

PGA

*Representing farmers and rural enterprise in
WA for 100 years*

**Submission to the
Senate Rural and
Regional Affairs and
Transport Committee**



*Inquiry into the Wheat Export Marketing Bill
2008 and Wheat Export Marketing (Repeal
and Consequential Amendments) Bill 2008*



Competition the key to the new wheat marketing arrangements

The change proposed under the new Wheat Marketing legislation will bring significant benefits to the grains industry of WA. For the first time in 70 years, export wheat growers will regain control of their own business decisions, and not be dictated to by a centralised marketing entity.

PGA Western Graingrowers

Western Graingrowers is a commodity committee of the PGA, a not-for-profit industry association that has represented the rural industries of Western Australia for over 100 years. Western Graingrowers represents professional grain growers operating at all levels of the industry – farmers whose principle goal is to advance their business opportunities.

The PGA is predominantly funded by our members' contributions, which are voluntary. PGA memberships are based around business entities. PGA represents in excess of 3000 individuals involved in agricultural production across WA. Around a third of our members produce grain, as either part of a dedicated grain farming enterprise, or as part of a mixed farming operation.

PGA members grow approximately two-and-a-half million tonnes of wheat annually (around 35% of Western Australia's annual wheat exports), and are major shareholders in Cooperative Bulk Handling of Western Australia (CBH). PGA members are also significant producer of all other grains, including barley, canola, lupins and oats.

PGA members contribute substantial compulsory levies to the industry. These include the wheat export charge, and the research and development levy.

PGA Western Graingrowers is committed to the establishment and maintenance of a rigorous competitive environment in all aspects of grain production and trading.

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Introduction

As the Senate Rural and Regional Affairs and Transport Committee would have realised from their hearings in 2003, there have been longstanding problems in the wheat industry that have not been addressed.

It is the view of PGA Western Graingrowers that the wheat industry's current predicament is a result of these deficiencies, including;

- lack of accountability before the law (e.g. AWB's exemption from the Trade Practice Act);
- a captive regulator;
- a lack of ministerial oversight;
- conflicts of interest overlaid with perverse incentives, resulting from the monopoly privileges under the current Wheat Marketing Act.

Today, due in large part to these deficiencies, there is no credible monopoly-rights holder. The draft legislation provides an alternative that takes advantage of existing capabilities in Australian industry that will improve performance and avoid an even deeper crisis.

PGA Western Graingrowers is on the record as supporting an accreditation system for the bulk export of wheat for some years.

We took our preferred model to Canberra in 2006 and 2007, providing detailed briefing to members of all the major political parties in both Houses of Parliament.

In short we recommended the creation of a new Government Authority with the power to issue accreditation to export wheat in bulk from Australia. Those entities that gained accreditation should have no restrictions as to the tonnages exported, or the destinations they could export to.

We believe that as it stands the draft government legislation addresses the basic problem with the old system – the lack of competition for the purchase of export wheat.

As such PGA Western Graingrowers endorses the proposed legislation as drafted.

In this submission we will address some particular issues of implementation and operation of the new system, and the unfounded pessimism from some grower groups.

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Farmer Organisations, Pessimism, and Reform

It is important to note that across Australia the wheat industry is diverse, serving different markets, both domestic and export, resulting in competing interests across states.

Claims that certain groups “represent the grains industry” or “represent 70 per cent of growers” are political, not empirical, statements.

Most grain growers across Australia are not members of a State farm organisation (such as NSW Farmers, VFF or WAFF). Informal estimates on the level of grain grower representation have been put as low as 25 per cent in the Eastern States.

As well the Inquiry should be aware that the “80/20” rule applies in the grains industry. CBH receive some 50 per cent of their grain deliveries from less than 10 per cent of growers. This means that less than 500 growers in WA deliver half the grain in Australia’s largest wheat exporting state.

A large, fully deregulated domestic market on the eastern seaboard has attracted grower’s wheat in preference to the monopoly export system. This has left Western and South Australian growers bearing the full costs of the monopoly year-in, year-out.

To contrast the difference between eastern and western growers, PGA members alone have produced more export grain than NSW and Victoria combined in both the past two seasons, and more than the average production of Queensland (one million tonnes¹) over the past decade².

WA growers are on average three times larger than their eastern states counterparts.

In light of this variation, the Senate Inquiry should recognise the call for surveys and polls of growers for what they are; an attempt by various groups of agri-politicians to sustain a system of patronage and cronyism that has been highly destructive of the grains industry.

The grains industry has seen this desperation before. Prior to every move to reduce the burden of regulation on the grains industry, the State farm organisations (with the notable exception of the PGA) predicted chaos and financial ruin. With each deregulatory step, their predictions were proven grossly inaccurate. The deregulation of the domestic wheat industry, barley in Victoria, coarse grains in NSW, coarse grains in WA, and barley in SA, all passed without incident.

¹ From Queensland Department of Primary Industry at http://www.dpi.qld.gov.au/cps/rde/xchg/dpi/hs.xsl/26_3500_ENA_HTML.htm

² With the possible exception of the 2002/03 drought.

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It is interesting to note that where growers have real choice they prefer to operate in the deregulated markets rather the highly regulated export wheat market. This is demonstrated most clearly in the deregulated domestic market, but was also on show in WA in both 2006 and 2007, when warehousing and consignment to other acquirers was preferred over delivery to the National Pool.

Key points:

- The inquiry should treat the predictions of catastrophe with scepticism, and recognise the damage done to the industry by interventionist and restrictive policies.
- Polls and surveys should not be used as a way of determining an industry structure; to do so is to encourage an unhealthy politics which is destructive of the industry in the long term.
- Grower's commercial decisions indicate an acceptance of, indeed a preference for, deregulated markets.

Grains Council of Australia

It has come to our attention that the GCA is arguing that it should be written into the legislation as the peak grain body in Australia. PGA Western Graingrowers would object to this in the strongest possible terms.

The GCA is an organisation that was captured by external interests and in our opinion actively worked to the detriment of the grains industry of Australia for a number of years.

The GCA became cheerleaders for a monopoly system that supported cronyism and corruption, at the expense of defending growers' real interests.

We attach two press releases that speak for themselves. They were distributed during the Oil-for-Food scandal, and reveal a GCA that was not concerned with the interests of growers but with the interests of the single desk monopolist.

Key point:

- PGA Western Graingrowers believes that the GCA should have no legislated role to play in the future of the grains industry, and should no longer be recognised by Government as a peak industry body.

The Legislation's Objective

As noted above PGA Western Graingrowers endorses the current legislation. One area where we would recommend some further work is making the underlying objective of the Act clear.

This could be achieved in a number of ways; in an Explanatory Memorandum, in the Legislative Instrument that will accompany the Act, Second Reading Speech, or as an objects clause in the Act itself.

PGA Western Graingrowers would suggest the following:

The purpose of the Wheat Export Marketing Act 2008 is to enhance choice, competition, transparency and security in the export of bulk wheat from Australia.

- *Choice: to enable growers to sell to a range of accredited exporters.*
- *Competition: to enable accredited exporter to compete for grower's wheat, and export it with no restrictions on quantity or destination.*
- *Transparency: to enable all commercial participants to access aggregate information, in order to maximise the benefits of choice and competition and increase grower confidence in the system.*
- *Security: to protect the international reputation of Australian wheat; to maintain high commercial standards for Australia exporters; to diversify export risk across accredited exporters.*

The Legislative Instrument and the new WEA

There should be an explicit presumption in the Legislative Instrument that the burden should be on the WEA to demonstrate why an exporter is denied accreditation.

It is important that the Legislative Instrument allow the WEA to distinguish between an accredited exporter who is seeking to export millions of tonnes to multiple destinations, a niche marketer seeking to export 50,000 tonnes to a single destination, and a group of growers seeking to export their own wheat.

The term "fit and proper" in section 11 of the draft Bill should be read quite differently in each case. There is a significant difference in terms of the risk profile, both to individual growers and the industry as a whole, in each these different circumstances. The WEA should have clear instruction on how to interpret its role in such circumstances.

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PGA Western Graingrowers would not like to see the purpose of the new Act undermined by an overly literal reading of section 11, at the expense of niche marketing opportunities.

Key points:

- The new WEA should be given guidance in the legislative instrument as to the interpretation of 'fit and proper' in various circumstances.
- The onus should be on the WEA to show why they have denied accreditation to an applicant.

Access to Infrastructure

A significant point of discussion since the release of the draft legislation has been the role and market power of the bulk handling companies.

PGA Western Graingrowers supports the current obligations on bulk handlers, would not wish to see the burdens increased. We would note that it would be our preference to have a less interventionist regime, and believe that these obligations may need to be reconsidered in the light of commercial behaviour over the next season.

It is a legacy of past public policy that has seen a large percentage of storage, handling and port facilities in the hands of three regionally-based entities (CBH in WA, Graincorp in the east, and ABB in SA).

It is important, as we move towards a more open and competitive wheat marketing system, to recognise that these legacy monopolies are very different to the commercial monopoly granted to AWB Ltd.

A legacy monopoly of the sort held by CBH in WA will face much greater pressure to maintain good commercial practice than a company operating under a commercial monopoly protected by Government legislation.

Already we have seen evidence of this. CBH developed and began to communicate its proposed access regime (Grain Express) prior to the release of the draft Bill. CBH has done this in recognition that throughput of its facilities in a competitive grains market will require them to operate on commercial terms with the wider industry.

If CBH do not operate a commercial system then they are very well aware of the competitive and regulatory pressures they will face.

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Already we are seeing an increase in both on-farm storage (both permanent silos and temporary ‘sausages’³) and storage owned by other commercial operators. Whilst the total volumes are small, particularly when compared to CBH, it is a certainty that any failures by CBH will result in more storage being constructed.

As the McColl Royal Commission into the grain industry in the 1980s noted, contestability in freight between road and rail is vital in maintaining commercial pressure on the bulk handlers. PGA Western Graingrowers would encourage the committee to revisit the findings of the McColl Commission, particularly in the area of grain transportation.

In combination with the access to road freight opportunities, alternative port facilities (or even the threat of their presence) will apply a strong market discipline to CBH. Whilst alternative port infrastructure cannot be built overnight, there are projects on the drawing board in WA that could offer commercial alternatives to CBH. PGA Western Graingrowers would expect that the use of such facilities for grain would be a last resort – we believe that the accredited exporters will attempt to work within the system set out in the draft legislation.

In the final analysis, however, the option of regulation is always available in the future. Whilst we believe that commercial pressures will tend to open up the system in WA, if this does not prove to be the case then other options can be considered. It also may be that some of the obligations imposed by the Act (particularly section 20(2)) may not be required.

One thing can be guaranteed, the behaviour of CBH, Graincorp and ABB in terms of their storage, handling and port infrastructure will be more closely watched during the next harvest than at any time in their history.

Key Points:

- PGA Western Graingrowers endorses the access test, but notes that this area needs to be closely watched in the future.
- PGA Western Graingrowers preference is for less intervention in the future
- CBH facing significant commercial pressures that should ensure it seeks to maximise throughput of its facilities, allowing commercial arrangement to govern access to its storage, handling and port facilities.

³ Sausages or Silo bags are becoming more common in Australia. They are made from polyethylene, and individual silo bags can hold over 300 tonnes of grain for up to a year.

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Information Provision

One of the often overlooked flaws in the monopoly exporting system was the fact that it blocked all meaningful price signals from the end-users of Australian wheat.

In a competitive system the price signals should be more transparent, and this will be facilitated if some level of aggregate data is available to all commercial participants, including accredited exporters, the domestic trade, and growers.

The precise means by which that information is collected and distributed is being considered by the Wheat Industry Expert Group, and we will await their final report before commenting further on this issue.

Review of Legislation

PGA Western Graingrowers would endorse a review of the legislation in 2010, and would encourage the Minister to restate his commitment to an independent economic review, with an analysis based on costs and benefits of the system.

Conclusion

PGA Western Graingrowers believes that a accreditation system for wheat exporting will represent the most significant, and positive change in the wheat industry in the past 70 years.

We would encourage all members of Rural and Regional Affairs and Transport Committee, and all parliamentarians, to consider the system that is being replaced by the draft legislation.

The single desk monopoly was based on a system of perverse incentives; it linked the agri-political interests of some State farm organisations and the GCA, with the commercial interests of a private company, all protected by the legislative fiat of the Parliament. It is a system that has cost the export wheat growers of Australia hundreds of millions of dollars in the past decade alone.

The changes proposed in the draft Bill are a sensible, commercial response to what has been a very real crisis in the export wheat industry. We commend the proposed legislation, and would encourage all Parliamentarians to support its passage at the earliest possible opportunity.



PGA Western Graingrowers Contacts:

Leon Bradley
Chairman

Slade Brockman
Policy Director

PGA of WA (Inc)
277 Great Eastern Highway
BELMONT WA 6104

Phone: (08) 9479 4599

Fax: (08) 9277 7311

NEWS RELEASE



Released Thursday 8 December 2005

ANONYMOUS AWB ALLEGATIONS DESTRUCTIVE AND LACK CREDIBILITY

The Grains Council of Australia says anonymous allegations about payments by the Australian Wheat Board (now AWB Ltd.) in the 1990's lack credibility and appear to be aimed at destroying Australia's export wheat industry.

GCA President Murray Jones has reacted angrily to unsubstantiated media reports this week, quoting un-named former AWB employees.

"GCA has learnt that one of these people comes from Western Australia, where minority interests oppose the single desk. However, apart from a handful of media reports, there has been no verification of their allegations and no credible evidence to back up the allegations has been released", Mr Jones said.

"Who are these faceless former employees? Who they are working for now? If there is any substance to the allegations we need to see the hard evidence. Talking to reporters and cowering in the shadows is not good enough, when grain producers' livelihoods are being put at risk".

"What is the motivation for making these allegations now? If these faceless people are concerned about what they or their former employer is alleged to have done, why didn't they raise their concerns during their employment with AWB?" he said.

"Laws relating to the payment of kickbacks and other inducements were put into place in Australia in 1999 / 2000. AWB Ltd, in 2000, put into place processes that ensured that all AWB employees were aware of the new laws and their application to the international trading AWB undertakes".

"These allegations are part of an orchestrated campaign to smear AWB and to destroy the wheat single desk. These attacks are directly against the interests of Australian grain producers, because over 70 per cent of the shares in AWB Ltd. are held by grain growers and the single desk is supported by over 80 per cent of Australia's wheat producers", he said.

"Continued attacks on AWB are also providing ammunition for the US Government-funded lobby group, US Wheat Associates (USW) and anti single desk groups like PGA Western Grain Growers, to undermine Australian wheat markets all around the world".

For further information, contact:

Niree Creed
0418 625595

Mr Murray Jones
President
M: 0428 433 183

Mr David Ginns
Director
02 6273 3000
0409 465 056

NEWS RELEASE



Released Friday, 28 October 2005

UN At Fault In Oil For Food Program

The Grains Council of Australia (GCA), the peak Australian grains industry body, is pleased to hear the IIC's report has cleared AWB of any wrong doing in the Oil for Food Program.

Speaking on behalf of the President of GCA, Chief Operating Officer David Ginns said that the GCA has full confidence in AWB's role in the Oil For Food program.

"We have to stress that AWB was following the rules of the game set by the UN and relied on them to supervise and regulate all of the contracts related to the Oil For Food program."

"It was the role of the UN administration to ensure that all of the contracts that came thorough the program were appropriate," Mr Ginns said.

"We are astounded that the Volcker report found that the UN had concerns with some aspects of the contracts it had approved, but did not act on these concerns or share them with AWB."

"To our mind, AWB was an unwitting pawn in a very complex situation. It is now apparent after the Volker investigation that systems designed by the Iraqi dictator to disadvantage his own people were operating in secret," Mr Ginns said.

"Australian grains producers are disappointed that the wash-up of the United Nations Oil For Food program has found that there were irregularities behind the scenes."

"If anyone has let down Australian grain producers it's the UN and not AWB."

Niree Creed
Media Manager
0418625595

Mr David Ginns
COO
02 6273 3000
0409465056