

20 May 2011

Mr Anthony Wing  
General Manager  
Transport and General Prices Oversight  
ACCC  
GPO Box 520  
MELBOURNE VIC 3001

Dear Mr Wing

**RE: Submission to the ACCC**

**Background**

Plum Grove is a privately owned emerging wheat export business located in Fremantle in Western Australia. The company is seven years old and has a strong history of successful pool management. Plum Grove is an accredited wheat exporter and has established itself as a significant fixed cash accumulator in both WA and SA in the last two years. In 2010 it concluded a partnership agreement with a newly formed grower co-operative in SA called AGG to provide pool and cash accumulation products and services. In the first year of that agreement Plum Grove has accumulated approximately 350,000 tonne of wheat and barley under this agreement. In October 2010 Plum Grove announced a new partnership with the Salim Group and Seaboard Corporation, both significant owners of global flour milling operations. Seaboard and Salim are equity holders in Plum Grove.

<http://www.plumgrove.com.au/>

**Response to CBH Port Access Undertaking April 1 2011**

Plum Grove's overall experience regarding port access during the 09/10 and 10/11 seasons in Western Australia was positive. Plum Grove was able to access CBH Port Terminal services on acceptable terms with no apparent disadvantage to other export entities. Plum Grove did experience some minor issues related to service requests but generally has no specific issues with access and pricing under the existing system. Plum Grove supports the auction system in its current form as we believe it creates a transparent and equal process for the allocation of port capacity for all exporters.

In our view there is no evidence to suggest that the existing auction system is or was a disincentive to participate in the grain market in WA as suggested. In fact Plum Grove would argue that WA remains a preferred source of grain based on the more transparent port allocation system in place, the quality of the CBH service and a range of other market advantages.

However Plum Grove, as a growing wheat exporter, has significant reservations regarding the proposed amendments to the capacity allocation system and that the proposed two-tiered allocation will discriminate in favour of exporters with large established volumes of bulk wheat for export. This will ultimately lead to a small number of larger operators and therefore reduce competition across the industry.

Plum Grove is concerned that proposed changes to the system have the potential to provide CBH Grain (CBHG) with an unfair advantage. We believe the objective from CBH of having “users that are able to plan vessel arrivals over the full year and have a high degree of assurance of using a substantial amount of capacity” does not require up to 800,000mt and leads us to believe that this is just an obvious attempt to advantage their own trading division. Particularly given their argument is based around “vessel” plans, rather than tonnage plans. Clearly the first “eligible entity” will be CBHG, CBH’s own trading entity.

We agree with the argument from CBH that with an upfront vessel plan that is evenly spread over a 10 to 12 month period will provide them with logistical efficiencies. Given the average size “handymax” vessel loads 20,000 – 30,000mt, then over a 12 month period a trader could provide CBH with a vessel plan with a minimum of 240,000mt, not the 800,000mt that they have suggested.

The CBH assumption that smaller exporters do not need to plan their exports as asserted in their submission to the ACCC (5.15) is incorrect, naive and frankly offensive. Plum Grove, as an entity with shareholders exposed to significant wheat processing infrastructure is today in a position to provide a full 12 month shipping program to CBH. If the reason for creating the allocation relates to certainty and effective planning then Plum Grove is in a position to provide this to CBH.

The CBH assumption appears to be that smaller or emerging users are spot or opportunistic traders. This is not the case.

In addition to the tonnage requirement, we are also opposed to the increased penalties. Although penalties need to be in place in order to discourage participants from abusing the system, any form of additional fees that go directly to the bulk handler should be discouraged. The reason for this is because it allows the bulk handler to restrict competition with their own trading arm by simply moving funds within the business. The proposal by CBH to attach higher penalties to the base load capacity arrangements should only be allowed if these penalties are returned to the auction system. This would then benefit those participants who have been excluded from the base load capacity while at the same time preventing CBH from simply transfer pricing within the business.

The apparent “simple negotiation process” proposed in the submission for “base load capacity” provides limited undertaking to provide transparent allocation of capacity.

## **Solutions**

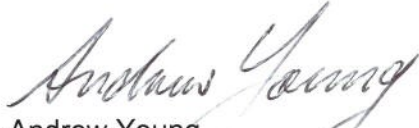
Plum Grove as an emerging exporter faces the same uncertainties as large exporters when it comes to auction participation. Amending the system to assist large exporters through allocation of up to 60% of capacity obviously creates greater uncertainty and inequality for smaller exporters. Plum Grove would argue this would lessen competition in the industry by providing a clear advantage to larger exporters. Given the largest exporter from WA is CBHG this could be interpreted as an attempt to advantage their trading company.

It is our view that if CBH wants to introduce base load capacity then they should provide all participants with the opportunity to commit to 1 cargo per month over a 12 month period with a minimum load size of 20,000mt (or a 240,000mt total). If any additional “base load” capacity is available beyond this then those participants who have taken the option should have the ability to add additional cargoes.

In addition to this, we believe no additional penalties should be introduced or if they are, the additional funds should be returned to the participants in the auction, rather than CBH.

By changing the base load capacity rules based on an even spread of vessels, rather than 800,000 tonnes, it achieves all of CBH's objectives while at the same time increasing the number of base load participants from 3 or 4, to up to 10.

Yours sincerely



Andrew Young  
**MANAGING DIRECTOR**  
**PLUM GROVE PTY LTD**