



27 February, 2003

Mr Andrew Snedden
 Committee Secretary
 Rural and Regional and Transport
 Legislation Committee
 Parliament House
 CANBERRA ACT 2600

Dear Mr Snedden

Wheat Marketing Amendment Bill 2002

I refer to your letter of 7 February 2003 inviting GrainCorp to make a submission to the Rural and Regional and Transport Committee on the current review of the Wheat marketing Amendment Bill 2002. Thank you for the opportunity to express our views on this very important issue.

GrainCorp believes this Review represents a rare opportunity to 'get the system right' for the benefit of the grains industry as a whole. Please find attached our submission to the Review.

The grains industry is currently experiencing a sustained period of change and consolidation. At the same time we are caught in the midst of a severe dry period which is causing financial harm to rural industries and to the communities in which they live and operate their businesses.

In this climate it is increasingly evident that as an industry we could be doing things much better than we presently are. The industry has changed as a result of privatisation and competition and we must collectively recognise those changes and ensure they are reflected in the rules that govern our sector.

The role of the legislature and of regulators such as the Wheat Export Authority (WEA) in assisting to improve the industry is a central one. It is crucial that the WEA is focussed, effective and adequately resourced.

I look forward to being informed of the Committee's progress and would be pleased to participate in any further proceedings that the Committee may pursue.

Yours sincerely,

Tom Keene
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WHEAT MARKETING AMENDMENT BILL 2002

GRAINCORP SUBMISSION TO THE
RURAL AND REGIONAL AND TRANSPORT
LEGISLATIVE COMMITTEE

FEBRUARY 2003

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1.0 Executive summary

- GrainCorp is a leading agribusiness active in all aspects of the grain services industry - including storage & handling, marketing, transport, technical services, farm input merchandising and export of bulk goods. The company has also recently acquired an interest in milling and become active in rail transport.
- The grains industry has undergone substantial change in the past decade and continues to evolve. The change from a largely government operated industry to one characterised by competition between private companies needs to be recognised by regulatory structures. It is important that regulators are responsive to these changes and help facilitate a commercial environment that promotes efficiency and competition.
- The relationship between AWB International and AWB Limited suffers from an inherent conflict between AWBI's charter to maximise returns to growers and AWBL's obligation to maximise value to shareholders. The refusal of AWBL to allow competition for the supply of services to AWBI stifles innovation along the supply chain and reduces benefits to customers.
- GrainCorp urges the introduction of transparency of information in the operation of the Wheat Single Desk including the sharing of information with industry participants and the clear classification of commercial information.
- GrainCorp supports the introduction of competition throughout the supply chain and believes this is compatible with the continued operation of the Single Desk for wheat exports. The functions of AWBI should be clearly separated from the activity of AWBL and a process of competitive tendering should be introduced for provision of the services currently supplied by AWBL to AWBI. Naturally, all commercial service providers including AWBL ought to be a participant in this competitive process.
- While it is clear that the powers of the Wheat Export Authority are too limited and its role too narrowly defined, improving this situation would constitute only a partial solution to the problem. The inherent conflict between the objectives of AWBI and AWBL, and the negative flow-on effects that this has on competition and efficiency can only be resolved through a separation of AWBI and AWBL.
- GrainCorp proposes that the WEA be given oversight powers similar to those of other competition regulators and that the Australian Consumer and Competition Commission be used as a model in this regard. However, this should be constructed within the context of managing the relationship between AWBI and several competing service providers along the supply chain.
- GrainCorp contends that it is inappropriate to consider the functioning of the wheat export regulator, the WEA without giving consideration to the broader environment in which it operates. The review of the operation of the Wheat Single Desk currently scheduled for 2004 ought to be brought forward to 2003, with a view to extensive reform of the current structures.

2.0 GrainCorp Operations Limited

GrainCorp is a dynamic Australian agribusiness with its core business in bulk commodity storage and handling, marketing, merchandising and transport. Diversified by both supply chain integration and geography, GrainCorp operates primarily in New South Wales and Victoria with a range of services stretching across all mainland States.

GrainCorp's recent activity has included an acquisition in milling, activity in rail operations, partnerships in port operations, capital investment in storage and handling, and geographic expansion into new grain growing areas. GrainCorp employs a core staff of 778 employees committed to delivering business solutions focused on 'end to end' service to producer and end-user customers.

Prior to privatisation in 1992, GrainCorp operated as a statutory authority for 75 years. During this time and through the first steps of corporatisation that began in 1989, the Company underwent a number of name changes; however, the business' primary function was grain handling and storage. In 1998, GrainCorp became Australia's first publicly listed grain bulk handling company and today has around 11,000 shareholders.

October 2000 saw the first major consolidation in the Australian grains industry through the merger of GrainCorp with Victorian bulk handler, Vicgrain. The merger was agreed to through a share swap. Since 2001 GrainCorp has successfully taken part in the formation of a number of joint ventures.

GrainCorp is also active in supporting the rural communities in which it operates. Each year the company donates 1% of after tax profits to the GrainCorp Foundation, which in turn supports a range of charitable initiatives throughout grain growing areas.

3.0 The Grains Industry in Australia

The last decade has seen significant change in the industry as a range of government owned and operated organisations were progressively corporatised, privatised and in many cases publicly listed. GrainCorp was one of these organisations, along with AWB Limited, ABB and Grainco Australia. A range of Co-operatives and unlisted public companies are also in operation, such as Ausbulk, CBHWA and marketing organisations such as Netco.

Consolidation of the industry, which began with GrainCorp's merger with Vicgrain in 2000, is continuing. For example, GrainCorp is now in merger discussions with Grainco Australia, CBHWA has merged with the Grain Pool WA, and AWB Limited has acquired a 14.9% stake in Futuris and has also disclosed a desire to merge with an unspecified major bulk handling company.

In addition, there has been an increase in the incidence of alliances and partnerships between organisations. GrainCorp and Grainco together formed Bulk Terminals Australia. AWB Limited combined with Grainco and Ausbulk to form the Australian Bulk Alliance (ABA), Grainco has created Marketlink in partnership with ConAgra, and CBHWA is currently in discussions with AWB over storage and supply chain issues.

Vertical expansion is also underway - GrainCorp purchased Allied Mills in partnership with Cargill Australia, Ausbulk purchased the Adelaide Malting company and Joe White Malting, and AWB has invested substantial amounts in establishing a storage and handling network.

It is likely that further consolidation and expansion will occur as companies seek to manage their geographical risk and to create efficiencies of scale.

4.0 AWB International (AWBI) and AWB Limited (AWBL)

It is important to point out that in transforming itself into AWB Limited, the Australian Wheat Board underwent a fundamental change in its nature and priorities. It is now a publicly listed commercial company with an obligation to its shareholders. This is important for the way the operation of the Single Desk is viewed by regulators.

AWB International has no staff of resources of its own. It contracts out its function to AWB Limited, including the operation of the national export wheat pool. While operation of the Single Desk has been entrusted to AWBI, the company has extended its monopoly powers down the supply chain by granting AWBL the exclusive right to provide all services to AWBI.

In addition, AWBI suffers from the compromised situation of its Board, which is dominated by Directors from AWBL. While this may appear to be a relatively peripheral, it epitomises the contradiction inherent in the existing structure.

The supply chain for wheat therefore suffers from dislocation and distortion because of this refusal of AWB Limited to allow competition for the servicing of the requirements of AWB International and the single desk.

There is no logical or legislated reason for not allowing contestability along the supply chain to port other than to confer a market advantage on AWB Limited. An advantage that we believe is not commercially sustainable and precludes the innovation and efficiency that a more competitive model could provide.

AWB International cannot fulfil its charter to maximise returns to growers if it will not even consider the possible benefits of competition along the supply chain by engaging other industry participants.

5.0 Transparency

The current operation of wheat export arrangements fails to provide an acceptable degree of transparency of information. An organisation vested with the rights and responsibilities that the single desk operator enjoys also carries an obligation to share non-proprietary information with a range of industry participants.

It is important that clear definitions exist around what information has commercial value and should therefore be sold or licensed and what information actually belongs to the broader industry. An example of where this has failed is in the appropriation of seed production by AWBL as private intellectual property. Previously this information was historically commonly available from the old Australian Wheat Board.

6.0 Competition

GrainCorp believes that it is possible to maintain the benefits of the Single Desk while at the same time introducing competitive tendering for every part of the supply chain, particularly in storage & handling, transport and chartering. The result of competition will be to deliver lower prices for customers than a single supplier would provide.

A pertinent example of this is the entry of the National Australia Bank into competition with AWB Limited for provision of finance to growers. This resulted in an immediate reduction in cots per tonne from \$1.90 to \$1.65. This would not have occurred had AWB Limited continued as the sole provider of Pool finance products.

The only way to achieve this is to ensure a clear separation of the functions of AWBI and AWBL and to allow competition for the supply of services to AWBI from a range of suppliers. This need not result in a diminution of quality as some have suggested, and this has not eventuated in the export of unregulated grains from States where this is currently permissible.

It may eventuate that AWBL may continue to be the main supplier of these services to AWBI, but no company should presume this status unless it is able to provide the best deal, on cost as well as quality.

7.0 Regulation

While the industry has changed rapidly, regulatory structures and the apparent attitudes of regulators have been slower to respond.

Structures that may have been appropriate when organisations were publicly owned and operated as regional monopolies, may no longer be appropriate in an environment of competition amongst private organisations which are increasingly vertically integrated.

Specifically, the powers wielded by the AWB, both explicit in the Wheat Marketing Act 1989 and derived through business rules created by AWB Limited, constitute an effective monopoly on information throughout the supply chain.

The extension of the international marketing monopoly through the supply chain is inherently anti-competitive. By not allowing competition along the supply chain and denying potential competitors the ability to enter into relationships with storage & handling, transport and chartering providers, the current system removes any incentive for innovation and the promotion of efficiency.

There exists an inherent conflict between the Charter of AWBI and the obligation that AWB Limited has to its shareholders. The Wheat Export Authority has not addressed this conflict or the related extinguishing of competition from the supply chain.

8.0 Powers of the WEA

While this review is expressly concerned with the means of funding the continued operation of the WEA, we believe it is important to consider the role of the WEA within the industry more broadly.

It is GrainCorp's view that the WEA has not operated as an effective regulator of the industry. This is partly a result of the inadequate level of resources available to it, and partly a product of its apparent inclination to define its own role in a minimalist way.

The most obvious example of this is the failure of the WEA to insist on disclosure of information relevant to the construction and operation of the contract between AWB International and AWB Limited.

Monitoring of the relationship between AWB International and AWB Limited is the central issue for promoting efficiency and the prime *raison d'être* for the WEA. If this is not open to scrutiny then competitors to AWB Limited can have no incentive to improve and to innovate along the supply chain and the WEA has failed to fulfil its most basic obligation to the industry.

GrainCorp proposes that the WEA be given oversight powers similar to those of other competition regulators and that the Australian Consumer and Competition Commission be used

as a model in this regard. However, this should not be seen as a solution to the inherent conflict in the relationship between AWBI and AWBL. This conflict and the negative flow-on effects on competition and efficiency that are caused along the supply chain as a result can only be resolved by a formal separation of AWBI and AWBL.

Care must be given to ensuring that the process is, and is seen to be, utterly transparent and compatible with competition principles. Otherwise the result will be to provide a unique and unfair advantage to one private company in the industry, as is indeed presently the case.

9.0 Industry Perspective

There has been considerable industry discussion recently on the issue of a competitive supply chain and the operation of the Wheat Single Desk. In particular, significant reports were produced by Accenture for the Grain Growers Association which covers growers in New South Wales and Victoria, and by Kronos for United Grower Holdings based in South Australia.

While a detailed discussion of those reports is not appropriate here, GrainCorp would respectfully suggest that a careful reading of their contents would be useful to the Committee in making its deliberations.

There appears to have arisen a broad consensus within the industry that the existing arrangements are both inequitable and inefficient and that major changes are required to introduce competition and transparency.

10.0 The way forward

GrainCorp believes that an effective regulator is an essential part of the wheat industry. The WEA should be empowered to operate in a similar manner to regulatory bodies such as the ACCC, and that a move away from its existing minimalist role should be pursued.

While we welcome the review of the Wheat Marketing Amendment Bill 2002, and look forward to positive reforms ensuing from it, it is clear to us that a review will not be effective unless it includes broader consideration of the operation of the Single Desk and the overall environment.

For this reason, we would urge the Committee to support a bringing forward of the review of the Single Desk scheduled for 2004 into the current year.

That review should give serious consideration to separating the functions of AWBI from AWBL, both in terms of the exclusive supply arrangement that currently exists and in terms of governance. Other suppliers of grain storage & handling, transport and chartering should be encouraged to compete for supply to AWBL rather than being expressly excluded as is now the case.

If these issues are addressed then the expected benefits may include:

- Increased investment in new facilities to deliver improved service and lower costs, as new competitors are able to link this investment to measurable returns.
- Improved information as a result of increased transparency in costs, charging practices and operational activities
- Ensuring that capital investment is made on solid commercial grounds
- Improved efficiency by allowing supply chain participants to negotiate with freight suppliers and to manage volumes of grain competitively through least cost pathways.