

Elders Toepfer Grain (ETG) provides the following comments in regard to draft report on Wheat Export Marketing arrangements by Productivity Commission (PC).

ETG appreciates the opportunity to provide comment to PC on its draft report.

Key Issues of Context

- ETG believes the industry has adapted strongly to the new de-regulated environment. The degrees of acceptance vary in different segments of the value chain, but in essence the market place is well accepting and evolving rapidly. Key areas of acceptance being growers, consumers/processors and marketers.
- The Wheat Marketing Act 2008 (WMA) and Minister Burke clearly set out the intent of the Act “The Bill will introduce competition into the bulk wheat export industry. Rather than forcing growers to sell wheat through a single exporter”. ETG consider the potential creation of a few regional monopolies to have the same context as ‘.. a single exporter’.
- The WMA also clearly identified risks in the legislation should regional monopolies whose central infrastructure, be able to influence the ability of all exporters to have “fair and transparent access” to export facilities.

The access regime we have today was designed to avoid the above.

- Accreditation in the first instance had a purpose to ensure growers had a level of certainty that a process involving financial capability, corporate governance and industry position had been applied to those companies wanting Accreditation to export Australian wheat. This is not a long term requirement.
- The process of management of access undertakings by the ACCC is extremely new, was only accepted by Bulk Handling Companies (BHC’s) at the eleventh hour, and, as yet has had insufficient time to draw any conclusions from, positive or negative.
- At the time of this document ETG has not achieved an agreed agreement with the majority of BHC’s.
- The BHC’s themselves are demonstrating they believe that access arrangements need significant adjustment from what they initially have proposed, particularly regarding terms and conditions and business rules attached to their access agreements.
- We have been able to export Australian wheat to new markets and new customers, as well as our old ones since de-regulation.

Notwithstanding the above the industry has been able to achieve many of the desired outcomes of the legislation. Growers have a competitive market. Competition is providing the breeding ground for innovation. Innovation is allowing competitive businesses to be efficient.

At this point the component of the value chain that still needs to evolve to a more efficient market is the infrastructure segment.

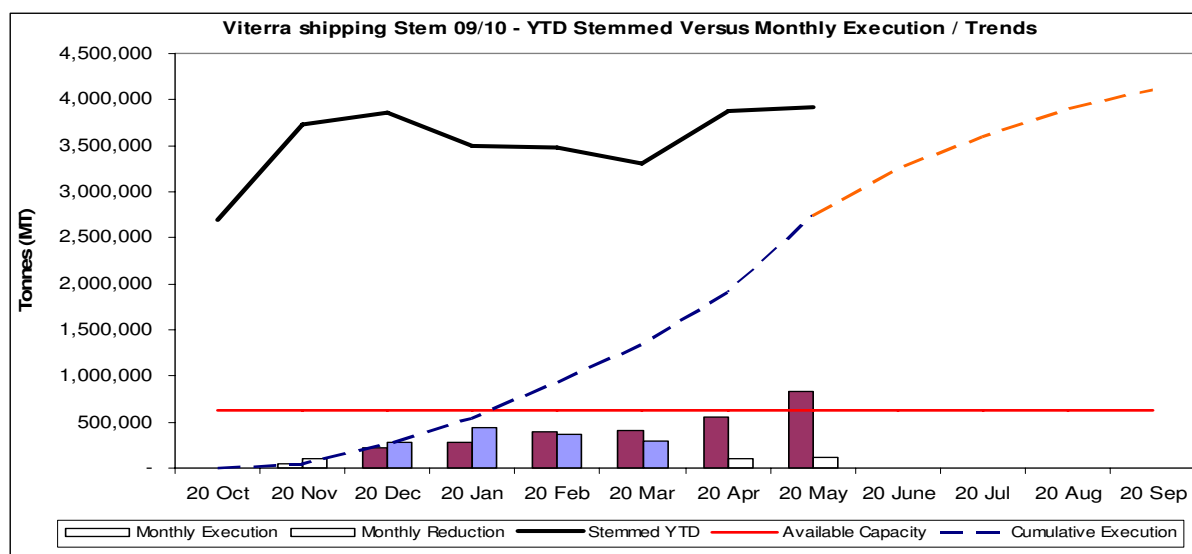
Given this background and in response to the draft findings and queries ETG provide the following.

ETG is in broad agreement with the direction of many of the findings of the PC but provide the following positions and refinements for your consideration,

1. ETG does not see value in ongoing accreditation for the purpose of providing growers certainty in counter party arrangements. ETG sees the current accreditation as serving a purpose of being the effective sanction that ensures the necessary behaviours required to maintain accreditation are performed. The primary application of this is around access and ensuring the BHC's act in the manner and with the intent the WMA required. The outcome of the transitionary period from regulation to total de-regulation cannot be that we move from 1 monopoly to a number of regional monopolies.
2. ETG supports the maintenance of the access provision as outlined until 2014.
3. ETG does not support de-coupling of accreditation and access until,
 - Enough time has elapsed to ensure performance and the behaviours of the BHC's have been able to be measured and monitored by the ACCC against access undertakings. We clearly have not had enough time, to say that this is happening in a manner that is consistent with the intent of the WMA, and/or
 - Alternative sanctions as suggested by the PC in respect to non adherence of the access undertakings are detailed, understood and accepted by industry.
 - ETG is very strongly of the view that management of the access provisions and access should not belong under Part IIIA of the trade Practices Act. In the PC draft findings it appears this is also a view shared by the PC.
4. The issue of port access is relevant to total capacity and not excess capacity above the BHC's 'reasonably anticipated requirements'. This issue is fundamental to a competitive marketplace. Without clarity on this issue the long term out-look for growers and the industry in general is likely to be higher costs, reduced farm gate returns, capital wastage and potentially market interference.

The chart below (figure 1.1) demonstrates how far forward the market has been prepared to speculate on shipping slots via comparing stemmed tonnages YTD versus cumulative execution. The cumulative execution curve also implies how the

acquisition of slots exponentially should operate in a market where only physical sale contracts reach the shipping stem. The high degree of speculative behavior in the early part of the season has been an inhibitor to this natural occurrence of nominating on demand, which in turn this has led to the market looking at other alternatives to execute grain.



Source: Viterrra Shipping Schedule

5. The cost of accreditation for ETG is not prohibitive. Whilst accreditation adds no value after the initial accreditation, in our opinion, it adds only a minor cost. From ETG's perspective, cost is not a significant issue in the priority of issues being discussed.
6. ETG do not agree with the PC that changes to the undertakings by BHC's should be kept at a minimum. Due to the timing of the undertakings being finally agreed by the BHC's, and their interpretation of managing within this undertaking in year 1, there was little time for any meaningful negotiation with the BHC's (October 09 forward) before we were into the key harvest period.

ETG fully support the ACCC model of 'Publish, Negotiate and Arbitrate' and the principle of letting industry manage their own issues without the need for the ACCC to be overly prescriptive. Due to circumstance and a wide variance between companies on the urgency to get final agreements, we simply cannot agree that the undertakings from BHC's only require minimal change. It is ETG's opinion that there will either be some significant change to the undertakings or an influx of arbitration triggers.

Similarly the BHC's themselves are now providing discussion papers on what may amount to significant changes to the undertakings. We have also seen change already agreed by one of the BHC's from the initial undertakings.

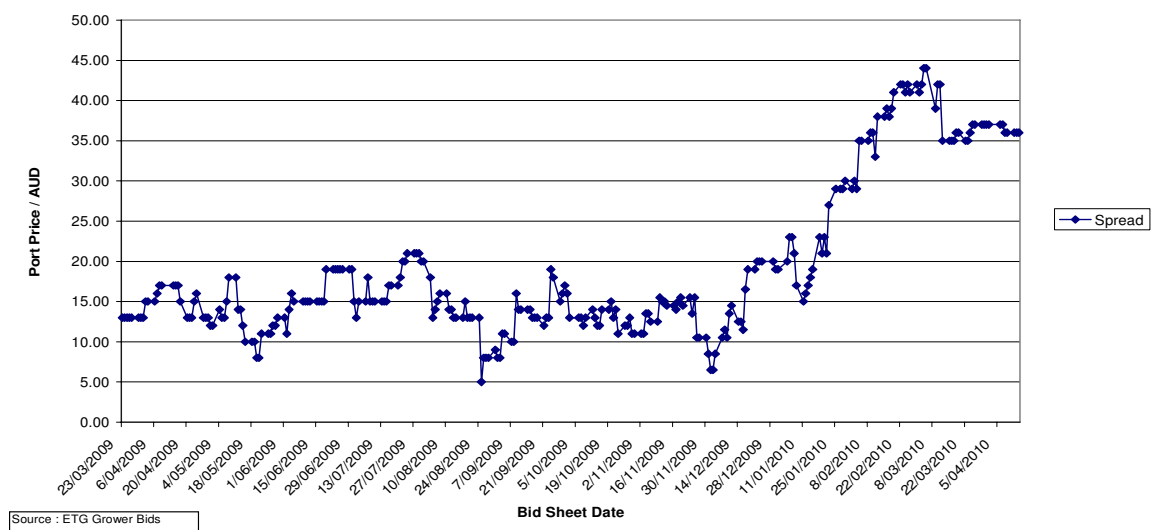
Another of the ACCC's key tenements, in our opinion, is the concept of direct port access. ETG also strongly agree with this. At this point, other than 1 BHC, BHC's either

directly or indirectly have structures that do not encourage direct port access. This is again a key reason we see the potential for significant change in the access undertakings.

7. The PC asked for comment on the CBH Auction system. ETG believe that while the auction system is an acceptable method of allocating capacity, 2 key issues contribute to making this currently a flawed system,

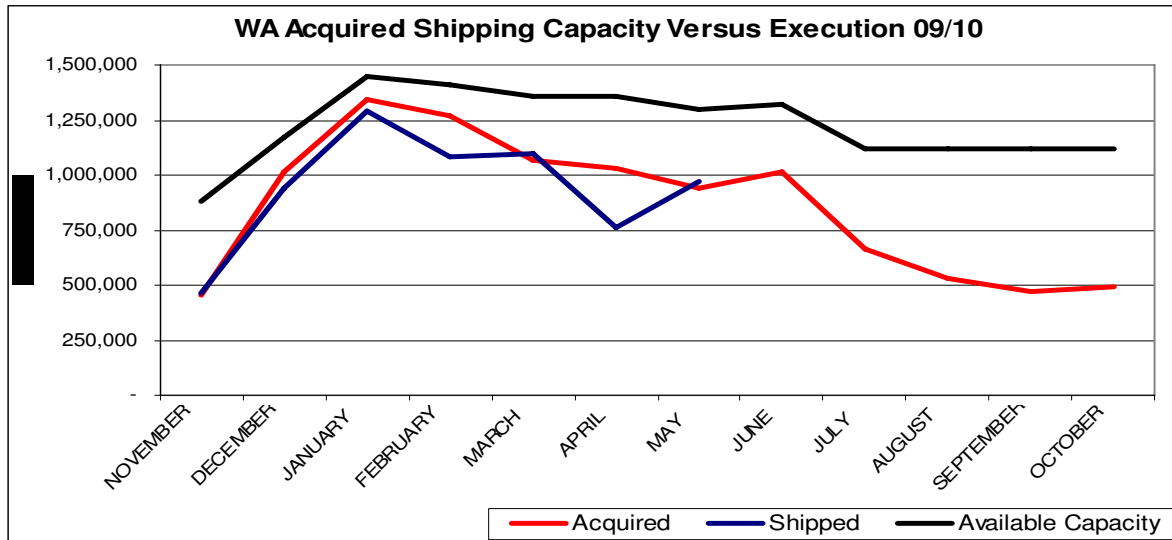
- The associated business rules and terms and conditions. The current Terms and Condition's have no doubt had a significant bearing on the WA marketplace and this has contributed to a distorted Australian Grain marketplace. The rigidity of the system, which has always been at odds with a number of international shipping practices, the risk of forfeiting the full value of a service that may not be provided, the locking up of significant amounts of capital (suggested to be AUD 62 million), and the underwhelming performance of the secondary market, are a few of the consequences of the current system. The construct of this system, following the problems encountered in WA last harvest, contribute significantly to our views of why it is too early to de-couple the current accreditation and access structure.
- In reference to the point above the chart below (figure 2.1) clearly shows how the market has moved well beyond the economics of execution. From the time the first auction was held in October 2009 the price spread between WA and SA increased significantly well beyond economics (fobbing and freight differences). Up until the first auction the spread tracked the estimated cost of execution.

A Chart Plotting ASW1 Grower Bids (Average of Multi-Grade and Cash) in Port Lincoln v's Fremantle for 09/10 Season



- Grain Express. (further comments in this paper)

Whilst the current auction system does provide the key issue the industry requires, being certainty that we will be able to load our ships and execute our contracts, this has been provided at a significant cost to many exporters and growers. ETG would not like to see this model in any other states and at this point it is not operating in any other states. The chart below (figure 2.2) illustrates the comparison between capacities acquired versus executed tonnes. Within the 2nd Quarter (February to April) in excess of 400,000 mt of acquired capacity has not been utilised.



Source: CBH Operations, Daily Ship Roster

8. The PC asked for comment on the 'Grain Express' system in WA. Grain Express was a concept industry (including ETG) accepted on the basis of the philosophy of a central controller being better able to plan, minimize costs and organize efficient movement of the crop to export in the newly de-regulated market. The key driver in supporting this model from an ETG perspective, was around the concept of shared risk. ETG gave up its right to provide freight alternatives on the basis that CBH could better co-ordinate and by definition, provide a best cost service with limited risk of execution failure. CBH would therefore take this execution risk ie getting product o the port. Risk was shared.

This has not occurred. ETG are now essentially wearing the risk of non execution through concepts such as core capacities and 'the surge'. Grain Express has become monopolistic with little capacity for its performance to be benchmarked by competition. Companies such as ETG do not have the option to create alternatives transport options, which minimizes the use of direct port access and potentially pushes companies to pay surge fees around a non visible base.

ETG no longer support Grain Express in its current state. As stated above we believe it has been an influential contributor to the market performance issues mentioned above.

9. The PC asked for comments regarding pooling structures. ETG is not a pool operator today and hence cannot directly comment. ETG would observe though, the seeming

lack of consistent, clear, and informative pricing signals as a tool for growers. Whilst there seems to be a range of providers, there seems to be a significant range of accountabilities, updating and transparencies by these providers. ETG clearly find the concept of early commitment pool premium's over an undisclosed or unknown base, as interesting, in how this premium is reconciled.

In essence it is ETG's view that pools are not dissimilar to a number of other managed funds and should be run and managed accordingly.

10. The PC asked for comment on the provision of information. It is and has been our position for sometime that information regarding wheat volumes, (and other grains) grades, varieties, committed or free stock should be made available to all industry.
11. ETG believe, if the focus on accreditation was to reduce, in line with the purpose of providing a link to access, WEA is a potential vehicle to have oversight or an impact on a number of the 'industry good functions' that are highlighted in the PC draft findings. This would of course require a change in the terms of reference and a clear focus as to any potential future role of this group. It is though, an organization that set up costs have been invested, it has extensive operational knowledge of the industry and is currently actively involved in the transitional phase of the industry. With the PC findings suggesting a need to still collect revenue for a number of industry good or oversight functions to be maintained then a re-budgeted, re-focussed, realigned group born from the current WEA may be the best option.

The above comments are the key areas we would like to highlight.

We re-iterate our position is in broad agreement and direction of the PC findings and that the above focuses clearly on the issues relating to the logistics supply which ultimately provides the all important port elevation service.

ETG clearly believe the industry is in a transitionary phase and the issues at hand were to be expected. We should not forget that much has been achieved via the principle of competition, and the overall intent of the WMA, to give growers choice, and new innovations have occurred. New customers have been found and exports have occurred notwithstanding the issues we face in transition.

Now is not the time, in our opinion to put at risk advancements we are making or that are in the pipeline. We need a period to allow the process and system that have been put in play to embed, be managed, be refined and finally measured. We have the right umpire in place with the ACCC and with some refinement the current incentive / penalty system needs to operate for the interim period before we make the final push to full de-regulation.