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13 November, 2009

The Commissioners  
Wheat Export Marketing Arrangements  
Productivity Commission  
Melbourne Victoria  
By e-mail: wheatexport@pc.gov.au

Dear Commissioners

### **RE: Wheat Export Marketing Arrangements**

ABB Grain Ltd on behalf of the Viterro group is pleased to make this submission to the Productivity Commission ('the Commission') Inquiry into Wheat Export Marketing Arrangements. In particular we wish to respond to the Commission's Issues Paper of October 2009.

#### **Who we are**

ABB Grain Ltd ("ABB") is a wholly owned subsidiary of leading global agribusiness Viterro Inc. and is accredited under the Wheat Export Marketing Act ("WEMA") as an exporter of Australian bulk wheat until 30 September 2011. Although based in South Australia, ABB purchases wheat across Australia and exports it in bulk from SA, WA, NSW, Queensland and Victoria. In the past ABB has been the second largest accumulator by volume of wheat behind AWB Ltd. ABB therefore has a significant interest in ensuring the efficiency of wheat exporting across Australia.

ABB's subsidiary, AusBulk Ltd ("AusBulk"), is a provider of port terminal services. In order to allow ABB to pass the access test under WEMA, AusBulk has given the Australian Competition and Consumer Commission ("ACCC") a voluntary undertaking committing AusBulk to granting access to its grain terminals to accredited bulk wheat exporters and to operating its port terminal services on a non-discriminatory basis.

#### **Executive Summary**

1. Australia has been successfully exporting non-regulated grains such as barley, canola, beans and peas for many years without regulation by a government authority.
2. There is nothing intrinsically different about wheat. There is no reason to believe that marketers will not successfully export wheat without regulatory assistance.
3. There may be some rationale for a transition period for wheat exports to allow growers some form of comfort as they enter the open market and to provide an orderly period for the industry to absorb the former single desk 'industry good' functions. The transition period should end on 30 September 2010.
4. The Australian wheat exporting industry is now comprised of many large and significant national and international traders. As participants in a global industry Australia's wheat exporters should not be subject to unnecessary local regulation.

5. We estimate that the cost to South Australian growers from the current form of regulation is in the order of \$0.50 cents to \$1.00 per tonne. We are concerned that these costs may grow if Wheat Exports Australia ("WEA") seeks a greater role in regulation without any corresponding benefit.
6. The WEA has proved itself an effective organisation to manage the transition but it is difficult to see benefits arising from WEA's activities beyond 2010.
7. The current wheat port terminal access arrangements are a major disincentive for new investment in the wheat supply chain.
8. We acknowledge that the port access arrangements have introduced a new level of professionalism into the seeking of access to bulk wheat export services. The best features of this regime, including the publish-negotiate-arbitrate model could be preserved moving forward by virtue of a bulk wheat port operators' Code of Practice, without the need for ongoing involvement of ACCC.

## **ACCREDITATION OF EXPORTERS**

ABB's view is that accreditation is a useful tool for the orderly transitioning of bulk wheat marketing to the open market but it should not extend beyond 30 September 2010.

Most export industries in Australia are not subject to accreditation requirements and indeed the export of most grain and non-grain (pulses, oilseeds) commodities are not subject to accreditation requirements. These markets have managed to function without any observable negative effects from the lack of accreditation requirements.

To the extent that there has been regulation of non-wheat commodities the trend in Australia has been to remove the regulation. In South Australia a licensing system was introduced in 2007 to transition the deregulation of the barley single desk to open market. ESCOSA has now called for submissions on whether the licensing system continues to serves any useful function. It is likely that the scheme will not continue beyond 2010.

Accreditation proves some level of assurance to growers that bulk wheat exporters will not default on their liabilities. However there are limitations to this reasoning:

- There is no guarantee to that bulk wheat exporters will not default; to the contrary the WEA's review of the financial condition of exporters may give some growers a false sense of confidence.
- There is no requirement that domestic traders be accredited and accordingly growers will continue to be credit exposed when they sell their wheat irrespective of the accreditation system.
- It is ABB's understanding that WEA's 'fit and proper' benchmarks are applied less rigorously to smaller exporters, in an attempt to avoid creating barriers to entry for smaller traders. This inconsistent approach may create greater risk to growers.

The other benefit of accreditation is that it goes some way to ensuring, through its "fit and proper" investigation, that rogues are not involved in exporting bulk wheat in a way that threatens Australia's international wheat reputation. Accreditation has provided an orderly period in which the industry can consider the best way to carry on the so-called "industry good" functions of the wheat single desk. However this period should not continue indefinitely.

## **ROLE OF WEA**

In light of our views on the transitory benefits of accreditation, it follows that the WEA should be abolished. It is costly to run (\$0.22 per tonne of wheat exports) and without the role of establishing and monitoring accreditation it is difficult to justify its existence.

In addition, ABB has a concern that WEA misconceives its current role. We have had three instances where WEA has, in our opinion, overstepped its charter:

1. WEA interrogated AusBulk's decisions on the management of the SA shipping stem. The WEMA only requires that, under the continuous disclosure rules, the shipping stem and port operating protocols are published and updated. The Act does not give WEA power over the management of the stem. That power vests in the ACCC under the Port Access Undertaking.
2. Despite the finding of WEA's auditor that ABB has an adequate risk management system for the accumulation and export of wheat, WEA pressured ABB to go further, much further, and implement an Enterprise Risk Management ("ERM") system for the whole of its business. ERM is a massive and onerous undertaking for any organisation, both from an organisational and cost perspective, and the decision to implement ERM is not one that should be driven by a government authority like WEA.
3. WEA imposed a condition of renewal of ABB's accreditation that ABB allows access pursuant to its Port Access Undertaking to port terminal services that it provides. Again, it is the role of ACCC, not WEA, to decide whether there has been a breach of a Port Access Undertaking. WEA's function is simply to ensure that an exporter who provides port terminal services passes the "access test" ie has in place a port access undertaking which has been accepted by ACCC. ABB has formally applied to WEA to reconsider the decision to impose this condition.

These instances suggest that WEA sees itself more akin to an Australian Prudential Regulation Authority ("APRA") with the power to "police" the industry and intrude into the businesses of accredited exporters rather than simply having the power to decide whether an exporter is a fit and proper person to hold a licence. This in turn suggests to us that the costs of resourcing and running WEA are likely to increase if left unchecked.

We perceive that the Essential Services Commission of South Australia ("ESCOSA"), by contrast, has managed to run an effective light touch licensing scheme for the de-regulation of barley in South Australia at a significantly lower cost to growers and the community.

## **PORT TERMINAL ACCESS AND SERVICES**

ABB's view is that through constructive interaction with the ACCC during the process of developing the port access undertaking there are a number of aspects of the port access arrangements which have been beneficial. They include:

- Publication of the shipping stem
- Publication of port operating protocols
- Minimum service offerings
- Publication of reference prices
- Formalised access procedures
- Negotiation procedures
- Prohibition on vertical discrimination
- Independent binding arbitration mechanism

These mechanisms could be retained, in a form of industry self-regulation which does not require the expensive involvement of ACCC.

## **PORT OPERATORS' CODE OF PRACTICE**

The model favoured by ABB is a Code of Practice from ABB, CBH and Graincorp incorporating the best aspects of the port access undertaking and continuous disclosure rules.

Each party would commit to comply with the Code. Any party which wished to withdraw from the Code would be required to provide 1 years notice.

Any disputes regarding a party's compliance with the Code would be subject to adjudication by an independent arbitrator and the decision of the arbitrator would be legally binding.

ABB believes that the very real threat of declaration of port terminal services under Part 111A of the Trade Practices Act would serve to ensure that the bulk handlers observed their obligations under the Code.

## **RESPONSE TO COMMISSION'S QUESTIONS ON PORT ACCESS**

The Commission's questions on port access draw out many of the reasons why a different approach to port access is needed.

*How significant are competition concerns relating to port access? Is there evidence of owners of port facilities gaining a trade advantage over rival exporters?*

Generally, Australia has had a history of open access to grain terminals. Allegations of trade advantage have been made from time to time but seem to have been generated more out of fear of behaviour rather than hard experience. For example ABB/AusBulk operated under a port access undertaking for 5 years from 2004 to 2009 and had only one arbitrated dispute (which was awarded in ABB's favour).

*In the absence of access regulation, what is the likelihood of 'regional monopolies' being formed? Is the 'access test' under WEMA necessary?*

The term 'regional monopolies' in the context of the dismantling of the wheat single desk implies action by the BHCs, if left unchecked, to exclude or hinder exporters from the use of port terminals for the benefit of their own marketing divisions.

ABB believes that:

- the threat of declaration of the terminals as essential facilities under Part 111A of the Trade Practices Act
- the potential of such behaviour to create incentive for other traders to by-pass existing port terminals
- the financial constraints on any company's ability to buy the whole crop and
- the need to encourage throughput through the terminals

are all factors which would deter BHCs from such behaviour. It follows that the 'access test' is not necessary.

*What is the prospect of rival port terminal facilities being built? Does this vary across jurisdictions?*

This is a very real prospect. For example it has been reported (25 August 2009) that Wilmar Gavilon has purchased the Brisbane sugar terminal at Fishermans Islands in Brisbane with the view of converting it to load grain. As another example ABB recently loaded a ship out of non-grain facilities at Gladstone to avoid the bottleneck at Graincorp port terminals. Without being able to disclose details, ABB is aware of rival port terminal projects and other port terminal by-pass opportunities being presently explored in every major grain state.

This level of activity indicates that with the right signals and incentives, new infrastructure development opportunities are at least theoretically available. However later in this paper we point out that the current regulation of port access arrangements act as a very strong disincentive to new investment. Why incur the risk of investment only to be required to share the facilities with competitors?

*Could access to port terminals be adequately regulated using only Part 111A of the Trade Practices Act (without any link to bulk export accreditation)?*

At a technical/legal level the answer to this question is yes. However upon expiry of the current port access undertakings on 30 September 2011, in the absence of the link to accreditation there would be no motivation for the port operators to renew the undertakings. ABB believes this date

would be an appropriate sunset for the port access regulation.

*Would the port terminals be declared under NCC process if the requirement for accreditation were removed? If not, why is there a requirement for access undertakings under the Act? What would be the consequences of removing the 'access test' from the Act?*

We believe there is a very real possibility they *could* be declared. The NCC has to be satisfied about a number of matters under s44G (2) of the TPA. For example, in ABB's case are the grain terminals in South Australia of national significance? Is it uneconomical for anyone to develop another facility? Would access create a material increase in competition in the wheat exporting market? However, it is our submission that declaration of the facilities should not occur: it would be counter-intuitive to the global trend towards liberalisation of the wheat trade and most certainly counter-productive to new investment in Australia's export supply chain.

In our submission

- the threat of declaration of the terminals as essential facilities under Part 111A of the Trade Practices Act
- the potential of such behaviour to create incentive for other traders to by-pass existing port terminals
- the financial constraints on any company's ability to buy the whole crop and
- the need to encourage throughput through the terminals

are all factors which would ensure that bulk handlers continued to offer open access to exporters, as they have for non-regulated commodities such as barley, canola and pulses.

*How significant are the compliance costs (to exporters and others) and regulatory costs (to the ACCC) associated with the requirement to have access undertakings.*

The negotiation of the access undertakings was very significant from a cost perspective. ABB's establishment costs were in the order of \$0.8 million and we estimate ongoing annual costs in the order of \$0.5m. We estimate that our costs, and the costs of WEA (\$0.22 per tonne) and ACCC would equate to approximately \$0.50 to \$1.00 per tonne of wheat for an average SA harvest. Inevitably the grower bears this cost.

*Have export opportunities for bulk handlers been disrupted due to the uncertainty stemming from the access process? Has the uncertainty around the access undertakings affected other exporters?*

ABB curtailed its usual forward purchasing program for the 1009/10 season because it was uncertain whether it would obtain the necessary accreditation by 1 October 2009. Certainty was only restored when the ACCC accepted AusBulk's port access undertaking. CBH's introduction of an auction system for shipping slots also curtailed ABB's WA accumulation program. It was extremely difficult to understand the system and to quantify the proposed rebates on the booking fees and it was therefore safer to limit exposure in that market.

*Is the requirement for port terminal access undertakings affecting investment in port facilities? If so, how?*

While the publish-negotiate-arbitrate model was an expedient way to introduce port access arrangements, it exposes existing port operators to a significant degree of uncertainty about how the ACCC or an independent arbitrator would make decisions, on pricing disputes in particular. Without the ability to make a business case based on commercially based revenue projections, new investment by the existing operators is unlikely to occur.

And while previously other exporters may have contemplated investing in a dedicated supply chain and a port terminal, the effect of the port access arrangements means that they would be obliged to provide open access to all exporters while bearing all the investment risk. Again new investment under those circumstances is unlikely to occur.

These issues were recognised at the ADC Infrastructure Summit (Brisbane 6/7 October 2008):

*"Australia is unique among OECD nations in pursuing a policy of mandated third party access to privately owned "essential" infrastructure, a matter discussed in some detail by the summit's Institutional Barriers working group. However private asset owners, for example in port facilities, will not invest if they cannot be confident of capturing the benefits of their investment. Encouragement of negotiation between commercial entities, rather than reliance on regulation, may be a better approach in fostering both infrastructure capacity growth and optimal use of any existing level of capacity."*

Freight and Metropolitan Transport: report of ADC Infrastructure 21 Summit p 108

There is considerable uncertainty around the economic theory of pricing access to infrastructure as illustrated in the following excerpt of an article in the Australian Financial Review last year:

**Infrastructures' not free, says ACCC**

Businesses have unrealistic expectations about the costs of accessing infrastructure built by others, a senior official at the competition authority has warned.

The Australian Competition and Consumer Commission's executive general manager regulatory affairs, Joe Dimasi, said there was generally an expectation that it should somehow come at marginal cost.

*"There seems to be this idea around that people can sort of free-ride on existing or other people's infrastructure and not pay the full costs"* said Mr Dimasi, who is to address a National Infrastructure Summit in Melbourne today.

*"Someone builds the infrastructure, then an access seeker can come along and say, 'Give me access, and if you don't its anti-competitive, and give me access at marginal cost because it's already there'.*

*"I want to emphasise that in our view the criteria that we have to apply means that people have to pay the cost of getting access to infrastructure."*

He said he would tell today's conference there was a need to strike a balance between pricing to use the infrastructure effectively for society as a whole while giving the right incentives for new investment.

[Matthew Dunckley: The Australian Financial Review 8 September 2008]

*Should terminal access arrangements be consistent across all grains? If so, what should be the nature of those arrangements? If not, what are the consequences, if any, of bulk wheat being treated differently?*

Non-regulated commodities such as pulses, canola and more recently barley, have been successfully exported without the assistance of accreditation or port access arrangements. There is nothing intrinsically different about wheat. It would however be folly to tie up all commodities in new regulation for the sake of consistency with wheat. It is far more sensible that in short time wheat should be truly deregulated.

*Is the publish-negotiate-arbitrate approach to access regulation the best approach? If not, what would be better?*

There is no doubt that the publish-negotiate-arbitrate approach was the best approach at the time due to the limited time before the 2009-10 season in which to agree undertakings with the ACCC. ABB would now advocate that the model be incorporated into a bulk handlers' Code of Practice rather than requiring the expensive overview of the ACCC.

*Are the charging mechanisms used by the bulk handlers transparent? Do they advantage wheat*

*exporting by the bulk handlers?*

We believe that ABB's charges are transparent and ABB has made the effort to respond to customer feedback by simplifying its charging structure for the 2009/10 harvest. The Graincorp charging structure is reasonably transparent; however the CBH shipping stem auction system is complicated and uncertain. Because costs are difficult to predict the auction system tends to favour the big pools run by CBH (GrainPool) and AWB where the return to the grower is elastic and costs are not at the risk of the pool operator.

*Is the ACCC well placed to deal with access disputes? Should another body be available to facilitate negotiation and arbitration of day-to-day issues where prompt resolution is important to exporting opportunities.*

The need for prompt resolution is important. ACCC could gear up to provide this service but it would come at a cost to the taxpayer. We do not believe that ACCC should act as arbitrator – it has a conflict as regulator - an arbitrator should be independent and be able to bring a commercial mindset unfettered by the need for adherence to government or internal competition policy. Access disputes are essentially commercial disputes and the ACCC's involvement would be both expensive and flawed.

It has been suggested that another body such as GTA could act as arbitrator to provide speedy resolution. GTA is a bad example because most of its members are access seekers and would therefore lack the necessary degree of independence. ABB is otherwise open to considering a system for fast-track arbitration but cannot at this stage identify any suitable body.

*Should the bulk handlers have their wheat exporting businesses 'ring fenced'? If so, what form should ring fencing arrangements take?*

Normally ring fencing necessitates physical separation of personnel, major adjustments to systems and the introduction of rigorous auditable procedures. This comes at a significant cost. The cost is magnified if the ring fencing relates only to wheat as opposed to all other traded commodities. On the other hand there is no great body of evidence to suggest that ring fencing is effective either in reality or even in perception.

*To what extent would ring fencing result in a loss of economies of scope from a more vertically integrated business? Would it affect investment and innovation decisions.*

The Viterro organisational model in Canada combines grain accumulation and storage and logistics in one business unit. Viterro believes that the understanding by storage and logistics of the grain accumulation task leads to a better understanding of customer needs and a more effective supply chain. Ring fencing would in our opinion stifle innovation and new investment.

*Is there evidence of land-banking by bulk handlers? If so, is it of concern?*

ABB is not aware of this issue.

*Are there any issues raised by the exemption of the Melbourne Port Terminal from the access undertaking requirements? Is the exemption appropriate? What are the likely consequences?*

The exemption for MPT is appropriate. The scheme of WEMA is that if an exporter is also a port operator (itself or via an associated entity), then a condition of accreditation will be the requirement to pass the access test. The rationale behind this requirement is the concern that the port operator may frustrate access by other access seekers in favour of its own group's exporting activity.

ABB is owned 50% by ABB and 50% by Sumitomo. It relies on maximising throughput through its port terminal. It is not open to ABB to compel ABA to only export ABB wheat to the commercial detriment of Sumitomo. ABB cannot control ABA for its own commercial ends.

The consequences of the ABA exemption are observable for the 2009/10 season: ABA has continued to seek throughput from all wheat exporters and to compete vigorously with the Port of

Geelong.

*Are the shipping problems experienced in the first year of deregulation likely to persist? To what extent were they teething problems in the first year of deregulation? Or are they symptomatic of broader problems, or typical of a peak load situation?*

We expect the situation to improve. The WA stem was the result of inexperience by CBH in oversubscribing capacity, thus creating long shipping queues. When AWB managed the single desk, it was able spread the shipping over the whole year and therefore avoid peak capacity issues. Bulk handlers have now been required to consider the management of the dynamic capacity of their port terminals and through experience will be better able to predict and manage capacity.

We now see exporters focussing in on core slots dictated by demand cycles and the avoidance of carry costs and accordingly it is likely that there will continue to be frustration about availability for popular slots. A snapshot of ABB's shipping stem as of 11 November is attached to illustrate this phenomenon. The industry should at least be able to avoid the long queues experienced last year.

*What role did Grain Express arrangements play in alleviating (or exacerbating ) these logistical problems?*

The WA shipping queues were created by oversubscribing loading capacity. Grain Express was simply trying to play catch-up to this fundamental problem. Rail capacity is a serious problem in each of the major grain producing states and in a liberalised market logistics solutions such as Grain Express will be vital for the efficient running of the supply chain.

*Did these logistical problems impede Australia's export performance?*

It added to supply chain costs by resulting in payment of demurrage. We also suspect there was an adverse impact on Australia's reputation as an efficient export nation.

*Will the new CBH (auction based) shipping allocation system in WA work adequately to allocate port capacity at times of peak load? Could the scheme be improved?*

It is too early to tell whether the system will work. As mentioned above ABB is concerned that the rebating of the booking fee is not predicable and the deduction from the rebate of CBH's costs of running the system are not transparent. And it favours the pools.

*Are similar problems likely to emerge in other states when those states have larger harvests?*

For so long as exporters continue to target the same slots there will continue to be frustration about availability. And capacity will continue to be constrained by whatever happens to be the weakest link in the supply chain at a given point of time, whether it be rail capacity, AQIS requirements etc...

## **TRANSPORT AND STORAGE**

### **A. Storage**

ABB has run its upcountry storage system on an open access basis for over 50 years. The terms and conditions of access are not materially different to the terms imposed by storage competitors such as AWB GrainFlow and Graincorp.

Every exporter has the ability to build up-country storage. With the limitless availability of land, the advent of bunkers and the development of effective under-tarp fumigation techniques the establishment of up-country storage is relatively simple and cheap. Beyond that many farmers are electing to invest in on-farm storage.

In the absence of significant barriers to entry there can be no justification for introducing an access regime for up-country facilities. Regulation would be



- expensive
- lacking in any demonstrable benefit and,
- given significant by-pass opportunities, unfair as between regulated and unregulated storages.

## B. Transport

*Is the rail system a problem for the export wheat industry? Has deregulation changed this in any way.*

Dilapidated rail infrastructure continues to be a major problem and has severely hampered the availability of rail assets for the haulage of wheat.

In SA, the single desk for wheat allowed AWB to participate with ABB in underwriting the fixed cost of rail assets to ensure availability. Following the dismantling of the single desk AWB withdrew from the rail agreement with Genossee Wyoming Australia. ABB now bears this risk alone. While this creates an opportunity for ABB to increase the efficiency of its supply chain, it is not without risk in the event of drought. It is likely that take or pay arrangements with other marketers will become more prevalent in South Australia to help defray the risk.

*Are limitations of the rail, road and receival and storage systems impeding Australia's wheat export performance?*

Yes. South Australia is relatively well placed with short-haul ports, road receival facilities, deep-water ports and ABB's underwriting of rail. However other states do not have all of these advantages.

*Given the absence of commercial returns on many rail lines, can large scale investments be justified? To what extent is the system in need of rationalisation?*

It is our view that investment in rail infrastructure cannot be justified on economic grounds. It can instead be justified on social and environmental grounds, suggesting that this is an appropriate responsibility for government.

The rail system in South Australia is reasonably modest and we do not see any opportunity for rationalisation.

*Could the rural road system cope if some rail lines were closed?*

Yes, however at a great cost to rural lifestyle and the environment. ABB relies on its rural workforce and we support important initiatives such as rail that improve the amenity of rural communities.

*Are rail logistics a more significant problem on the East coast? If so, to what extent does the road system alleviate this?*

ABB has experienced significant difficulty in securing rail assets for its Eastern Australia accumulation program. Distances from port are greater and rail would be on average \$20 per tonne more expensive compared to SA. The NSW strategy to channel investment into a few important rail lines supplemented by short hauls by road to rail loaders seems to be sensible but to date has been marked by rail line closures and little new investment in the main lines.

*Is truck access to port facilities a problem?*

It appears that the Graincorp port terminals on the east coast are not well set up for truck receival programmes.

*Do bulk handlers use the prospect of additional charges to discourage use of rival upcountry supply chains? To what extent are additional charges justified?*

Throughput charges are validly imposed and justified on the basis that receipt at port from third party sites requires a number of different services to be provided including sampling, inspection, weighing, use of capital assets such as the rail weigher, administration, information systems, combined with the port operator's legitimate expectation of a profit margin and an allowance for risk. The ABB throughput charge has been tested in arbitration proceedings pursuant to its s87B merger undertaking to ACCC and found to be not discriminatory.

## **INFORMATION PROVISION AND MARKET TRANSPARENCY**

We do not propose to comment on this section except to say that wheat exporters now enjoy an unprecedented amount of timely information on

- the supply of wheat (via PIRSA, ABARE pre-season crop projections)
- buyer intentions (via the shipping stem)
- port terminal static capacity (published on ABB's web site) and
- stocks by port

as well as the information they accumulate by virtue of their own buying programmes.

There is a steep diminution in the benefit of any additional information and an increased cost which must be recouped.

## **WHEAT CLASSIFICATION AND MARKET SEGMENTATION**

It is ABB's view that WCC is soundly performing its allotted function to provide structure and market direction for wheat breeding, classification and research activities in Australia. We believe that such a body is needed and it is unlikely the market could deal with such issues.

We make the point that despite the setting of receipt standards for wheat by GTA, there is ample opportunity for exporters to accumulate niche types of wheat through negotiation of segregations (and receipt standards) with bulk handlers.

We believe that quality control should be left to market forces, with commercial incentives placing a check on the quality delivered to overseas buyers. This market approach has served the exports of non-regulated commodities such as canola, pulses etc... and there is no reason why it should not serve the export of wheat.

## **INDUSTRY GOOD FUNCTIONS**

The wheat industry has changed significantly from the days of the single desk. The industry is now significantly influenced by multi-national trading companies who will trade in and out of Australia as it suits them. Brand "Australia" is now a mere commodity and ABB believes that, apart from the WCC activities as discussed above, the industry-good activities can be considered as purely commercial activities carried out by individual firms or, where appropriate, industry bodies such as GTA in order to maintain strong customer relationships for individual firms or self-interested Australian exporters who choose to see commercial benefits out of acting as a group.

## **PERFORMANCE OF WHEAT MARKETING ARRANGEMENTS**

ABB has observed that the current wheat exporting marketing arrangements are operating well. It may be too early to predict changing trends in market share except to say that AWB's share of the bulk wheat market will most certainly decline.

The costs of transition have been significant and the transition has introduced some benefits in terms of access and transparency. It is our submission that these benefits can be maintained via a code of practice without the ongoing costs of the WEA and ACCC. The transition period should last until 30 September 2010.

## **CONCLUSION**

We thank you for the opportunity to present our views on the issues raised by your Issues Paper. It is our intention to avail ourselves of the opportunity to address the Commission's Public Hearing in Adelaide on 14 December 2009.

Yours faithfully

**ASHLEY ROFF**  
**COMPANY SECRETARY & LEGAL COUNSEL**