Arrangements in April 2010 the PGA stated:

...it has become clear with the second full harvest since the wheat market was deregulated that there is a significant impediment that exists in

Western Australia to true market conditions. That is the monopoly power of Cooperative Bulk Handling (CBH). CBH controls the entire wheat logistics structure (both port terminal services and upstream services in Western Australia. CBH controls 197 receival sites; and the export supply chain through Grain Express). They are able to extend their port monopoly up-country, and discourage investment in alternative pathways to the ports through Grain Express and business rules. It is quite possible that all the benefits of deregulation (of which PGA is in favour) will not come to fruition if the monopoly is allowed to function in its current state.

In the case of CBH, the single most critical point of control by the remnant monopoly is the port. We believe that the structure is already in place through the Wheat Export Marketing Act (2008) to ensure fair and equitable access to the four CBH-controlled ports. Our recommendation to the Productivity Commission was

In light of ongoing monopolistic behaviour of the Bulk Handling Companies (BHCs), and cognizant of the Commission's advice with regard to removing barriers to competition, it is PGA's position that the Wheat Export Authority (WEA) be extended to coincide with the sunseting [30 September 2014] of ACCC's oversight of port access undertakings. This will avoid amending the Trade Practices Act 1974 (Cwlth) (TPA).

This would essentially allow the Wheat Export Authority to continue to provide the "teeth" necessary to ensure that CBH and other bulk handlers present reasonable port access undertakings for a period of time during which competitive forces will have had sufficient time to develop.

Our sole recommendation at this point in time is

That the Federal Government extend the WEA's commission to 30 September 2014, at which time the regulation of wheat export marketing arrangements will cease.

Thank you for the opportunity to make a submission. We welcome any questions or requests for clarification you might have. We would appreciate the opportunity to present support for this submission should the Committee engage in public hearings on this matter.

**The Pastoralists and Graziers Association of WA (Inc)
13 May 2011**