

Australian Grain Exporters Association

submission to the

Productivity Commission Review of National Competition Policy Arrangements

June 2004

Table of Contents

INTRODUCTION.....	3
MEMBERSHIP & OBJECTIVES OF THE AGEA.....	3
ANTI-COMPETITIVE LEGISLATION	3
ECONOMIC CONSEQUENCES OF SINGLE DESK MARKETING	4
WHEAT MARKETING ACT 1989	4
<i>Background</i>	4
<i>AGEA Recommendations</i>	6
QUEENSLAND: GRAIN INDUSTRY (RESTRUCTURE) ACT 1993	7
<i>Background</i>	7
<i>Reforms Implemented</i>	7
<i>AGEA Recommendations</i>	7
NEW SOUTH WALES: GRAIN MARKETING ACT 1991	8
<i>Reforms Implemented</i>	8
<i>AGEA Recommendations</i>	8
VICTORIA AND SOUTH AUSTRALIA: BARLEY MARKETING ACT 1993	9
<i>Background</i>	9
<i>Reforms Implemented</i>	9
<i>AGEA Recommendations</i>	10
WESTERN AUSTRALIA: GRAIN MARKETING ACT 1975	10
<i>Background</i>	10
<i>Reforms Implemented</i>	10
<i>AGEA Recommendations</i>	11
CONCLUDING COMMENTS.....	11
A CONSISTENT THEME	11
THE IMPLEMENTATION OF REFORM	11
REFERENCE LIST.....	13

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

Introduction

Membership & Objectives of the AGEA

The Australian Grain Exporters Association (AGEA) was formed in 1980 by a group of private grain exporters to promote their philosophy that competition, represented by open and contestable markets, is the most effective and efficient means of delivering the maximum economic benefits to the grains industry, and the community as a whole.

Current AGEA member companies are:

- A C Toepfer International (Australia) Pty Ltd
- Bunge Global Markets Australia Pty Ltd
- Cargill Australia Limited
- Louis Dreyfus Australia Pty Ltd
- Noble Grain Australia Pty Ltd
- Brooks Grain Pty Ltd

The members of the AGEA are active participants in both domestic and export grain markets, with a particular focus on providing efficient access to international markets. However, anticompetitive legislation in all major grain producing states continues to prohibit or restrict AGEA member companies from operating bulk grain exporting business in wheat, barley, canola, lupins and sorghum.

Anti-competitive Legislation

The following is a list of the legislation that has, and in some cases continues to, prohibit or limit openness and contestability in the marketing of Australian grain.

- Queensland: Grain Industry Restructuring Act 1993
- New South Wales: Grain Marketing Act 1991
- Victoria: Barley Marketing Act 1993
- South Australia: Barley Marketing Act 1993
- Western Australia: Grain Marketing Act 1975
- Commonwealth of Australia: Wheat Marketing Act 1989

The effect of each of these pieces of legislation was to create what is commonly referred to as a 'single desk'. Single desk is the term used to describe the various forms of statutory marketing bodies that have existed since the 1930's to monopolise the export of certain grains and oilseeds from Australia.

In this submission the AGEA will, on the basis of independent research, argue that the single desk legislative arrangements listed above are, or were, anti-competitive. Our submission begins with a broad overview of the economic consequences of single desks in general. We then proceed to examine each of the above legislative arrangements in more detail, and close with a series of recommendations.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

Economic Consequences of Single Desk Marketing

Proponents of single desk arrangements argue that they provide Australian grain growers with monopoly-type advantages in the marketing of their grain. AGEA disputes this claim, and in the following pages presents independent analysis in support of this view. Two important themes are identified.

Firstly, we show that in practice single desk marketing eliminates competition in the provision of marketing, logistics, risk management and other services to the growers of export grain. As such, a situation of *monopsony* (i.e. lack of competition to the detriment of growers) exists in the marketing arrangements for export grain.

Secondly, we show that claims by single desk bodies of monopolistic powers in the sale of grain to overseas counterparties are equally unfounded. Australia represents a minority share of global production and trade in all major grains. In the global grains market Australian single desks hold only limited, if any, market power. Further, the limited market power enjoyed by Australian single desks in certain segments of global markets is generally not due to their single desk status *per se*, but is instead attributable to other factors such as geographical and quality advantages.

Wheat Marketing Act 1989

Background

The Wheat Marketing Act was reviewed under NCP principles in 2000. In its final report the review concluded:

“The Committee was not presented with, nor could it find, clear, credible and unambiguous evidence that the current arrangements for the marketing of export wheat are of net benefit to Australian wheat growers, or to the Australian community”.

NCP - WMA Review Committee (2000)
page 6

“At the same time the Committee received convincing evidence that the current restrictions on competition have had an inhibiting effect on innovation in marketing, the identification of new marketing opportunities including small, niche, or specialised export markets, and ongoing development of existing markets for Australian wheat”.

NCP - WMA Review Committee (2000)
page 144

As part of the NCP Review the Committee engaged The Allen Consulting Group to critically review, quantify and report on the economic effect and overall advantages

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

and disadvantages of current arrangements of the Wheat Marketing Act. The overall conclusion reached by the Allen Consulting group was that:

“Removing the single desk is expected to result in a decrease in the price premium earned from exporting Australian wheat, however the reduction expected is only slight. Furthermore, there is expected to be a resulting decrease in the cost of producing wheat as increased competition encouraged from the abolition of the single desk creates supply chain efficiencies. Overall, evidence suggests an increase in annual national welfare in the order of \$56 to \$223 million per annum. This suggests that the existing single desk arrangement created by the Wheat Marketing Act is, from an economic perspective, a net cost to Australia as a whole.”

Allen Consulting Group (2000a)
page 73

In addition to assessing the economic impact of the competitive restrictions The Allen Consulting Group looked at the social impact arising from the Wheat Marketing Act. They concluded that:

“while the social impact is likely to be positive for some (or possibly, for even many) wheat producers, the social impact of reform is likely to be positive for the wheat belt and Australia as a whole”.

Allen Consulting Group (2000b)
page 48

This is relevant to the terms of reference as it specifically refers to the impact of reform on regional areas.

Many of the submissions provided to the NCP Review highlighted the significant savings that could be achieved in the grain supply chain. These include the submission written by the Centre for International Economics on behalf of the Joint Industry Submission Group Australian Wheat: Its Time for Choice:

“Some grain handling companies have conducted extensive research over the past two years and are convinced that, across the board, there are supply chain savings of the order of \$5-\$15 a tonne available through the creation of competing supply chains. Savings of this magnitude across the whole wheat crop would amount to between \$120 million and \$360 million”

JISG – page 52

Under the current arrangements competing supply chains do not exist. AWB International as manager of the single desk assumes title to wheat at the first point of delivery. In this way they preclude other market participants from managing the flow of wheat destined for export. AWB International does not employ a competitive tender process in order to access the services it requires to manage the supply chain. These are provided only by the parent company AWB Ltd.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

AGEA Recommendations

The AGEA is disappointed that the recommendations of the NCP - WMA Review Committee (2000) remain largely unimplemented. In particular:

- Recommendation 2 proposes means to ensure the total independence of the Wheat Export Authority
- Recommendation 3 proposes the Wheat Export Authority introduce a simplified export control system for a three year trial period
- Recommendation 6 states that the main purpose of the 2004 review of the Wheat Export Authority (currently underway) should be to provide “*one final opportunity for a compelling case to be compiled that the ‘single desk’ delivers a net benefit to Australian community*” (p8). Despite this recommendation from the 2000 review, the terms of reference for the current (2004) review specifically *exclude* examination of the wheat single desk.
- Recommendation 7 proposes the Wheat Export Authority introduce a three year trial period for more competitive arrangements for the export of wheat in containers
- Recommendation 8 proposes the W M A be suspended, in part, for Durum wheat only, to enable a three year trial of more competitive arrangements

Recommendation 6 warrants particularly close examination. In full, it states:

“The Committee recommends that the ‘single desk’ be retained until the scheduled review in 2004 by the Wheat Export Authority (WEA) of AWBI’s operation of the ‘single desk’. However, the main purpose and implementation of this scheduled review should be changed so that it provides one final opportunity for a compelling case to be compiled that the ‘single desk’ delivers a net benefit to the Australian community. In particular:

- *the WEA review would allow further information to be gathered about the level of ‘single desk price premiums’ and about the ability of AWBI to achieve significant and sustainable cost savings in the supply chain for the benefit of growers; and*
- *if no compelling case can be made by the time of the 2004 review that there is a net public benefit, then the ‘single desk’ should be discontinued; but if a compelling case can be made by the time of the 2004 review that there is a net public benefit, then the ‘single desk’ should continue with ongoing regular WEA reviews of AWBI’s performance in managing the ‘single desk’, and if necessary, a further NCP review in 2010.”*

NCP - WMA Review Committee (2000)

page 145

The scheduled 2004 review mentioned above is currently underway. Included in the terms of reference for the current review is the following:

The purpose of the 2004 Review is to assess AWBI’s performance as the commercial manager of the single desk and its obligation to maximize net returns to growers. Analysis of whether or not the single desk should continue

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

is not within the scope of the review and the review is not intended to fulfil National Competition Policy requirements.

It is clear from this term of reference that recommendation 6 of the 2000 NCP - WMA Review has been completely overlooked. The 2004 Wheat Marketing Review is explicitly NOT providing “one final opportunity” to examine the net benefit of the single desk despite Recommendation 6 of the 2000 review. The AGEA recommends an NCP review be instituted in the shortest possible time that would adhere in its entirety to Recommendation 6. Likewise, the AGEA await the outcome of the current (2004) Review of Wheat Export Authority and urge a prompt implementation of any recommendations from that review that will remove anti-competitive powers.

In addition, the AGEA draws the attention of the Productivity Commission to the similarity in the findings of the Senate Inquiry in June 2003 and the above recommendations of the NCP - 2000 review. In particular, recommendation 2 of the NCP review closely resembles recommendation ii) of the Senate Inquiry, while the essence of recommendations 3 and 7 is repeated by the Senate Inquiry in recommendations iv) and v) (Senate Rural and Regional Affairs and Transport Legislation Committee, 2003, p 29-32).

Queensland: Grain Industry (Restructure) Act 1993

Background

From 1991 barley, sorghum produced in Central Queensland, and wheat were vested in Grainco. Vesting took effect from the time the plant that is to bear the grain emerges from the soil. The grower of such grain had, instead of a right to ownership of the grain, a statutory right to payment after the grain is delivered to, and sold by, Grainco. Vesting was the means of enforcing a compulsory export marketing scheme.

Reforms Implemented

The Act was amended at various times to remove compulsory marketing of sorghum and to allow review of the provisions for wheat. The Primary Industries Legislation Amendment Act 1999 provided for the expiry of the provisions relating to barley by the 30th June 2002.

AGEA Recommendations

AGEA notes that, with the exception of wheat, Queensland grain markets have been deregulated. A range of market participants operate in a competitive environment ensuring that Queensland grain growers have access to the best of domestic and export prices.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

New South Wales: Grain Marketing Act 1991

Background

The Grain Marketing Act 1991 vested in the NSW Grains Board coarse grains (barley, grain sorghum and oats) and oilseeds (sunflower, canola, safflower, linseed and soybeans). The Act was reviewed under NCP principles with a final report presented in July 1999:

“The majority of the Review Group were satisfied that the structure of the various industries and global market conditions for the commodities are such that there is no benefit to be obtained from the maintenance of an export single desk for NSW grain sorghum, oats, canola, safflower, sunflower, linseed or soybean”.

NSW Gov’t Review Group (1999), page xi

The majority recommendation was that the compulsory acquisition arrangements for these products be removed. In relation to barley the majority recommendation was to deregulate domestic and export markets except for Japan and that the ongoing restriction on exports to Japan be reviewed within five years.

In mid 2000 the NSW Grains Board was found to be in financial difficulty. The vesting rights of the NSW Grains Board pertaining to canola, barley and sorghum were sold to Grainco Australia Ltd in October 2000. An administrator was appointed in November of 2000. In February of 2001 the administrator filed a petition to wind up the Grains Board.

Reforms Implemented

The NSW Government had not implemented any of the recommendations of the review before the Grains Board collapsed. In August of 2000 the Grain Marketing Act was extended for a further 5 years until 2005. The Grain Marketing Amendment Bill 2001 continues vesting of barley, canola and sorghum until 30 September 2005. Notably the minor grains and oilseeds are no longer vested.

In 2003 GrainCorp Operations Ltd acquired the assets of Grainco Australia Ltd including the vesting rights for canola, sorghum and barley. From October of 2005 NSW canola, barley and sorghum will be deregulated.

AGEA Recommendations

AGEA welcomes the planned deregulation of NSW canola, barley and sorghum markets, and urges that measures be put in the place to ensure that the NSW state government does not back down on this intention, nor delay its implementation.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

Victoria and South Australia: Barley Marketing Act 1993

Background

Barley marketing in South Australia and Victoria was controlled by complementary legislation in each state. The Barley Marketing Act gave the Australian Barley Board compulsory acquisition rights for barley produced in those states, and as a result control over both domestic and export marketing.

The Barley Marketing Act 1993, was reviewed by the Centre for International Economics in 1997 under NCP principles. The Review found that the act imposed significant restrictions on competition, and that *“within the framework of NCP, CIE finds no case for the extended existence of anti competitive marketing arrangements – in particular the ABB single desk”*.

Centre for International Economics (1997), Exec summary p xxi

The key recommendations were that the domestic feed and malt barley markets should be deregulated, and that the ABB retain its single desk for the shortest possible transition period.

Reforms Implemented

In 1999 the Australian Barley Board was corporatised and ABB Grain Ltd was formed. The export single desk powers that remain in South Australia are held by a subsidiary company.

Victoria moved to implement the recommendations of the 1997 NCP Review with the Barley Marketing Amendment Act 1999 resulting in the deregulation of the domestic market for Victorian barley.

In June of 2001 Victoria allowed the export single desk powers to sunset, and since that time Victorian barley has been completely deregulated.

South Australia also deregulated the domestic market for feed and malt barley in 1999, and like Victoria made provision for the sunset of the export single desk in June 2001. When the time came South Australia backed away from the decision to allow the export single desk to sunset. In 2000 the Barley Marketing (Miscellaneous) Amendment Act extended the powers indefinitely with a further review to be conducted in 2002.

In 2003 the South Australian Barley Marketing Act was again reviewed under NCP Principles. The Review Panel found that

“The future net public benefit from the continued operation of the single desk, while not certain, is likely to be relatively small. When this is added to the absence of any comparative cost benchmarking of ABB and the large number of non quantifiable benefits and costs associated with the single desk, the Panel believes that Clause 5 of the CPA has not been met in full”.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

Round, Kowalick and Schulz (2003) page 5

The was then followed by several key recommendations for deregulation of barley marketing in South Australia, including a recommendation that “*ABB’s single desk for barley exports should be deregulated so that it is exposed to a greater degree of market forces. This deregulatory reform should proceed by means of a streamlined process in which ABB retains it single desk, but is opened to competitive challenge through a contestability process*” (recommendation 1, p6).

To date the South Australian Government is yet to implement the recommendations of the review.

AGEA Recommendations

Victoria, like Queensland, clearly demonstrates that open and contestable markets can and do work. Growers are getting full world market price (or better domestic bids) for barley every day. ABB continues to operate pools, and competes with other grain companies in an open market. As demonstrated in the Farm Horizons report *Feed Barley Price Assessment 2003*, Victoria has the best cash barley prices of all the major barley exporting states.

South Australia’s grain industry, in contrast to Victoria, is an area in need of further reform. The AGEA submits that implementation of competition policy in relation to the grains industry in SA is far from complete, and that the NCC needs to be allowed to complete its task in that state.

Western Australia: Grain Marketing Act 1975

Background

The Grain Marketing Act granted sole marketing of prescribed grains to the Grain Pool. Prescribed grains were defined as canola, lupins and barley. The 1999 NCP review of the Grain Marketing Act concluded:

“It is unclear whether it is extracts price premia from the exercise of market power as a result of its single desk selling powers. If it does, then modelling indicates that these premia are likely to be small”

Legislation Review of the Grain Marketing Act 1975 (1999), page 16

Reforms Implemented

After further review of the Act, and under pressure from the NCC the WA Government passed the Grain Marketing Act 2002. The legislation established the Grain Licensing Authority to administer a licensing scheme which grants a “main

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

export licence” to Grain Pool and provides for the granting of “special export licences” to competing exporters meeting certain conditions.

AGEA Recommendations

WA is in a transition process. While recognising that a smooth transition in marketing arrangements is required, the AGEA is concerned that the transition be as short as possible. There is no evidence of market failure in WA; indeed, partial deregulation during 2003 delivered cash prices for barley in WA *higher* than Victoria (Farm Horizons, 2004).

Concluding Comments

A consistent theme

As the examples above indicate, NCP reviews into single desk marketing at state and federal level have been unable to identify significant net public benefits to grain growers or the community generally. At best, net benefits were found to be small, uncertain and unquantifiable. In several cases the operation of single desks has been found to be at significant economic cost to the economy, and in one case (NSW Grains Board) the single desk body actually collapsed after incurring large losses. In the latter case, the industry continues to pay a levy to cover the losses incurred.

None of the reviews cited above concluded that the objectives of single desk legislation could only be achieved by restricting competition. All recommended changes to current legislation, either outright removal or changes to improve competition.

The implementation of reform

For a variety of reasons Government at a state and federal level has generally been slow to implement reforms recommended by NCP reviews. At a federal level the Government has largely ignored all of the recommendations from the 2000 Wheat Review. Indeed the terms of reference for the current (2004) review of the Wheat Export Authority appear in to be in direct contrast to recommendation 6 from the 2000 NCP – Wheat Marketing Act Review Committee.

Of all the states, Victoria has been the most proactive in implementing grain marketing reforms, with the state government overseeing the sunset of the Barley Marketing Act in that state in 2001. Notably, barley in Victoria provides an instructive case study in the benefits of deregulation. Since 2001, Victorian cash prices for feed barley have regularly been the highest of all the major barley exporting states (Farm Horizons 2004).

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

In Western Australia the partial reforms have delivered improved cash prices for feed barley. The Grain Licensing Authority issued special export licenses for 433,000 tonnes of feed barley from the 2003 harvest. The benefits of competition were immediately demonstrated. Historically WA feed barley trades at a discount to Victoria. Over the harvest period, WA feed barley prices went from a discount against Victoria of over \$10/tonne to a premium of \$4/tonne (Farm Horizons 2004). Special export licences were also issued for small quantities of lupins, canola and malt barley but in some cases these yet to be executed.

Although the Grain Licensing Authority of WA has only operated for one season, the AGEA is of the opinion that the special export licences, issued by the GLA for the export of feed barley, had a direct and significant impact on the prices paid to growers on cash contracts. This view is supported by the actions of grain growers in that state: approximately 700 grain growers responded by delivering 340,000 tonnes of feed barley to holders of special export licenses in the 2003/04 season.

We recognise that under certain circumstances there may be a need for transitional arrangements which introduce the benefits of competition in an orderly manner. We believe that in the case of WA the transition period should be as brief as possible, as although the restrictions that are currently in place under the GLA are less onerous than under the previous legislation, they still limit the ability of market participants to reflect the full world market value of the prescribed grains grown in WA.

The NSW Government did not address the recommendations of the NCP Review because of the collapse of the NSW Grains Board. They subsequently passed the Grain marketing Amendment Bill 2001 under which the process of vesting of commodities (barley, canola, grain sorghum) does not apply to commodities that come into existence on or after 1 October 2005.

The South Australian Government is yet to implement any meaningful reform despite two reviews.

The AGEA would ask the Productivity Commission to note the need for ongoing reform in grain marketing. Reform in this area will improve efficiency in export grain marketing and risk management. This in turn will improve prices and services to growers and result in greater income in rural areas.

AUSTRALIAN GRAIN EXPORTERS ASSOCIATION

ABN 08 080 034 235

PO BOX 352 RED HILL VICTORIA 3937

Phone/Fax 03 5989 2711

Reference List

Allen Consulting Group (2000a), *The Wheat Marketing Act 1989 - The Economic Impact of Competitive Restrictions*, Allen Consulting Group, Sydney.

Allen Consulting Group (2000b), *The Wheat Marketing Act 1989 - The Social Impact of Competitive Restrictions*, Allen Consulting Group, Sydney.

Centre for International Economics (1997), *Review of the Victorian and South Australian Barley Marketing Act 1993*, CIE Canberra & Sydney.

Farm Horizons (2004), *Feed Barley Price Assessment 2003*, Independent Analysis Prepared for the Australian Grain Exporters Association.

Joint Industry Submission Group (2000), *Australian Wheat – It's Time for Choice*, Submission to the National Competition Policy Review Of The Wheat Marketing Act 1989, prepared by Centre for International Economics, Canberra.

Legislation Review of the Grain Marketing Act 1975 (1999), Department of Agriculture, Western Australia.

NCP - WMA Review Committee (2000), *National Competition Policy Review Of The Wheat Marketing Act 1989*, Commonwealth of Australia, Department of Agriculture, Fisheries & Forestry.

NSW Government Review Group (1999), *Review of the NSW Grain Marketing Act 1991*, NSW Government.

Round, D Kowalick, I. and Schulz, G. (2003), *Review of the Barley Marketing Act 1993*, Final Report.

Senate Rural and Regional Affairs and Transport Legislation Committee (2003), *Provisions of the Wheat Marketing Amendment Bill 2002*, Commonwealth of Australia.