

The Senate

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Rural and Regional Affairs and  
Transport Legislation Committee

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Provisions of the Wheat Marketing  
Amendment Bill 2002

June 2003

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# CHAPTER ONE

## THE COMMITTEE'S INQUIRY

### Reference of the Bill to the Committee

1.1 On 5 February 2003 the Senate referred the Wheat Marketing Amendment Bill 2002 to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 20 March 2003.<sup>1</sup> The reporting date was subsequently extended to 14 May, to 16 June and finally to 18 June 2003.<sup>2</sup>

1.2 The referral of the Bill was based on a Selection of Bills Committee report which stated the reasons for referral as:

- a) Sections of the Australian Grain Industry do not support the proposed levy.
- b) There is concern about the performance of the Wheat Export Authority – the body to be funding by the levy.
- c) There is also concern about the capacity of the WEA to properly review the Single Desk Marketing arrangements and the timing of that review.<sup>3</sup>

### The Committee's Inquiry

1.3 Following the referral of the Bill, the Committee advertised in *The Australian*. The Committee also wrote to a number of key stakeholders, including the Department of Agriculture, Fisheries and Forestry and the Wheat Export Authority to invite submissions.

1.4 A total of 39 written submissions was received. A list of submissions is included at Appendix 1.

1.5 The Committee held five public hearings in Canberra and Perth. The witnesses who gave evidence at the hearings are listed at Appendix 2 of the report.

1.6 Published submissions and *Hansards* of the Committee's hearings are tabled with this report. The *Hansards* for each of the hearings are available at the Hansard site on the Parliament House homepage on the Internet ([www.aph.gov.au](http://www.aph.gov.au)).

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1 Extract from *Journals of the Senate*, No 62, 5 February 2003.

2 Extract from *Journals of the Senate*, No. 70, 20 March 2003

3 *Selection of Bills Committee*, Report No. 1 of 2003, 5 February 2003

## **Consideration of the Committee's Report**

1.7 The Committee met on 17 and 18 June 2003 to consider its report.

### **Acknowledgements**

1.8 The Committee acknowledges the assistance and contribution made to its inquiry by those who prepared written submissions. The Committee also acknowledges the assistance provided by all witnesses who attended the public hearings.

1.9 The Committee also appreciates the assistance of the Department of the Parliamentary Reporting Staff in providing *Hansard* transcripts of proceedings within a short time-frame.



# CHAPTER TWO

## BACKGROUND AND PROVISIONS OF THE BILL

### Introduction

2.1 This chapter outlines the purpose and provisions of the Wheat Marketing Amendment Bill 2002.

### Purpose of the Bill

2.2 The main purpose of the Bill is to amend the *Wheat Marketing Act 1989* to allow for the provision of revenue to meet the ongoing operations of the single desk exporter of the Australian wheat crop, the Wheat Export Authority (WEA). The intent of the Bill is to provide the funding mechanism which enables the operational costs of the WEA to be met by the wheat industry.

2.3 The funding mechanism has two components. Firstly, revenue will be raised through the introduction of a levy charged on all exports of wheat. The second component enables the imposition of a fee for the lodgment of applications for export consents.

2.4 The Bill also makes changes to the Act to improve the operational efficiency of the WEA and to clarify the objective of its export control functions. These amendments include provisions to make minor variations to export consents and strengthen the WEA's powers to monitor compliance by exporters under export consents.

### Main Provisions of the Bill<sup>1</sup>

2.5 **Item 1** proposes a new definition in Section 3 of the *Wheat Marketing Act 1989* to define wheat export charge amounts. It is proposed to make regulations under the *Primary Industries (Customs) Charges Act 1999* to impose a wheat export charge linking the charge to the new definition.

2.6 **Item 2** inserts two new proposed sections, 5A and 5B into the Act. Section 5A provides that for so long as AWB (I) is the manager of the wheat single desk under Section 57 of the Act, then the WEA must perform its export control functions so as to complement any objective of AWBI to maximize net returns to growers selling wheat for inclusion in its pools. However, this does not prevent the WEA from exercising its export control functions so as to allow the development of niche or other markets by

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1 This section is based on information contained in the *Wheat Marketing Amendment Bill 2002, Explanatory Memorandum*.

other exporters, where the WEA considers that they may benefit the growers and the wider community.

2.7 Section 5B provides that the WEA may delegate all or any of its functions and powers, except those relating to employment and terms and conditions of staff, to the person undertaking the duties of chief executive officer of the WEA. In exercising these powers or functions the delegate must comply with any directions from the WEA.

2.8 **Item 3** inserts new sections, 10A and 10B into the Act and deals with funding raised by the new export charge. The proposed section 10A provides that the Commonwealth must pay the WEA an equal amount from the Consolidated Revenue Fund. The proposed section 10B allows the Commonwealth to recover from the WEA expenses incurred in collecting or recovering wheat export charge amounts and the costs in administering these arrangements.

2.9 **Item 4** amends subsection 11(2) of the Act to correct the reference to the relevant section of *Commonwealth Authorities and Companies Act 1997* (CAC Act) regarding the powers of the WEA to invest surplus funds.

2.10 **Item 5** inserts new sections 58 and 59 in the Act which deal with the process for making minor variations to export consents. Proposed section 58 provides for the WEA to vary a consent it has issued for the export of wheat, on request by the person to whom the consent was granted. However, proposed subsection 58(2) provides that the WEA is prevented from making a variation to a consent except in the matters for which the variation was requested. In proposed new paragraph 58(2)(b), the WEA is not able to vary the original consent without a request if the result makes the consent less favourable to the person. Variations of a minor nature may include a variation in the tonnage to be exported of less than 500 tonnes are contained in proposed new subsection 58(5). In the case where a minor variation to a consent is made, the WEA is required to inform the AWBI of the change.

2.11 Proposed section 59 provides for the exchange of information between the WEA and other agencies for the purposes of the control of wheat exports. The aim is for the WEA to better monitor compliance with export consents it has issued. The type of information able to be exchanged includes personal information provided by employees of the Australian Quarantine and Inspection Service (AQIS).

# CHAPTER THREE

## MAJOR ISSUES RAISED DURING THE COMMITTEE'S INQUIRY

### Introduction

3.1 During the Committee's examination of the Bill, it was apparent that a number of broader issues required further consideration. Those issues are:

- a) Performance of the Wheat Export Authority (WEA) including its powers and functions.
- b) The relationship between the WEA and AWB (International) (AWBI).
- c) The relationship between AWB (Limited) and AWBI.
- d) Timing of the WEA's review of AWBI's use of wheat export rights.
- e) Proposed changes to export consent arrangements.
- f) The level of consultation with growers on provisions of the Bill.

### Performance of the WEA

3.2 The WEA was established on 1 July 1999 following the restructure of the former Australian Wheat Board. The establishment of the WEA followed the transfer of the Commonwealth's wheat marketing and selling role to an independent grower-owned company named AWB Ltd. AWB Ltd has a subsidiary, AWB (International) Ltd (AWBI)<sup>1</sup> which manages the single desk wheat export arrangements.

3.3 The WEA operates under the *Wheat Marketing Act 1989* and has three principal functions:

- a) To control the export of wheat from Australia;
- b) To monitor AWBI's performance in relation to the export of wheat and to examine and report on the benefits to growers that result from that performance and

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<sup>1</sup> Wheat Export Authority, *Annual Report 2001-2002*, p. 3.

- c) To conduct a review and report the Minister for Agriculture, Fisheries and Forestry (AFFA) on AWBI Ltd's use of its wheat export rights under the legislation before the end of 2004.<sup>2</sup>

## **Powers**

3.4 The *Wheat Marketing Act 1989* provides provision of the powers under which the WEA operates. Sub-section 5(2) of the Act states:

The Authority has power to do all things that are necessary or convenient to be done in connection with the performance of its functions.<sup>3</sup>

3.5 Submissions and evidence to the Committee from a number of industry organisations, raised concerns that the WEA has not adequately exercised its powers in monitoring the performance of AWBI, particularly in relation to the exchange of information between AWBI and the WEA.

3.6 Many submissions criticise the performance of the WEA and its reporting obligations to growers. Concerns include the confidential agreement between the WEA and AWBI and the impact this has on grower confidence in the WEA.<sup>4</sup>

3.7 The Committee notes that there is a general view that the Bill does not address these issues and that the WEA is unduly influenced by AWB Ltd. These concerns highlight issues regarding accountability and transparency and the nature of the relationship between the WEA and AWBI.

3.8 In its submission, NETCO Co-operative Ltd argued:

The Bill does nothing to strengthen the powers of the WEA to look after growers' interests nor does the Bill alter the reporting obligations of the Authority so as it's primary reporting lines are back to growers and industry who are paying the costs of running WEA.

There needs to be a reinterpretation of the current charter to strengthen the WEA so it can be an effective industry regulator. The current interpretation of WEA's role is deliberately minimalist and is being manipulated away from the original intent.....<sup>5</sup>

3.9 Mr Thomas representing AusBulk Limited told the Committee that the WEA had a narrow focus in its operations. He further stated:

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<sup>2</sup> Wheat Export Authority, *Annual Report 2001-2002*, p. 3.

<sup>3</sup> *Wheat Marketing Act 1989*, Part 2, 5(2), p. 2

<sup>4</sup> Refer to submissions 1, 2, 4, 11, 12, 17, 18, 20 and 26

<sup>5</sup> NETCO Submission No 20. p.7.

One of our concerns with the way that the Wheat Export Authority currently operates is that there are major conflicts of interest within the industry and the structure of the AWB.<sup>6</sup>

3.10 In other submissions and evidence to the Committee it was clear that growers and industry organisations would support the levy provisions of the Bill if the issues of transparency and access to information were addressed. In evidence to the Committee, the Wheat Growers Association stated:

We agree about funding the Wheat Export Authority, but they must be able to truly get all information that is required from AWB International and AWB Ltd about their services.<sup>7</sup>

3.11 The Committee notes that a number of submissions from individual growers and industry organizations do not support the provisions of the Bill in imposing a levy on wheat exports. These submissions emphasised concerns regarding the performance of the WEA and perceptions that the WEA does not act in their interests.<sup>8</sup>

3.12 In evidence to the Committee, the WEA advised that legal advice obtained concerning the meaning of section 5 (2) of the Act indicated:

...that the advice was such that that particular section of the Wheat Marketing Act is not as empowering as it may appear initially.<sup>9</sup>

3.13 In a written response to a question the Committee placed on notice regarding this issue, the WEA stated:

The WEA has sought legal advice from its legal adviser, the Australian Government Solicitor, on the powers of section 5(2) of *the Act* in the context of understanding what, if any, obligations AWBI was under to provide information to the WEA for its PMRR functions, and what, if any, powers WEA had to require information from AWBI. The advice says:

“...the WEA’s powers under subsection 5(2) of *the Act* to do all things necessary or convenient to be done in connection with the performance of its functions are probably not sufficient for it to compel AWB (International) Limited to provide information. An express power to compel the provision of information would be required. Therefore, the WEA should seek the voluntary co-operation of AWB (International) Limited and could offer to enter into some form of agreement if this would encourage such co-operation”.<sup>10</sup>

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6 RRAT *Evidence*, 7 March 2003, p. 62

7 RRAT *Evidence*, 10 March 2003, p. 112

8 See Submission Nos 3, 11, 14, 16, 30

9 RRAT *Evidence*, 6 March 2003, p. 29

10 Wheat Export Authority, Answer to Question 4, Hansard page 28-30

3.14 The Committee pursued this question with the WEA and, following insistence by the Committee, supplementary advice on this question was provided by WEA. The Committee was concerned to find that, in reading the entire piece of advice to the WEA from the Australian Government Solicitor (AGS), that the AGS had addressed the question of central concern to the Committee; i.e., what powers did the WEA have to require information from AWBI *if* AWBI refused to supply it?<sup>11</sup>

3.15 In advice to WEA dated 10 March 2000, the AGS advised WEA that, due to the limited nature of its powers in section 5 (2) of the Act, the WEA had several options, including entry into a negotiated confidentiality agreement which AWBI would agree to. The advice to WEA went beyond the limited scope of WEA powers in relation to AWBI and - at WEA request - canvassed the possibility of AWBI refusing to provide information to WEA even if there was a confidentiality agreement in existence.

3.16 The advice to WEA was that WEA would need to enter into a confidentiality agreement with the AWBI to secure access to the information it required. Further that WEA would need to secure a voluntary confidentiality agreement with AWBI. If such a confidentiality agreement could not be made with AWBI, that WEA had no legal action it could take against AWBI but it was open to WEA to 'report AWB(International)'s action to the Minister, either in any official report under the ACT or in a briefing at any time.'<sup>12</sup>

3.17 In the event, a confidentiality agreement was entered into with AWBI in June 2000. The Committee was not made aware of this arrangement, or of the advice preceding it, until it insisted on WEA providing such advice to the Committee, and not a paraphrase of that advice.

3.18 As paragraph 3.16 indicates, the advice to WEA indicated that the WEA not only didn't appear to possess statutory power to insist on information from AWBI but may have been placed in the eventual position of having to advise or brief the Minister that the statutory scheme for oversight did not work as intended.

3.19 This situation, in the Committee's view, has meant that the WEA has effectively not been in a position to insist on information required by it to fulfill its oversight role on AWBI.

3.20 The Committee asked AFFA officials to advise at what point in the process of the WEA's dealing with the problem of WEA powers did the Minister become aware of the process being followed by WEA with AWBI. The department advised the committee

The Wheat Export Authority (WEA) wrote to the minister on 14 March 2000 about issues between the WEA and AWB(International) Ltd

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11 Answer to Question on Notice WEA to Committee – May 2003 – Question 4 .

12 As above.

regarding the provision of information to enable the WEA to undertake its monitoring function. The Department of Agriculture, Fisheries and Forestry was aware of the issues at least by the end of January/early February 2000 and the Minister was advised accordingly.<sup>13</sup>

3.21 In evidence to the Committee, AWB Ltd stated:

We do not limit the material that is given to the Wheat Export Authority that is needed to fulfil its mandate as the oversight power.<sup>14</sup>

3.22 In terms of whether the AWBI Board had taken legal advice on the WEA's access to information, AWB Ltd told the Committee:

Yes, we have. One of our initial concerns was obviously to ensure the confidentiality of the information that was provided. It did take some time to negotiate an appropriate set of agreements or arrangements with the Wheat Export Authority. They are now well in place and, as a matter of practice, the Wheat Export Authority has full access to all the information in the possession of AWB International.<sup>15</sup>

3.23 During the Committee's inquiry, it was clear that the WEA's interpretation of its powers in monitoring AWBI's performance and accessing information contrasted with the view of other industry stakeholders.

3.24 Mr Eyres from the Grain Growers Association told the Committee that one of its concerns was the apparent inability of the WEA to obtain information:

We believe they do not have the discovery powers that are required to be able to do the job to the level of scrutiny that we believe is important around our single desk. On those discovery powers, the common response from the Wheat Export Authority is either, 'Its out of our charter', or 'The information was not provided by AWB Ltd because it was commercial-in-confidence'.<sup>16</sup>

3.25 Mr Eyres further stated:

.....We believe the interpretation of those powers is at the heart of the problem. In our view, they are taking very much a minimalist approach to the regulatory role.<sup>17</sup>

3.26 In evidence to the Committee, United Grower Holdings Ltd (UGH) said that the problem may be the WEA's interpretation of its own functions.<sup>18</sup>

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<sup>13</sup> Answers to questions on notice from 5 May 2003 hearing, AFFA, Question 7, 13 May 2003

<sup>14</sup> RRAT *Evidence*, 10 March 2003, p. 132

<sup>15</sup> RRAT *Evidence*, 10 March 2003, p. 132

<sup>16</sup> RRAT *Evidence*, 7 March 2003, p. 45

<sup>17</sup> *Ibid*

<sup>18</sup> RRAT *Evidence*, 10 March 2003, p. 93

3.27 The Committee notes that apart from a view that the WEA has a narrow interpretation of its role and powers, submissions indicate that there is also a view that the WEA does not have adequate funding or resourcing to properly conduct its functions. The Committee notes the views of a number of organisations such as United Grower Holdings Ltd who are concerned with industry experience levels amongst WEA staff.<sup>19</sup>

3.28 The Committee also notes that there is a consensus that the powers of the WEA need strengthening to enable it to become a more independent regulator.<sup>20</sup>

### ***Reporting***

3.29 In terms of the monitoring and reporting on the performance of AWBI, the WEA claims it is dependent on the provision of information and data by AWBI. There is no obligation on AWBI to provide access to this information and data. Access is provided under the terms of an agreement between AWBI and the WEA.<sup>21</sup>

3.30 Current reporting arrangements provide for two reports to be prepared. One confidential report is provided to the Minister and a second public report is released to growers reporting on the benefits resulting from AWBI's performance.

3.31 The Grains Council of Australia rebutted the criticism of the WEA's performance and told the Committee

The GCA supports the WEA and is working closely with it to ensure growers interests are identified and addressed in its monitoring of AWBI. The GCA and the WEA through their consultative process have recently developed a mechanism whereby issues pertinent to the AWBI's task of maximising growers returns are brought to the WEA's consideration and response.

The GCA believes that the reporting to growers should be more comprehensive and extensive. Discussions have already been held with WEA with this objective. Similarly GCA believes that reporting to growers should be on a more frequent basis than presently is the case.<sup>22</sup>

3.32 Two of the major state grain growers' groups (Victorian Farmers Federation Groups and NSW Farmers Association) told the Committee that, while they strongly support the single desk exporting arrangement currently carried out by AWBI, they have real concerns regarding the effectiveness of WEA's discharge of its oversight role.

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19 RRAT *Evidence*, 10 March 2003, p 88, .90

20 RRAT *Evidence*, 7 March 2003, p.82

21 Submission No 19, Wheat Export Authority, pp 7-8

22 Submission No 36A, p. 5



3.33 The VFF submitted to the Committee that its specific issues of concern were as follows

- The WEA have previously indicated that AWB calculate the Wheat Industry Benchmark (WIB), not the WEA. This is a concern to growers.
- The WEA indicated that there is no independent audit of the WIB by any party. VFF consider this to be a major governance issue, which needs to be addressed.
- WEA indicated that AWB do not volunteer performance information to WEA. The only information that is provided to the WEA is the WIB outcome, and responses to direct questions asked by WEA. If WEA do not ask the 'right' questions then they will not be in a position to determine the performance of AWB's management of the Single Desk<sup>23</sup>

The VFF spelt out a large number of matters in its submission in which it believed the WEA should be pursuing summarised its position on WEA as follows

VFF are deeply concerned that the single desk will be at risk unless greater transparency and rigor is applied to the WEA's activities.

The pressure is building and we need to act.

3.34 In its submission NSW Farmers Association noted that

WEA have taken too long to get on top of arrangements and be in a position to make credible and thorough evaluation of AWB's performance

The key areas we believe need to be addressed include:

- a. Service agreement -to demonstrate this delivers the most cost effective option for growers.
  - b. Hurdle rates and OPI - are they tough enough to make AWB Ltd work most efficiently
  - c. Supply chain costs - there is sufficient competition and specific targets to achieve real and significant reductions for growers.
- WEA definitely need to be more public about areas they are investigating, and on their major findings -both positive and negative.
  - We do not expect the AWB structure and operations to always get things right but we expect WEA to find the problems, make sure the

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<sup>23</sup> Submission No 39, p. 2

AWB address them, rather than the current perception which is that WEA is passive/too quiet in some areas.

- NSW has seen a change in WEA from August 2002 to April 2003 (at GCA /WEA consult meetings) that gives us more comfort. Initially there seemed to be a lot of “unknowns and don’t knows”, whereas in April the Board were able to outline the key areas being investigated and recognized the need for better grower communications. The NSWFA strongly made the point however, that WEA need to communicate publicly and in detail to growers so that everyone is aware of activity - rather than it being behind the scenes.<sup>24</sup>

3.35 In response to the Committee’s questions regarding the decision and need for the Minister’s report to remain confidential, the Department of Agriculture, Fisheries and Forestry (AFFA) advised:

...Essentially, it is the minister’s decision, but he is guided by the nature of the issues that are dealt with. The essential logic of that report staying with the minister is that it contains considerable commercial information – information that is sensitive to the operation of the company that holds the export monopoly. It is not considered reasonable to make that all available in the public arena.<sup>25</sup>

3.36 Mr Walter from the WEA told the Committee that the two forms of report was a decision made by the WEA and that the Authority had received legal advice.<sup>26</sup>

3.37 In response to the Committee’s request, the WEA provided an extract of that legal advice which indicated that there is no set way in producing reports or reviews in terms of reporting on AWBI’s performance, benefits to growers and the operation of the Act.<sup>27</sup>

3.38 The Committee also pursued this question with the WEA, as it found the answer to its question on notice in this regard inadequate. In a follow-up answer to this question, and in evidence at a later hearing, WEA told the Committee that – in all – three pieces of separate advice were sought and obtained from the AGS on this question in the period August 1999 to April 2001.

3.39 It is clear to the Committee that the need for this advice arose, in part, from interpretations put on the WEA’s powers both under the Act and, later, under the confidentiality agreement between it and AWBI to obtain a large range of

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<sup>24</sup> Submission No 40, p.1-2

<sup>25</sup> RRAT *Evidence*, 6 March 2003, p. 3

<sup>26</sup> RRAT *Evidence*, 6 March 2003, p. 21

<sup>27</sup> Wheat Export Authority, Answer to question 1, Hansard, p. 21

information, including payments and arrangements under the Service Level Agreement between AWBL and AWBI.<sup>28</sup>

3.40 It should be pointed out that, this gradual limitation of the WEA's powers to gain information from AWBI, both under section 5 (2) of the Act, and under the confidentiality agreement, had the cumulative effect of placing increasing amounts of information in the 'Minister's Report' and less in the Growers' Report.

### ***Funding and the Proposed Levy***

3.41 Since inception, the WEA has been funded by a \$6 million grant from wheat industry funds. Annual operating expenses are currently about \$2 million.<sup>29</sup>

3.42 At Senate Estimates in November 2002, the WEA advised that its initial \$6 million funding would be exhausted by the end of September 2003.<sup>30</sup>

3.43 This timetable was reiterated during the Committee's hearing into the Bill on 6 March 2003. Mr Taylor from the WEA stated:

At this point in time, it is estimated that the WEA's funds are sufficient until about 30 September this year.<sup>31</sup>

### **Impact of the Levy**

3.44 As stated in Chapter Two, the main purpose of the Bill is to impose a levy on exported wheat. A dominant theme that emerged from submissions and evidence was the need for the WEA to be more accountable to growers. Many submissions argued that if growers are to fund the WEA through an export levy the WEA needs to act in the interests of growers.

3.45 The submission from NETCO Co-operative Ltd argues that the WEA must report directly to growers and industry and provide transparent reporting on assessment processes and other market information. NETCO also argues that all services provided to AWBI should be openly contestable.<sup>32</sup>

3.46 In evidence to the Committee, United Grower Holdings Ltd (UGH) suggested that responsibility for funding the WEA should be shared between growers and the Commonwealth. UGH argued that the WEA's funding needs to increase and stated that growers should pay some, but not all the costs of ongoing funding.<sup>33</sup>

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28 Wheat Export Authority. Supplementary answers to question 1. Supp answers page 8.

29 Bills Digest, No. 105, p. 3

30 RRAT Evidence, 20 November 2002, p. 41

31 RRAT Evidence, 6 March 2003, p. 22

32 Submission No 20, NETCO, p. 6

33 RRAT Evidence, 10 March 2003, p. 88

3.47 UGH also argued that as all growers benefit from the single desk, the levy should extend to all growers and not just on those who export. UGH argued that an export levy would be an unfair burden on growers in States which export more, such as South Australia and Western Australia.<sup>34</sup>

3.48 This view is supported by the Western Australian Farmers Federation (WAFF) who argued that the WEA should be funded partly by the Commonwealth and also through wheat production whether exported or not.<sup>35</sup>

3.49 Other submissions from grower organisations such as, the Pastoralists and Graziers Association of Western Australia (PGA-WGG) and Australian Grain Exporters Association (AGEA) argue that the WEA should be entirely funded by the Commonwealth. This argument is based on two views. Firstly, negative perceptions of the WEA's performance and secondly, a view that the main beneficiaries of the WEA are the Minister and Government rather than growers.<sup>36</sup>

3.50 Mr Bradley from Shepherds Producers Co-operative told the Committee that growers would view the levy as another tax. He argued that if the AWB is responsible for paying the levy then this would impact on wheat values. Mr Bradley also argued that the levy should only apply to exported wheat and not domestic wheat supplies.<sup>37</sup>

3.51 UGH also argued that the levy would reduce grower returns and impact on other domestic grain markets. Mr Whinney stated:

The market is effectively the market and the levy is something that will be deducted from that market value.....The benchmark for grain prices within Australia is very much the AWB pool returns, and the cash market trades off those pool returns. I think an unintended consequence of the suggested levy is that non-wheat grains will also trade lower because of the amount of the levy, because we are just competing with those other grains into the domestic market<sup>38</sup>

### ***Export Consent Arrangements***

3.52 A revised export consent system has been in place since January 2002. The revised arrangements provide for two types of export consent applications for containerised and bagged wheat. Long-term export consent applications apply for a 12 month period and must meet the 'niche market criteria'. In determining this, the WEA must have regard to whether there is no or minimal likelihood that the export will adversely affect AWBI's sales, premiums or export marketing strategies. Short term export consent applications apply for a three month period.

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34 Ibid, p. 89

35 Submission No 32, p. 4

36 Submission No 28, p. 3 and Submission No 30, p. 3

37 RRAT *Evidence*, 7 March 2003, pp. 59-60

38 RRAT *Evidence*, 10 March 2003, p. 91

3.53 Section 57 of the Act specifies that the WEA must consult with and in the case of a bulk-export consent seek written approval from AWBI prior to issuing any consents.<sup>39</sup>

3.54 AWBI exports approximately 98 percent of all exported Australian wheat. Approximately two percent of wheat is exported using export consents issued by the WEA.<sup>40</sup>

3.55 In his second reading speech, the Minister announced that a fee for the lodgment of export consent applications would be imposed as provided for under the provisions of the current Act. The Minister stated that a nominal fee will recover the WEA's application processing costs and discourage non-genuine applications which may impact on the WEA's administration and increase its costs.<sup>41</sup>

3.56 In evidence and submissions to the Committee it was clear that growers and industry organisations had concerns regarding the imposition of a fee to process consent applications. Concerns focused on the necessity for consent for bagged and containerised wheat and the requirement for the WEA to consult with and seek written approval in the case of bulk exports from AWBI prior to granting consents. These concerns also highlight a lack of grower confidence in the performance of the WEA and perceptions of a potential conflict of interest for AWB.<sup>42</sup>

3.57 The number of applications received, number of applications approved, number of applications supported by AWBI and the tonnage supported by AWBI for each year (October-September 1999-00-02 inclusive are as follows)

**Table 1**

Year	Applications Received	Applications Approved	Tonnage Approved	Applications Supported by AWBI	Tonnage Supported by AWBI	Tonnage Actually Exported*
99-00	573	494	1,256,990	432	1,247,940	219,483
00-01	715	583	1,303,949	250	375,664	589,431
01-02 Short Term	411	286	528,546	80^	62,744^	230,484
01-02 Long Term	126	115	153,804	53^	72,821^	

\* inclusive of AWBI exports in bags and containers (source ABS).

^ for the calendar year 2002 and the revised export consent system, AWBI provided indicative tonnage advice for short term applications instead of specific consultation comments on a case-by-case basis.

39 *Wheat Marketing Act 1989*, p. 10

40 Bills Digest, No 105, 2002-03, p. 4

41 Second Reading Speech

42 Refer to Submission Nos 8, 10, 13 and 21

## 3.58 WEA also advised

- For the period 1999-2000, by volume of exports in bags and containers, the six major recipient countries were India, Myanmar, New Caledonia, New Zealand, Taiwan and Vietnam. The exports to these countries account for 84% of the bagged and container exports for the period.
- For the period 2000-01, by volume of exports in bags and containers, the six major recipient countries were Malaysia, Myanmar, New Caledonia, New Zealand, Thailand and Vietnam. The exports to these countries account for 85% of the bagged and container exports for the period.
- For the period 2001-02, by volume of exports in bags and containers the six major recipient countries were Bangladesh, Myanmar, New Caledonia, New Zealand, Papua New Guinea and Vietnam. The exports to these countries account for 74% of the bagged and container exports for the period.

3.59 In evidence to the Committee, UGH argued that the way the WEA operates acted as a disincentive for growers to apply for permits because of rejection rates and that a fee would be a further disincentive.<sup>43</sup>

3.60 Mr Watson from Co-operative Bulk Handling (CBH) told the Committee:

Past and current experience of the single desk for wheat held here in Western Australia through Grain Pool Pty Ltd demonstrates to us that open exports in containers and bags do not threaten single desk marketing. For that reason.....exports in containers and bags should not require a permit.<sup>44</sup>

3.61 Evidence from Premium Grain Handlers Pty Ltd (PGH) reflected concerns regarding competition in niche markets. Mr Orr argued that the WEA restricted trade through the requirement to apply for export consent, delays in providing approval and the imposition of costly sampling and testing procedures. He further argued that the arrangements meant that the WEA used funds to regulate containerised wheat with flow on benefits to shareholders of AWB and not growers, resulting in restricted competition for the export of wheat in niche markets.<sup>45</sup>

3.62 In its submission to the Committee, AWBI argued that section 57 of the Act was drafted to ensure that the integrity of the single desk was maintained and that this meant that the government recognised that AWBI needed to have significant input into export consent considerations by the WEA.

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43 RRAT *Evidence*, 10 March 2003, p. 89

44 RRAT *Evidence*, 10 March 2003, p. 97

45 RRAT *Evidence*, 10 March 2003, p. 124

3.63 In respect to both containerised/bagged and bulk export consents, AWBI argued that current arrangements as specified by the Act allows AWBI to be competitive and maximise returns to growers who deliver to the National Pool. AWBI stated:

.....current arrangements contained in the WMA adequately reflect the fact that significant marketing information and knowledge needs to be the overriding factor in the consideration of bulk permit consents and that these arrangements both support the integrity of Single Desk marketing and work to maximise the returns to growers who deliver to the National Pool. ....It is vital for the protection of growers' interests that AWBI maintain its veto rights in respect to bulk consents.<sup>46</sup>

3.64 In relation to exported wheat in containers and bags, the WEA notes that it makes decisions based on published guidelines and takes account of AWBI's market briefs and strategies for specific markets and consultation comments provided for each application; information provided by applicants; information on the global environment and specific markets obtained from various sources and other relevant information such as applicants' trading history.<sup>47</sup>

3.65 Following completion of its hearings, AWBI advised the Committee that, with regard to container/bag exports, AWBI was concerned to carefully vet and – in effect – limit such exports on the basis that they may damage the value and reputation of the AWB National Pool, particularly as it may affect the 'premium' for Australian wheat developed by AWB and AWBI marketing and quality measures taken over time.

3.66 AWBI advised that

The granting of permits [for container/bagged wheat] can severely affect this 'premium' in the following ways:

- The international market begins to compete for different sources of Australian wheat and starts to recognise that cheaper prices for wheat may be obtained;
- International customers will no longer be content to pay the prices that are sought by AWBI for its growers, and will start to seek lower prices;
- Permit holders will be encouraged to 'buy' market share by selling inferior grades of wheat at lower prices; and
- The sale of inferior grades of wheat can have disastrous effects on markets with which AWBI has built long-standing, commercially beneficial relationships. (An example is the

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46 Submission No 15, p. 6

47 Submission No 19, pp. 6-7

serious, although temporary, loss of confidence which the premium paying Japanese market recently sustained as a result of one of AWBI's service providers inadvertently allowing a minute quantity of harmless food dye contaminate a shipment to Japan in mid-2002).<sup>48</sup>

3.67 In 2001-02, AWBI advised, bag/container export permit details were

- WEA approved 3 in 4 applications in 2001/2002;
- WEA approved volume for 682,000mt;
- Exporters only shipped 147,000mt (despite having permits approved for over 4 times this amount); and
- AWBI objected to 1 in 2 applications.<sup>49</sup>

The committee notes that AWBI did not object to 1 in 2 applications, but equally, it did object to 1 in 2 applications.

3.68 As discussed in the final chapter of this report, the Committee considers that the current statutory arrangements regulating this form of wheat exports should now be reconsidered.

## **AWB Ltd and AWB (International)**

3.69 In its submission to the Committee, AWBL advised that the relationship between it and AWBI is as follows

AWB's corporate structure and constitution binds AWB to act in a manner that maximises returns to growers who deliver to the National Pool. Article 2.3 of AWB Limited's Constitution stipulates the primary objective of the company as:

*"in relation to wheat growers who sell pool return wheat to the company or its subsidiaries, to maximise their net returns from the pools by securing, developing and maintaining markets for wheat and wheat products and by minimising costs as far as practicable"*

Thus, for AWBI to act in accordance with its constitution, it must export its wheat in a manner which maximises the net returns to Australian growers who have delivered to the National Pool and it must actively use its position as the single desk operator to reduce costs faced by growers.<sup>50</sup>

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48 AWB(I) letter to Committee dated 30 May 2003, p. 2.

49 ditto

50 Submission No 15, p. 4



3.70 The WEA Growers's Report for 2001-02 notes that

The WEA raised concerns with AWBI that some of the KPIs [Key Performance Indicators] are not an effective means of measuring AWB Ltd's performance. AWBI responded by informing the WEA that AWBI and AWB Ltd management were reviewing the individual service level agreements and associated KPIs.

AWBI may impose financial penalties on AWB Ltd where there is a failure to deliver certain services. The WEA considers that these penalties may not be sufficient to prevent a breach by AWB Ltd. The WEA also considers that, since these penalties are for 'not doing something' and AWB Ltd cannot be penalised for repeat offences during any 12 month period, there is limited incentive to focus AWB Ltd on providing services which deliver maximum net returns to growers. AWBI advised the WEA that the overall performance-based Services Agreement and remuneration system, combined with AWB Ltd's constitutional obligations to maximise returns to the National Pool, minimise the need for financial penalties.

3.71 During the Committee's 10 March 2002 hearing on the bill the Committee pursued this question with Mr Iffla of the Wheatgrowers' Association, which had drawn attention to the arrangement and its lack of transparency.

**Senator O'BRIEN**—I refer to the service agreement between AWB Ltd and AWBI. You are saying that the structure of the AWB companies means that AWBI has no choice but to take services from its parent company. In your view, does that mean that the only solution would be to break the link between the two companies?

**Mr Iffla**—To have a completely independent AWBI and AWB Ltd, it would be a tremendously hard thing to change that constitution. We believe that a lot of these services should be contestable. We are already seeing that CBH are suggesting five services, which could save growers over here \$4 per tonne. But if we looked at a year like this, you would see that our costs would be a heck of a lot lower and we could save a lot more than \$4, because only about five million tonnes of wheat or thereabouts would go through the pools of AWB, from the figures that we have.

The service agreement is worth \$45 million. The main part of that grain is going to come from Western Australia and South Australia, so we are paying this \$45 million, which is working out to close to \$9 per tonne. Those people in the eastern states who have the opportunity to sell on the domestic market do not have to pay very much for the ongoing cost of AWB. It seems that just the people who export have to pay the lion's share of the cost. This year it has been particularly hard. We think that the OPI, the out performance indicator, is one of the worst things that could ever happen.

**Senator O'BRIEN**—What are the problems with it?

**Mr Iffla**—How it is benchmarked—by AWBL and AWBI—is a considerable concern. Once they get \$US5 a tonne above that benchmark—and we know who sets that hurdle—they get 20 per cent of that commission. It goes straight to investors. If you think that is bad, on \$280 a tonne they are allowed to take 1.5 per cent of the gross pool value, which works out to \$4.20 a tonne—just like that, provided they get to those hurdles. Another concern is the fact that the price of grain peaked in October last year. There is still a lot of grain throughout Western Australia that is in the CBH facilities—I do not know how much of it has been sold. If they have missed the market trying to extract the absolute maximum

then it has probably cost us a lot more than that \$4.20. It has probably cost us quite a few dollars a tonne.<sup>51</sup>

3.72 The AWB representatives at the hearing were in turn questioned about the process of agreement on the AWBL and AWBI relationship and of the business arrangements that were negotiated between them, and how potential conflicts of interest between the companies were resolved

**Mr Lindberg**—The way the company operates, there are clearly areas where there are potential conflicts of interest. For example, negotiating the provision of services between AWB Ltd and AWB International is done through subcommittees of the two respective boards, and the subcommittee of the AWB International board consists only of the three A-class directed ‘independent’ directors. So common directors, such as Brendan and I, declare a potential conflict of interest and take no part on either the board of AWB Ltd or the board of AWB International.

**CHAIR**—And give no advice?

**Mr Lindberg**—No, we give no advice.

**Senator FERRIS**—Wouldn’t it be better to just not be there? Then there is no perception.

**Mr Lindberg**—There is obviously a coordination issue. The fact is that AWB International, under the Corporations Law, is a wholly owned subsidiary of AWB Ltd, and the AWB Ltd directors have the overriding responsibility to ensure that its subsidiary performs according to the mandate. So unfortunately the L directors cannot escape their final legal duty to ensure that the pools are managed properly.

**Senator FERRIS**—Yes, but picking up what the chair said right at the start about perception—and I think Brendan admitted to that perception—this is a very important, almost fundamental, perception that grain growers have about conflicts.

**Mr Stewart**—I accept that; we do as a board. Actually, both boards accept that there is a perception. We have already committed to making appropriate changes to try to address the perception issue, if we can make changes that actually add value to the pool and reduce the perception. But, with respect in particular to the constitution and the way it is structured, the process that is necessary to make those changes is modelled on the Australian Constitution—and you know how hard that is to change. We will make changes or make suggestions to industry about changes if we can see that they add value. It is as simple as that. We have not drawn a line in the sand. We are prepared to make those changes if they add value.<sup>52</sup>

3.73 The Committee notes that, in advising the method used to disaggregate costs in relation to services provided by AWBL to AWBI, AWBL advised the Committee

AWBL is paid a single “Base Fee” by AWBI in return for the provision of the services. AWBL also has the opportunity to earn an Outperformance Incentive if it outperforms the WIB. AWBL incurs the direct cost of all such services not AWBI. AWBI simply pays the Base Fee and Outperformance Incentive if applicable. AWBL does not disaggregate the costs of the services, nor provide such information to AWBI. In the

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51 *Hansard*, 10 March 2003, Perth, p. 32.

52 *Hansard*, Perth, 10 March 2003, AWB, p.50.

circumstances without considerable extra work in allocation of costs, AWBL is unable to provide the Committee with this information.

3.74 The Committee sought some detail on how the agreement on services supplied by AWBL to AWBI worked in practice. The AWB also told the Committee that

All the services are provided by AWB Ltd under a contract for service provision. Again, that service provision flows from the constitution, and the constitution of AWB Ltd says that AWB Ltd must provide a whole range of things to its pool subsidiary at competitive prices, and that is what we do. So there are no employees in that sense. There is a general manager, and that is Sarah. She has a group of people that work in the national pool area, and they act on behalf of AWB International in their dealings with the AWB Ltd staff that provide all the range of services that Sarah needs in order to operate the pools.

**CHAIR**—How do you know they are competitive prices if you do not test the marketplace?

**Mr Lindberg**—Quite frankly, it is not feasible or desirable to go through open contestability—and I can talk about why. We have done it through a process of benchmarking, on a bottom-up basis, looking at the individual services that are provided by Ltd to International, and benchmarking those against comparative services elsewhere. So there is, firstly, a bottom-up approach and, secondly, a top-down approach whereby International engaged a range of outside experts to advise it on the sort of performance payment arrangements—

In relation to performance of services and in terms of the operations of the pool, apart from its dealings with AWB Ltd, the supply of other services such as—shipping companies, which ports are used what overseas agents and those sorts of issues, the AWB told the Committee

**Ms Scales**—..... Firstly, supply chain—storage and handling, rail or whatever it is—is provided by myriad companies here in Australia. In fact, with the mandate of maximising net pool returns—as opposed to gross pool returns—we welcome competition in storage and handling, rail and so forth, because we have found that competition gives us an ability to reduce costs back to the growers and reflect that. The important thing that has been missed in a lot of the submissions is that it is, in fact, the wheat farmer delivering into the local silo who makes the decision on whether he delivers to an AusBulk ABA silo, a GrainCorp silo or, indeed, an AWB Ltd grain flow. We reflect back the cost of using those various systems. It is a ‘look-through’ arrangement where the wheat farmer ultimately makes the decision. Regarding agents, chartering or whatever it is, the national pool makes decisions daily on what vessels, counter-parties and markets we want to use.

**Senator O’BRIEN**—That is right. AWB Ltd do not run those things but they do compete in the supply chain within Australia.

**Mr Stewart**—AWB acts as both a provider of services to AWBI and a purchaser of services to external parties on behalf of AWBI.

**Senator O’BRIEN**—I am sure you have heard the submissions—or heard of them—which suggest to us that the supply chain should be fully contestable. It would be remiss of us not to seek a comment from you with regard to those submissions.

**Mr Stewart**—We have not put it in our submission because it is not really an issue for the legislation that is before the Senate at the moment. However, we are happy to address it. The supply chain and where the single desk starts have been issues of public debate for some time. It has obviously had more credence put on it by the release of the Accenture and Kronos reports. I would say to you quite clearly that we need to look closely at the relationship between the commissioning bodies of those reports and the commercial bodies to which they are connected. Quite frankly, most of the bodies that are advocating change

are doing it so that they can take and put into the pockets of their shareholders what we believe is the very great benefit that is delivered straight back to the pool participants—in this case, the majority of growers.

### 3.75 Mr Lindberg of AWB told the Committee that

**Mr Lindberg**—.....In terms of managing the system, we do not believe that you want to fragment the system and have contestability over management of the system. Where you want competition is in the provision of the various services and assets that the pool uses to manage the single desk system. That is because we have evolved from the structure where there were regional monopolies in the storage and handling system, regional monopolies in the rail system and regional monopolies in the port system. These monopolies are why, in part, Australia's infrastructure is very uncompetitive on a global scale. The wheat farmers of Australia spend \$900 million a year just to move their wheat from the silo to the port.

Compared to our major competitors, on any benchmarking that we have been able to do, we do not have an efficient national infrastructure to support our export effort. One of the ways to improve that is to provide competition at that level, and that is the level at which we are seeking to bring competition into ports, into rail and into storage and handling because, in every market that I have been associated with, when you are a consumer your best friend is competition. When you are a seller, your best friend is market power. That is what the farmers get through the single desk—market power. In relation to all their inputs, whether they are chemicals, fertiliser, finance, trading options, storage and handling, freight, port capacity or anything else, we believe their best friend is competition and that is why we are quite happy to compete if that is the only way we can see as necessary to improving the cost and service for the farmers. Doing that is part of the national pool manager's duty.

### 3.76 In its final submission to the Committee the GCA Grains Council of Australia noted that, in relation to the AWBL/AWBI relationship

It was indicated in the previous section that a mechanism has been established for the GCA and its five Affiliates to raise questions pertaining to AWBI's performance with the WEA.

In a similar way there is an established forum under the GCA/AWB Ltd consultative arrangements for GCA and its Affiliates to raise issues and seek explanations from AWB Ltd. In this process the GCA also meets with AWBI and members of its Compliance Committee. Under this process GCA continues to monitor and where necessary question and review, the structures and operations to ensure that benefits are delivered to growers. In doing so GCA's Affiliates have the opportunity to constantly review a range of matters. The matters discussed under this process include the following, which have been raised in the Senate Inquiry: cash trading and pools, Geneva Office, and AWB Ltd's roles in seed breeding and varietal classification.<sup>53</sup>

### 3.77 In relation to two specific issues relating to AWBL activities – seed classification and breeding, and the workings of the AWB Geneva office, AWB told the Committee that, in relation to classification and seed breeding

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<sup>53</sup> Submission No 36A, p. 5

AWB Limited has undertaken a number of actions to ensure greater confidence to the industry with respect to the perceived conflict of interest over our role as breeder and classifier.

After a meeting with the Seed Industry Association of Australia's Plant Breeders and Proprietary Marketers Group in early 2002, AWBL decided to review its processes with the aim to establishing an auditable process with a view to improving transparency and adding weight to fairness to ensure the same treatment for all industry players.

Subsequently AWBI and AWBL took independent advice to provide recommendations on what changes to policies, procedures, controls and information security that would be considered desirable both on a "mandatory" and "best practice" basis to ensure independence between the activities of AWB Seeds and LongReach Plant Breeders, and AWB's wheat classification functions and the impartiality of the wheat classification process.<sup>54</sup>

### 3.78 In relation to the AWB Geneva office, AWB advised

The AWB Geneva office was established in July 2002 to expand the knowledge and participation of the AWB Group in the global market place. The office is still in its establishment stages.

Under the terms of the AWB Geneva Business Rules, which have been entered into between AWBI and AWB Geneva, the latter is bound by the following two important restrictions:

- that, in carrying out its business, AWB Geneva will not enter into any transaction which would or might reasonably be expected to injure or cause detriment to AWBI in its business as exporter of Australian bulk wheat or hinder AWBI in securing, developing and maintaining markets for Australian bulk wheat; and
- AWB Geneva must not sell wheat to any customer outside Australia unless it has disclosed all information about that sale to AWBI and AWBI has consented to the sale.

Importantly, AWBI has the power to veto any proposed wheat sale that AWB Geneva proposes to undertake.

AWB Geneva assists the operation of the Single Desk in a number of ways.

- Market information is picked up in real time by trading in the US, EU, Argentina etc

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<sup>54</sup> AWB(I) letter to Committee dated 30 May 2003. p. 7

- Provide more comprehensive service, building goodwill with export customers, by increasing origins to existing customers,
- Provides an alternative source of grain to provide flexibility for AWBI to build greater options into the export program, including blending, and opens up the potential for improved returns where AWB can achieve buyer options on sales. This is particularly useful for feed wheat, durum and other specialty products.
- Provides an alternate source of grain to meet customer demands in times of drought or short supply.<sup>55</sup>

The Committee points out that, the AWBI power to veto any proposed wheat sale that AWB Geneva proposes has never been exercised. The Committee intends to seek more detailed information about the funding and business arrangements of AWB Geneva.

3.79 The Committee has received considerable evidence regarding the arrangements that are made between AWBL and AWBI in respect of services provided by AWBL to AWBI. The Committee has considered the advice from AWB to it on this matter, and the concerns raised with it by growers and by other participants in the grain industry.

3.80 The Committee notes that while there are concerns regarding conflicts of interest inherent in a number of vertically integrated wheat handling and trading concerns – a matter raised with the Committee by AWB – the Committee believes that the AWBL/AWBI relations could and ideally should be more transparent so as to show the extent of the net cost of such arrangements to the Pool of the inter-company service arrangements, particularly in non-contestable areas such as finance, chartering, handling, storage and transport.

## **Timing of the 2004 Review**

3.81 The review of the single-desk exporter arrangement under which AWBI is sole exporter of Australian wheat (subject to permitted exports of wheat with WEA approval) is to be undertaken by WEA by the end of 2004 under section 57(7) of the *Wheat Marketing Act*.

3.82 WEA pointed out to the Committee the performance monitoring review and reporting framework it has developed for the review, which highlight six KPI's.

- Wheat Export Arrangements;
- Pooling Operations;

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<sup>55</sup> AWB(I) letter to Committee dated 30 May 2003. p. 9

- Pricing Performance;
- Supply Chain;
- Operating Environment; and
- Grower Services, Products and Benefits.

3.83 During questioning of the AFFA at its 5 May 2003 hearing, the Committee questioned officials about the review in light of criticisms made of the WEA's ability to conduct given apparent limitations on information relevant to the inquiry that WEA had in light of the June 2000 confidentiality agreement between WEA and AWBI

**Senator O'BRIEN**—We have a critical review coming up under the legislation, with a reporting date to the minister in June next year, I think. This is fairly fundamental to the authority's ability to carry out its task under the legislation. I am assuming that the minister would have wanted to be kept completely informed about these issues. Is that a fair assumption?

**Mr Mortimer**—Yes, that is a fair assumption.

**Senator O'BRIEN**—How long has the department been apprised of the difficulties—if I can call them difficulties—that the Wheat Export Authority had in terms of access to information for the purpose of carrying out its functions?

**Mr Mortimer**—I need to comment on the use of the word 'difficulties'. The Wheat Export Authority has entered into an arrangement with the AWBI, under which it gets the information necessary to do its job. Whether that creates difficulties, and the extent of those difficulties, is something that the WEA is best equipped to comment on, but at this stage, as I understand it, the WEA is confident that it can do its job and is using those arrangements to help it do that.

**Senator O'BRIEN**—It may have that view, but I feel that a number of senators would find it hard to accept that it could substantiate that view. I am really asking, given the minister is in control of the legislation and not the WEA, when the minister or the minister's department was aware of the problem. I presume that, if the department were aware of the problems, the minister would be advised of the problems—or difficulties; however you wish to describe them—as expeditiously as possible. That is the question.

**Mr Mortimer**—That is a fair comment. Indeed, on the issue, the department also would have been very much influenced by the view from the Wheat Export Authority about whether it was confident it had the information, or access to the information, that was necessary to do its job.

3.84 The Committee also canvassed this issue with the WEA at its 5 May 2003 hearing

**Senator O'BRIEN**—Turning to the 2004 review, the minister stated on 3 April, in Adelaide, that he expected the review and its report to be provided in May or June next year. Is that the timetable the Wheat Export Authority has been working to or was the minister's announcement shifting the reporting date from December back to June?

**Mr Walter**—That is the timetable we have been working to.

**Senator O'BRIEN**—The Wheat Export Authority sought legal advice in relation to the 2004 review on 12 February last year and received advice, dated 27 March, from the Australian Government Solicitor. It says:

We think that section 57(7)—

of the act—

and in particular subparagraph (a) should be interpreted as requiring the WEA to report on the future operation of the export monopoly, including whether AWB[I] should continue to have special export rights under the Act.

It goes on to state:

In terms of what reporting on the future operation of the export monopoly may involve, in our view, it would be open to the WEA to consider the following types of issues in the review and report under section 57(7):

the advantages and disadvantages to the Australian wheat industry as a whole in continuing the statutory export monopoly beyond 2004,

general economic trends, including the current economic policies of the government, for example, in relation to competition issues,

whether any changes should be made to the current export monopoly arrangements.

It states further:

As we outlined above, we think that the WEA could, for example, recommend in its report that AWB[I] should no longer have special export rights under the Act after 2004, or that those special export rights should be transferred to another company.

So the statement made by the minister in Grains Week that the legislation is clear on the content of the 2004 review—that is, that it should be limited to the performance of AWBI as the manager of the single desk—is not correct, according to that advice. That legal advice is in fact clear that the 2004 review is not limited to the performance of AWBI but is much wider—is that not so?

**Mr Walter**—With respect, I think that is all a question of interpretation of both the advice and the statement by the minister.

**Senator O'BRIEN**—Are you saying that is not a correct interpretation of the advice?

**Mr Walter**—I am saying that, for example, elsewhere in this advice it says that we are obliged, in the view of the adviser, to make a statement about whether AWBI should continue to hold the single export desk rights. It is not a question of it being open to us, which I think is a nuance that you might get from the wording 'you might'. The other comment I would make is that clause 24 is dealing with matters which would be open to AWBI to report on. All this comes from the words in the legislation, as you would recollect, Senator, which require a report as to the operation of, effectively, nominated company B, which is AWBI. I think the minister's statement and the advice we have received sit quite happily side by side.

**Senator O'BRIEN**—What do you believe the minister was saying? I interpreted him as saying that the 2004 review was limited to the performance of AWBI as the manager of the single desk. The advice does not seem to be saying that, so I am trying to find out whether the advice is sound in the view of the authority.

**Mr Walter**—I would see that as simply a paraphrasing, if you will, of the words in the legislation which do refer specifically to the operation of AWBI. That is indeed the wording that the minister is paraphrasing.



**Senator O'BRIEN**—So does the minister direct the authority as to how to conduct a review?

**Mr Walter**—The review is a matter for the authority. Clearly, a view that the minister has expressed would be considered, but it is a matter for the authority.

3.85 The Committee has published the opinion provided to the WEA which is the subject of the discussion in the preceding paragraph. The Committee was concerned, and remains concerned, that the prevailing position appears to be that the WEA will be constrained by the limitations imposed on it under the confidentiality agreement with AWBI on the information it can obtain and the information it can – in turn – publish to the Minister under the review.

3.86 The Grains Council put to the Committee that, in light of a number of submissions to the Committee that an independent body or person should carry out the 2004 review, the WEA was still suitable to properly conduct the review

It has been suggested that an independent tribunal rather than the WEA should undertake the 2004 review of AWBI's performance.

Such a suggestion fails to recognise the work already undertaken by WEA towards the 2004 review already through the reporting to the Minister in 2001 and 2002 on AWBI's performance and on the work undertaken towards the 2003 report to the Minister.

The 2003 review will draw heavily on the data and evaluation of the three reports 2001 to 2003 and be supplemented with additional analysis and information.

In effect the analysis underlying the 2004 review is two-thirds completed.

The rationale behind the suggestion to start this task again would need to be questioned. Furthermore the suggestion fails to recognise that the WEA is itself an independent tribunal by a different name.<sup>56</sup>

3.87 The Committee does not, given evidence to it regarding the limitations which will be imposed upon the WEA under its confidentiality agreement with AWBI, consider that the 2004 review should be conducted by WEA. The Committee believes, and recommends in the next chapter that the Minister for Agriculture, Fisheries and Forestry immediately commission an appropriate body or person with the necessary knowledge and skills and who is familiar with the structure of the workings of the current single desk export mechanism for Australian wheat to examine and propose an alternative means by which the review of the single desk export role of AWBI to be conducted by the WEA under section 57(7) of the *Wheat Marketing Act* and that the Minister publish the findings of that report 3 months after the passage of this Bill.

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<sup>56</sup> Submission No 36A, attachment, Growers Report 2002, p. 9



# CHAPTER FOUR

## COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

### Introduction

4.1 Chapter 3 details the major issues examined by the Committee.

4.2 Issues were raised with the Committee regarding this legislation by all active commercial participants in the Australian wheat market including individual wheat growers, growers' representatives and by all commercial groups which have an interest in the proper administration of the legislative scheme set up by the *Wheat Marketing Act 1989* (the Act). This examination included provision of detailed oral and written evidence from the Wheat Export Authority (WEA) and from AWBI.

4.3 Several issues which affect the way the Act was intended to operate after the 1998 amendments, which established the Wheat Export Authority and set up AWBI as the single-desk exporter, are now of concern and, in the Committee's view, should be addressed by the Government before the Bill is further debated .

4.4 The issues that should be addressed are

- a) Ensuring the statutory powers of the Wheat Export Authority (WEA) are legally adequate to allow it to properly perform its functions.
- b) Clarification of the statutory and working relationship and possible conflict between the WEA, AWB Limited and AWBI.
- c) Clarification of aspects of the commercial relationship that has developed between Australian Wheat Board (Limited) (AWBL) and AWBI.
- d) Reconsideration of the current WEA role in conducting the review of AWBI's single desk control over wheat export and reporting on that review to the Minister before the end of 2004.
- e) Consideration of a change to the existing export control arrangements contained in the Act in relation to bagged and container wheat.
- f) The level of consultation and communication by WEA with growers on its oversight activities.
- g) Clarification of the operation, costs and possible conflicts of interest arising from AWBL Geneva office.
- h) Clarification and details of the current AWBL/AWBI bonus scheme, incentive payments and their impact on export pool operations and returns.

## **Position of the Current Single-Desk Export Arrangement for Australian Wheat**

4.5 During the course of its inquiry and in media comment and reports appearing during the inquiry, the question has arisen as to whether the Committee should make findings and recommendations affecting the future of the current single-desk exporting arrangements established by the *Wheat Marketing Act*.

4.6 The Committee's position on this matter is clear: the continuing operation of the single-desk export arrangements operated through AWBI is outside the terms of reference of the Committee's inquiry into the Bill.

4.7 Nevertheless, the Committee has heard a great deal of compelling evidence (dealt with in Chapter 3) that growers and industry participants have developed an understandable degree of unease and skepticism as to the functioning of the oversight role that has developed in the last 5 years between the WEA, AWBI and AWBL which, in the Committee's view, directly affects the viability and credibility of the benefits and effectiveness of the single desk export mechanism and the implications for maximising grower benefits.

4.8 Accordingly, the Committee highlights and publishes these concerns and nominates by recommendation actions it believes can be taken on some – though not all – these concerns. By airing these issues broader policy can also be addressed by Government, growers, industry – and the Parliament - *before* commencement of the review of AWBI's performance as the nominated single-desk exporter due in 2004.

### **Performance by the WEA of its statutory functions**

4.9 In Chapter 3 the Committee provides a detailed account of the activities of the WEA since it was established on 1 July 1999 following the restructure of the former Australian Wheat Board.

4.10 The WEA's work under the Act has, in the Committee's view, been hampered and – to the degree discussed elsewhere – compromised because of a number of significant factors, namely:

- a) The development of an unnecessary and undesirable lack of clarity in WEA reporting to growers on its principal function: the oversight and ultimate control of the export of wheat from Australia;
- b) The apparent compromise early in WEA's existence of the WEA's statutory powers under section 5 of the *Wheat Marketing Act* to obtain information – and publish that information – in monitoring AWBI's performance and the examination and report on the benefits to growers resulting from that performance
- c) A range of doubts by many industry participants and growers as to the WEA's *current* ability to credibly conduct a review and report the Minister

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for Agriculture, Fisheries and Forestry (AFFA) on AWBI's use of its wheat export rights under the legislation before the end of 2004.

d) Whether exported bagged and containerized wheat should be subject to a continuing commercial vetting by AWBI.

## Committee Conclusions

4.11 The Committee's conclusions on these matters are:

a) Given the concerns raised with the Committee the funding provisions of the Bill for the WEA should be enacted, but for a period of one year from 1 October 2003 so as to allow the Parliament, through this Committee, to examine the recommended changes to the statutory powers of the WEA

b) Given the situation that has developed with regard to WEA's powers, as a part of the further consideration of this Bill, amendments to the *Wheat Marketing Act* be drafted now so as to provide unequivocal statutory powers to the WEA under section 5(2) of the *Wheat Marketing Act*. This would eliminate the requirement for a confidentiality agreement between the WEA and AWBI in relation to information required by the WEA to fulfill its reporting functions to growers.

c) In view of the degree of apparent loss of confidence in the WEA expressed by witnesses, the Minister for Agriculture, Forestry and Fisheries examine an alternative mechanism to that contained in the section 57 (7) of the *Wheat Marketing Act* for conducting a review of the operations of AWBI in 2004 and report on those alternative mechanisms by 30 September 2003.

d) The *Wheat Marketing Act* should be amended to authorize the WEA to approve the export of bagged and containerized wheat without reference to AWBI subject to enforcement of appropriate quality accreditation.

e) In light of a number of observations and experiences provided to the Committee during this inquiry, that the Minister for Agriculture, Fisheries and Forestry arrange for examination and publication of details of the provision of services by AWBL to AWBI which clearly explain these operations and their impact on pool returns to wheat growers.

## Committee Recommendations

The Committee Recommends that the Wheat Marketing Amendment Bill 2002 be considered by the Senate and passed subject to the following amendments and additions

- i) The Bill be amended so that the imposition of the grower levy on export wheat and other appropriations proposed by the Bill apply for the period of one year from 1 October 2003 to 30 September 2004
- ii) That section 5 (2) of the *Wheat Marketing Act 1989* be amended during consideration of this Bill so as to eliminate existing legal doubt as to the extent of the powers of the WEA to obtain information from AWBI and ABWL and to publish that information for growers

In relation to other matters raised by consideration of this bill, the Committee also Recommends

- iii) That the Minister for Agriculture, Fisheries and Forestry immediately commission an appropriate body or person with the necessary knowledge and skills and who is familiar with the current single desk export mechanism for Australian wheat to examine and propose an alternative means by which the review of the single desk export role of AWBI to be conducted. The Minister should publish the findings of that report 3 months after the passage of this Bill.
- iv) That the *Wheat Marketing Act* and applicable regulations under that Act be amended so as to allow the WEA to approve bagged and container wheat exports meeting current applicable standards without reference to AWBI subject to enforcement of appropriate mechanisms for quality accreditation.
- v) That, without breaching *commercial-in-confidence* criteria, the details of the commercial relationship between AWBL and AWBI in relation to non-contestable services provided by AWBL to AWBI be the subject of separate annual report in addition to existing reports by WEA. This should be carried out as part of its statutory reporting function and that these matters include current financing and trading activities of AWB Geneva, AWBL freight and handling operations and AWBL activities in commercial classification and seed breeding.

Senator Bill Heffernan  
Chair

# **ADDITIONAL COMMENTS BY LABOR SENATORS**

## **Introduction**

Widely held concerns about the performance of the Wheat Export Authority, the management of the wheat export monopoly and the structure of the wheat industry are acknowledged by the Committee and reflected in the body of this report.

Labor Senators note the recommendations made by government senators but consider the interests of wheat growers and the broader community would be better served by more far reaching changes to current arrangements.

### **The performance of the Wheat Export Authority**

As noted in this report a number of witnesses told the committee the performance of the Wheat Export Authority in monitoring the single desk marketing arrangements has been inadequate. Witnesses told the committee they were not confident the Wheat Export Authority has effectively guarded the interests of Australian wheat growers despite the expenditure of \$6 million from grower reserves.

The Wheat Export Authority has provided the committee with legal advice that confirms that its power to monitor AWB(I) is very limited. This advice was also provided to the Minister for Agriculture, Fisheries and Forestry, Warren Truss, in a letter from the Wheat Export Authority dated 14 March 2000. The Department of Agriculture, Fisheries and Forestry was also made aware of this problem in January or early February 2000 and the Minister was advised accordingly.

The Wheat Export Authority has reported regularly to Mr Truss but it has provided just two reports to growers despite monitoring the operation of the single desk since 1999. Both reports were of a very general nature and of no real value.

Labor Senators believe the Wheat Export Authority has poorly performed the limited tasks assigned to it in July 1999. We lack confidence in its ability to undertake the review mandated by the Wheat Marketing Act.

### **Changing wheat marketing arrangements in Australia**

Australia's domestic wheat market has changed considerably in recent years, and Labor Senators are concerned the current regulatory regime has proved incapable of protecting growers' interests.

Domestic grain trading was deregulated in 1989, but it is clear the export monopoly enjoyed by AWB(I) has provided AWB Limited with a significant

advantage in the domestic market. This advantage has been enhanced as the AWB Group has expanded the size and nature of its business.

### **Restrictions on the export of boxed and bagged wheat**

Currently the non-bulk export of wheat requires exporters to apply to the Wheat Export Authority for a permit. The Wheat Export Authority is required to consult with AWB(I) before determining whether to issue a permit. This arrangement appears to protect AWB(I)'s single desk marketing power rather than promote an expanded export effort and enhance grower returns.

Labor Senators believe AWB(I) has the capacity to protect its own commercial interests in niche markets. Therefore we recommend this arrangement be abolished and a simplified system of permits established by the Department of Agriculture, Fisheries and Forestry.

This system should be free of any input by AWB International and subject only to appropriate volume controls.

### **Benefits of the single desk**

Labor Senators are of the view that the only basis for continuing the single desk marketing arrangements for wheat is if there is a clear benefit to the wheat industry and the Australian community, as distinct from a benefit to the AWB Group.

Evidence to the inquiry suggests that the WEA has been unable to accurately identify whether or not the export single desk marketing arrangements actually return a benefit to growers despite investigating this matter for nearly four years.

Labor supports an independent review that considers the management of the single desk by AWB(I) and the actual or potential returns to growers that flow from a single desk marketing system. The review should also advise on how best to monitor the use of the monopoly export power given the failure of the current arrangements.

The Wheat Marketing Act requires the Wheat Export Authority to review the management of the single desk marketing powers by AWB(I) by the end of 2004. The Minister has requested that report be provided to him by 30 June 2004. While the Minister has adopted a narrow interpretation of the nature of this review the Wheat Export Authority has legal advice that suggests a much wider review is mandated.

Labor Senators do not consider the Wheat Export Authority competent to conduct this review. It is essential that this review is comprehensive and independent in nature to maintain confidence of all stakeholders. We therefore propose that the review be undertaken by an independent agency, and consider the role of AWB(I) and related matters.



## **The single desk and international trade negotiations**

Australia's monopoly export arrangements for wheat are the subject of increasing criticism from the United States in the context of trade negotiations.

This criticism will intensify as the Free Trade Agreement negotiations with the United States progress. It is important to note the United States is currently taking action against the Canadian Wheat Board because it operates a single desk marketing system for its grain exports. Any defence of the single desk in Australia is hampered by the current inadequate regulatory and monitoring arrangements.

Labor believes a comprehensive and independent review of Australia's single desk export arrangements offers the best means of defending these arrangements from such attacks.

### **Labor Recommendations**

**Labor Senators propose the Wheat Marketing Amendment Bill 2002 be amended in accordance with the following recommendations.**

#### **Recommendation**

**That the proposed levy on wheat growers to fund the ongoing operation of the Wheat Export Authority be abandoned.**

#### **Recommendation**

**That the permit system for the export of containerised and bagged wheat be transferred from the Wheat Export Authority to the Secretary of the Department of Agriculture, Fisheries and Forestry, and that permit applications, are not made subject to consultation with AWB(I) or consideration of AWB(I)'s commercial interests.**

#### **Recommendation**

**That the permit system for bulk wheat exports be transferred from the Wheat Export Authority to the Secretary of the Department of Agriculture, Fisheries and Forestry, and that existing controls on the export of wheat be maintained.**

#### **Recommendation**

**That an independent review of single desk marketing arrangements for wheat be established and report to the Minister for Agriculture, Fisheries and Forestry on or before 1 July 2004 on:**

**The performance of AWB (International) Limited as holder of the wheat export monopoly;**

**The impact of export marketing arrangements on Australia's domestic wheat market, including related competition issues;**

**Benefits and detriments for the Australian wheat industry and the Australian community in maintaining the current statutory export monopoly beyond 2004;**

**Recommended changes, if any, to export monopoly arrangements; and**

**Options for future monitoring arrangements.**

**Further, that the Minister for Agriculture, Fisheries and Forestry causes a copy of the report to be tabled in each House of Parliament within fourteen days of its receipt by the Minister.**

**Senator Kerry O'Brien**

**Senator Geoff Buckland**

**Senator Ursula Stephens**

# **ADDITIONAL COMMENTS**

## **AUSTRALIAN DEMOCRATS**

The Australian Democrats broadly endorse the conclusions of the Majority Committee Report, but with some reservations. This bill cannot be supported without amendment.

However, the Democrats are of the view that the Committee Majority may be going somewhat too far in pre-empting the outcome of the 2004 review in some respects, while not ensuring that that the 21004 review is sufficiently broad and robust to cover all the issues needing to be covered.

The Democrats have long supported the view that a well run single desk marketing arrangement on exports is the best means of guaranteeing maximum returns to growers and Australia. Democrats Senator Woodley made this quite clear when the Wheat Marketing Act was considered in 1998, and when the Act was made subject to review under National Competition Policy under the current Minister in 2000.

In the course of this inquiry, what was overwhelming support for the single desk in 1998 and 2000 has been a less than unanimous position in 2003. I see two key reasons for this.

First, is the changing nature of AWB and its subsidiary AWBI. It was inevitable that as AWB settled into its role as a private company of reacting to the share market and defending its market price, it would become more concerned with its commercial performance and less concerned with grower interests. This has been evidenced in the number of objections that AWBI has raised to container and bag exports of wheat by other companies. In its first year, the objection rate ran to just 26.4%(1999-2000), rising to 66.8% by 2001/2. <sup>1</sup> The heavy investment by AWB in consolidating its vertical integration also highlights this movement.

The second has seen the determination of AWBI to protect “commercial” information. Much information which was previously in the public domain pre-1999 is now only provided to the WEA in reporting subject to a confidentiality agreement. The Majority Committee report recommends that the powers of the WEA to be expanded in respect of information gathering, which the Democrats support.

These changes to the privatised company running the single desk has lead to an increased level, of concern about whether the single desk is still servicing the

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<sup>1</sup> Wheat Export Authority submission no. 19 p.7

interests of growers or not. The Labor Minority Report highlights the fact that the WEA is yet to prove one way or the other that current arrangements are delivering a benefit to growers.

The Democrats are of the view that we should support the single desk arrangements until it is clearly demonstrated that the arrangements are contrary to the interests of wheat growers. But, having said that, we do not believe that the WEA has yet made out a clear and compelling case that current arrangements are working to the benefit of grower. The Democrats are of the view that the benefit of current industry arrangements need to be clearly demonstrated one way or the other. To wait until 2010 for these matters to be reviewed is pointless given the dramatic changes that have occurred in wheat marketing arrangements in Australian since 1998.

The Democrats are of the view that the 2004 review of the Act needs to be more robust than that proposed by section 57(7) of the current Act. It needs to comprehensively review the role of AWB(I) and demonstrate whether the single desk arrangements, as managed by AWB(I) are to the benefit or detriment of growers. This review needs to be conducted by an independent panel, separate from the WEA. The independence of the WEA is compromised by its lack of discovery powers, and the overlapping of political interests between the WEA, AWB and the Grains Council (in terms of its current and past office bearers). Whilst I make no aspersions against any individuals, the nature of these arrangements can lead to a perception of a conflict of interests between the various bodies, and this needs to be dispelled in the structuring of the review.

Whilst we broadly agree with four of the five recommendations made in the Committee report, we do not agree with the proposed deregulation of permits for containerized and bagged wheat at this stage. Whilst we note that the proportion of permits objected to by AWBI has risen sharply, we also note that the proportion of objections accepted by the WEA has fallen sharply.

The Democrats appreciate the work that the WEA has already done towards the successful completion of this review. We recognise that the WEA and its performance monitoring system is a work in progress. Indeed, it is worth noting that the subject matter of the performance monitoring framework covers the key issues raised by grower organisations as needing to be reviewed, specifically:

- wheat export arrangements;
- pooling operations;
- supply chain;
- operating environment and

- grower services, products and benefits.

It should be noted that it has taken the WEA some 2-3 years to properly establish this performance framework, somewhat tardy, but nevertheless, a potentially robust framework against which the marketing arrangement can eventually be tested. The Democrats are reluctant to toss this work out at a late stage of development, while expressing the concern shared by all other Committee members that the WEA is yet to prove its value to wheat growers. In short, the Authority is on probation.

In conclusion, the Democrats' recommendations as follows:

- (a) That the single desk export marketing arrangements should continue to be supported until it is shown that it is contrary to growers interests, but that the data should be analysed as part of the 2004 Review;
- (b) That the levy should be extended by one year as recommended by 5.11, a of the Committee Report to allow the completion of the independent review;
- (c) That the powers of the WEA on the collection of information should be expanded as recommended by 5.11b of the Committee Report;
- (d) That the review of current marketing arrangements under section 57(7) of the Act should not be performed by the WEA (as recommended by 5.11c) of the Committee report, but should be conducted by an Independent Panel assisted by the WEA, and that section 57(7) should be amended accordingly;
- (e) That the terms of reference of the 2004 review should be expanded to include the role of the WEA in bagged and containerized wheat and whether this has any effect on returns to growers, and the costs or benefits to growers generally of the single desk arrangements;
- (f) That the Minister should report on the provision of services from AWB Limited to AWBI as recommended by 5.11e of the Committee report.

Senator John Cherry  
Australian Democrats member



# APPENDIX ONE

## SUBMISSIONS

<b>Submission No</b>	<b>Author</b>
1	Walgett Special One Co-operative Limited
2	Mr Damian Capp
3	Top Reeds
4	Co-operative Bulk Handling Limited
4A	Co-operative Bulk Handling Limited
5	Wheat Growers Association
6	GrainCorp
7	BRI Australia Limited
8	Gilgandra Marketing Co-operative Ltd
9	Australian Bulk Handlers Association
10	AusBulk Limited
11	Mr Rick Wilson
12	Mr Andrew Carberry
13	Lanson Holdings Pty Ltd
14	Warrine Pastoral Company
15	AWB (International) Limited
15A	AWB (International) Limited
16	Rup-North Co-op
17	Mr Tom Harvey
18	Grain Growers Association
19	Wheat Export Authority
20	NETCO Co-operative Limited

21	Burrereo Pty Ltd
22	Backwell Grain Trading Pty Ltd
23	Flour Millers' Council of Australia
24	Wimmera Container Line
25	Queensland Produce Seed and Grain Merchants Association Inc
26	Cargill Australia Limited
27	United Grower Holdings Ltd
28	Pastoralists and Graziers Association of WA
29	Australian Grain Technologies Pty Ltd
30	Australian Grain Exporters Association
31	Grains Research and Development Corporation
32	West Australian Farmers Federation
33	Shepherds Producers Co-operative Limited
34	Mr Vincent Kelly
35	Department of Agriculture, Fisheries and Forestry
36	Grains Council of Australia
36A	Grains Council of Australia
37	Mr Trevor Badger
38	Australian Lot Feeders' Association
39	Victorian Farmers Federation Grains Group
40	NSW Farmers' Association
40A	NSW Farmers' Association
41	Ray Brooks Pty Ltd
42	AgForce Grains Ltd
43	Petro Pastoral Company



44	Mr Michael Pfitzner
45	Elders Australia Limited



# **APPENDIX TWO**

## **HEARINGS AND WITNESSES**

### **Canberra, Thursday, 6 March 2003**

Department of Agriculture, Fisheries and Forestry

Mr David Mortimer, Executive Manager

Mr Roland Pittar, Acting General Manager, Field Crops, Wine & Horticulture

Mr Steve Maxwell, Manager, Levies Revenue Service

Mr Robert Newman, Manager, Grains & International, Field Crops

Wheat Export Authority

Mr John Walter, Chairman

Mr Glen Taylor, Chief Executive Officer

### **Canberra, Friday, 7 March 2003**

Grain Growers Association

Mr Tony Eyres, Chief Executive Officer

Mr Graham Barron, Deputy Chairman

NETCO Grain Co-operative Ltd

Mr Mike Chasling, Chief Executive Officer

Shepards Producer Co-operative

Mr Scott Bradley, Chief Executive Officer

AusBulk Limited

Mr David Thomas, Executive Manager

Grains Council of Australia

Mr Keith Perrett, President

Mr Jock Kreitals, Executive Director

GrainCorp

Mr Mario Falchoni, Corporate Relations Manager

Mr Peter Toole, Grower

Mr Grant Holland, Grower

**Perth, Monday, 10 March 2003**

United Grower Holdings

Ms Sue Rana, Executive Officer

Mr Alan Winney, Adviser

Co-operative Bulk Handling

Mr Allan Watson, Chairman

Mr Robert Sewell, Deputy Chairman

Western Australian Farmers' Federation

Mr Colin Nicholl, President

Mr Peter Wahlsten, Grains Section President

Mr Gregg Warren, Grains Executive Officer

Wheat Growers Association

Mr Bob Iffla, Chairman

Mr Steve Chamarette, Secretary

Pastoralist and Graziers Association of WA

Mr Leon Bradley, Chairman

Mr Richard Keamy, Vice President

Mr Damian Capp, Policy Director

Premium Grain Handlers

Mr John Orr, Manager

Australian Wheat Board Ltd

Mr Brendan Stewart, Chairman

Ms Sarah Scales, General Manager, National Pools

Mr Andrew Lindberg, Director, Australian Wheat Board International

Mr Julian Burridge

Mr Malcolm Talbot

Mr Arthur Crane

**Canberra, Monday, 5 May 2003**

Department of Agriculture, Fisheries and Forestry

Dr Graeme Hamilton, Chief Plant Protection Officer

Mr Stephen Maxwell, Director, Levies Revenue Service

Mr David Mortimer, Executive Manager, Wine and Horticulture

Mr Robert Newman, Manager, Food and Agriculture

Mr Roland Pittar, Acting General Manager, Wine and Horticulture

Victorian Farmers Federation Grains Group  
Mr Ian Hastings, President  
Mr Ian Hunter, Executive Director  
Mr Geoffrey Nalder, Deputy President

Australian Wheat Board Ltd  
Mr Darryl Hockey, General Manager  
Mr Brendan Stewart, Chairman

NSW Farmers Association and New South Wales Farmers Association  
Delegate to the Grains Council of Australia  
Mr Angus MacNeil, Chairman, Grains Committee  
Mr Hugh Roberts, Member, Executive Council, Grains Committee

Wheat Export Authority  
Mr Glen Taylor, Chief Executive Officer  
Mr John Walter, Chairman

### **Canberra, Thursday, 29 May 2003**

Ray Brooks Pty Ltd  
Mr Christopher Brooks, Managing Director

Elders Australia Ltd and Futuris Corporation Limited  
Mr Gregory Hunt, Managing Director, Elders  
Mr Michael Sadlon, Company Secretary, Futuris  
Mr Leslie Wozniczka, Chief Operating Officer, Futuris

