



Thursday, 10 June 2010

Inquiry into Wheat Export Marketing Arrangements
Productivity Commission
Locked Bag 2,
Collins St. East,
Melbourne, VIC 8003

Presentation to the board of Wheat Exports Australia – 10 June 2010

Please find attached a copy of a presentation given to the board of Wheat Exports Australia.

The presentation deals with matters raised in the company's submission to the Commission's draft report.

In the presentation, GrainCorp reaffirms, and builds upon, the commitment made in our earlier submission to the Commission to incorporate the following access and transparency related elements into commercial port elevation service contracts.

- Publication of a weekly shipping stem
- Publication of monthly publication of grain stocks at port
- Publication of standard reference service prices, port protocols and contract terms
- Notification of excess elevation capacity sent to exporters on a weekly basis
- Contract terms standardised across all exporters
- Port protocols as a component of the standard commercial contract
- GTA port access dispute resolution provision

We believe it is essential that the following points are taken into consideration when considering the Commission's final recommendations on the continuation of port access regulation.

- The efforts GrainCorp has taken to comply with, and exceed, current regulatory requirements
- The significantly different market conditions in which GrainCorp operates (compared to those in South Australia and Western Australia),
- The successful conclusion of port elevator service contract negotiations with all customers,
- The signing of two year port elevators service contracts with all customers,
- GrainCorp's commitment to replicate current shipping stem transparency measures and port protocols, in commercial port elevator service contracts, post removal of port access regulation.

We also hope the Commission takes note of the concerns GrainCorp has about the 'one size fits all' regulatory approach toward the wheat sector.

Yours sincerely

[Sgd] Nigel Hart

General Manager - Ports

Wheat Exports Australia

10 June 2010





Eastern Australian market competition

- GrainCorp provides storage and handling and port elevation services in a market that is becoming increasingly competitive and internationalised
 - Nidera BV purchase of Pentag (2010)
 - Sumitomo taking full control of Australian Bulk Alliance, Melbourne Port Terminal and a 50% share of Emerald (2010)
 - Potential sale of AWB domestic trading and storage business to Gaviion
 - Viterro purchase of ABB (2009)
- **In eastern Australia there is heavy competition for grain exports**
 - Of an 'average' 18 million tonne (mmt) crop
 - ~ 10 million consumed domestically
 - Of the remaining ~ 8 mmt
 - GrainCorp bulk elevation – 5 mmt – (1/3 of annual elevator capacity)
 - Containers – 2 mmt
 - Melbourne Port Terminal – 1 mmt



Eastern Australian – more export competition

- We see additional competition for ~ 1 mmt of export handling
 - Containers – 0.5 mmt (NSW and QLD) - Wilmar – Gaviion - 0.5 mmt bulk (QLD)
 - Meaning GrainCorp faces additional ~ 1 mmt export handling competition from the *current* level of grain exports

Also...

- There are projects looking at new bulk grain elevation capacity
 - P&O berth Kooragang Island (Newcastle)
 - Port Waratah (Newcastle)
 - Geelong
- This could all add up to 2 mmt new bulk grain elevation capacity in NSW and Victoria
- Thus we see ~ 20 mmt of grain export capability competing for ~ 8 mmt actual grain exports in an 'average' year

In light of this competition, why would GrainCorp actively block bulk exports, particularly when each tonne lost reduces GrainCorp's revenue?

Regulation of bulk wheat elevation services

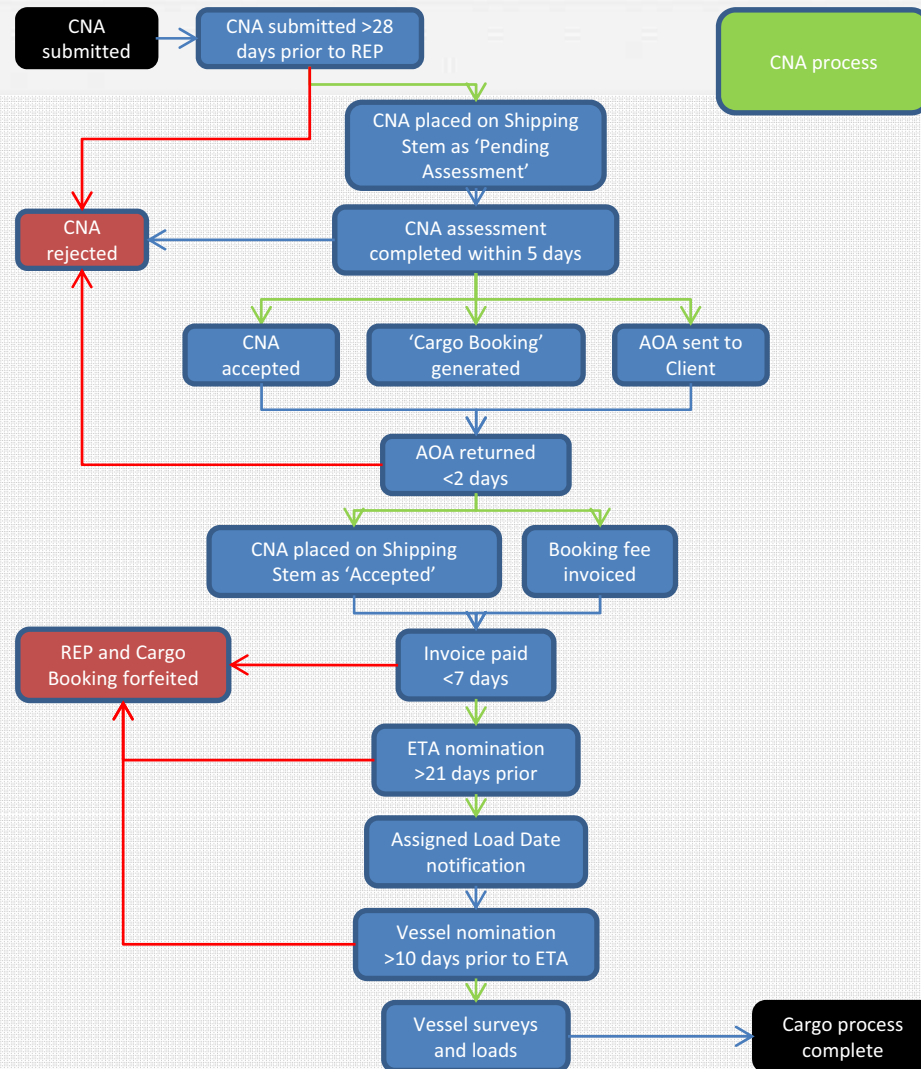




Current regulated port elevation obligations

- GrainCorp must publish the following information on a monthly basis:
 - Total stocks of Bulk Wheat held at each Port Terminal
 - Total stocks of all other grain held at each Port Terminal on an aggregated basis
 - Cargo nominations
 - Nominated monthly export capacity
- GrainCorp must also publish the following details of any booking applications for the export of grain on the shipping stem on the date the shipping stem is next updated
 - Name of the exporter
 - Volume of grain to be exported
- And under the WEM Act, GrainCorp must also publish:
 - Time the CNA was submitted
 - Time the CNA was accepted
 - Estimated date of loading

Shipping management



- GrainCorp recently revised an amended set of port protocols
- Consultation with customers only elicited 3 very minor changes
- ACCC has accepted the amended protocols
- ***All customers*** have now signed 2 year commercial contracts with GrainCorp
- We now have transparent, commercial contract arrangements agreed and signed with our customers

Port performance indicators

- Under the terms of the current ACCC access Undertaking, GrainCorp must publish the following key service performance indicators for the periods ending 31 May 2010, 30 September 2010, 31 May 2011 and 31 July 2011
 - Vessels failing survey
 - Average daily road receipt rate
 - CNA's rejected
 - Monthly tonnes shipped
 - Port block outs
 - Average CNA assessment times

Recent supply chain interface improvements

- As part of the transition process, we have worked with customers to implement the following service delivery improvements...
-none of which were required by the access or wheat export regulation

Action to be taken	Objective	Date	Status
Exporter to Exporter stock swaps at port	Reduce demurrage risk	Immediate	In place and at customers discretion
Effective execution of service in planning and terminal performance e.g. SAP agreed 28 days	Improved execution of export cargoes	Immediate	Weekly meetings held with some customers
Lay berths for ship surveying	Reduce risk of survey failure at berth	End 2010	Discussions held with each port
Truck Marshalling Areas and scheduling – FI, Port Kembla and Portland	Reduce safety risks – fatigue mgt, road side accidents	End 2010	Portland in progress FI – truck scheduling
Methyl Bromide at Newcastle - stage 1 low dose 2 – 3 day fumigation, stage 2 export certified fumigation rate	Improve fumigation service offering	End June 2010	1 st stage trials complete and DECC approved
Newcastle ship loaders – all four loaders back into operation	Improve loading capability to 2800t/hr	End March	Completed
Cooks River containerisation facility in Sydney 150 – 200kt/annum capacity	Full east coast container services	March 2011	Design complete

Response to the Productivity Commission Draft Report





GrainCorp's Productivity Commission Submission

- GrainCorp supports removal of the WEM Act
- Between 30 Sept 2010 and 30 Sept 2012
 - Wheat Exports Australia move to lessen the burden of current export regulation
 - Move toward a system of compliance that mirrors the successful barley licensing regime in South Australia
 - Eliminate or harmonise compliance measures that duplicate requirements met by listed companies
 - Notifiable Matters with ASX requirements
 - Financial reporting requirements
 - Current Corporations and Contract law applies – WEA adds no value
- WEA can play a valuable role in furthering the transition to deregulation by taking a different approach to the exercise of its regulatory powers



GrainCorp's Productivity Commission Submission

- Post 1 October 2012
 - Repeal the WEM Act and S. 9 AAA of the Customers (Prohibited Exports) Act 1958
 - Removal of the requirement to have an access Undertaking
- ACCC regulation of port access in eastern Australia should not be required after the repeal of the WEM Act
 - Access to port elevators managed by GrainCorp for the export of bulk wheat can be 'guaranteed' via commercial contract...
 - ...as it is now for barley, canola, pulses, sorghum, etc.
- GrainCorp's legal advice is that commercial contracts, and the application of existing provisions under the TPA, can provide the same outcome as an access Undertaking, at a fraction of the cost and complexity of the current regulations

WEA submission to the PC states...

“It is noted that the access regimes have only been in place for seven months and exporters are having issues exporting wheat from every state.”

- **What are the issues that relate to GrainCorp’s provision of port elevation?**
- **Do they relate to denial of access to port elevation by GrainCorp?**
- **Where is the evidence and what are the specific instances?**

“...the dominant and seemingly compromised positions of bulk handling companies that are both suppliers of an effective monopoly service and a competitive customer for that service.”

- The ACCC state the TPA is concerned with *“...protecting competitive processes and the level of competition in the market rather than protecting individual competitors*
 - This was reiterated by the ACCC Chair at a recent Senate Estimates hearing
- GrainCorp is concerned that, by expressing this opinion, WEA is seeking to apply an interpretation to competition regulation that is not provided for in the TPA – *It is not WEA’s role to interpret the TPA*

Our port elevator access solution



Our commitment to transparency...

- GrainCorp has already committed (in its submission to the PC draft report) to put into place the following transparency measures should the access test be removed
 - Weekly shipping stem
 - Monthly publication of grain stocks at port
 - Publication of standard reference service prices, port protocols and contract terms
 - Notification of excess elevation capacity sent to exporters on a weekly basis

ELEVATION CAPACITY AVAILABLE															
As At Wednesday, 9 June 2010															
Year	Month	Mackay		Gladstone		Fisherman Islands		Carrington		Port Kembla		Geelong		Portland	
2009/10	June	70,000	Y	70,000	Y	175,450	Y	75,000	Y	195,000	Y	194,000	Y	94,000	Y
	July	30,000	Y	50,000	Y	145,000	Y	90,000	Y	115,000	Y	38,000	Y	94,000	Y
	August	45,000	Y	70,000	Y	195,800	Y	82,500	Y	110,000	Y	240,000	Y	30,000	Y
	September	45,000	Y	70,000	Y	240,000	Y	110,000	Y	145,500	Y	174,000	Y	94,000	Y
2010/2011	October	45,000	Y	15,000	Y	240,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y
	November	70,000	Y	70,000	Y	195,000	Y	240,000	Y	270,000	Y	260,000	Y	100,000	Y
	December	70,000	Y	70,000	Y	210,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y
	January	70,000	Y	70,000	Y	215,000	Y	80,000	Y	270,000	Y	270,000	Y	100,000	Y
	February	70,000	Y	70,000	Y	190,000	Y	52,000	Y	225,000	Y	270,000	Y	100,000	Y
	March	70,000	Y	70,000	Y	190,000	Y	80,000	Y	225,000	Y	270,000	Y	100,000	Y
	April	70,000	Y	70,000	Y	190,000	Y	52,000	Y	225,000	Y	270,000	Y	100,000	Y
	May	70,000	Y	70,000	Y	240,000	Y	80,000	Y	270,000	Y	270,000	Y	100,000	Y
	June	70,000	Y	70,000	Y	240,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y
	July	70,000	Y	70,000	Y	240,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y
	August	70,000	Y	70,000	Y	240,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y
	September	70,000	Y	70,000	Y	240,000	Y	240,000	Y	270,000	Y	270,000	Y	100,000	Y



...and fair commercial access to port elevators

Additionally...

- Contract terms standard across all exporters (currently the case)
- Port protocols become a component of the standard commercial contract
- GTA access dispute resolution provisions included
- These provisions could become part of the legally binding service contract that would be available to all commercial parties wishing to use GrainCorp port elevators

Can GrainCorp deny access to port elevator services to an exporter?

- No. GrainCorp is prevented by Parts IV and V, S.s 46 and 47 of the TPA from denying exporters port elevation services on commercial terms
- Current laws are robust enough to prevent GrainCorp from acting in an uncompetitive manner...
- ...and the ACCC has sufficient powers to investigate *where complaints of a material nature* are made and can be substantiated



A commercial, not regulated, industry

- GrainCorp has led the way in developing a fair and transparent process for managing the allocation of port elevator capacity
 - We believe our systems / processes are superior to those used by Viterra and CBH
- GrainCorp, having demonstrated fairness and a desire to deal with exporters in a commercial manner that is consistent with the TPA should not be subject to the same judgements made against other service providers
- GrainCorp should not be subject to a 'one size fits all' regulatory regime, when the structure and competitive pressures in the eastern Australian grains market is so different to those in SA and WA
- We believe this also applies to the application of the accreditation scheme
 - Where a company is subject to regulatory oversight by another regulator such as ASIC, WEA should use current compliance requirements as a benchmark
 - Where companies are not subject to such requirements, (e.g. not listed in Australia) additional WEA oversight may be appropriate