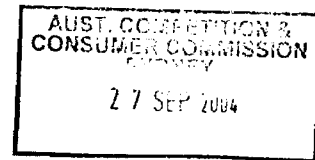


MALLESONS STEPHEN JAQUES

FILE No:
DOC:
MARS/PRISM:



27 September 2004

Mr Tim Grimwade
General Manager, Adjudication
Australian Competition and Consumer Commission
470 Northbourne Avenue
DIXON ACT 2602

Copy to

AWB Limited
C/- Mr Bill Reid
Partner
Blake Dawson Waldron
Level 39, 101 Collins St
MELBOURNE VIC 3000

Dear Mr Grimwade

GrainCorp Operations Limited and AWB Limited - Applications for authorisation

Mallesons Stephen Jaques acts for GrainCorp Operations Limited ("**GrainCorp**") and Export Grain Logistics Pty Limited ("**JVCo**") and Mr Bill Reid of Blake Dawson Waldron acts for AWB Limited ("**AWB**") in this matter.

1 Applications for authorisation

- 1.1 GrainCorp, AWB and JVCo (together "**the Parties**") apply for authorisation pursuant to sub-sections 88(1), 88(8) and 88(9) of the *Trade Practices Act 1974* (Cth) ("**TPA**") for:
- (a) the acquisition by GrainCorp and AWB of all the ordinary shares of JVCo; and
 - (b) the export collaborative arrangements between the Parties pursuant to a Joint Venture Shareholders Agreement ("**Joint Venture Agreement**") between GrainCorp, AWB and JVCo.
- 1.2 Please also note that the Parties are seeking an interim authorisation.
- 1.3 We enclose:
- (a) a non-confidential supporting submission to the Commission;

Level 60 Governor Phillip Tower 1 Farrer Place Sydney NSW 2000 Australia
DX 113 Sydney ABN 22 041 424 954 syd@mallesons.com www.mallesons.com

T +61 2 9296 2000
F +61 2 9296 3999

MALLESONS STEPHEN JAQUES

Australian Competition and Consumer Commission

27 September 2004

- (b) a confidential supporting submission to the Commission containing commercially sensitive information over which confidentiality is sought;
- (c) Forms B, E and F, the application forms prescribed by regulation for authorisation of agreements affecting competition, exclusive dealing and mergers. Please note that each of the applications deals with a matter relating to a joint venture between the Parties and that section 90(15) applies; and
- (d) a cheque for \$24,000.

2 Confidentiality

- 2.1 The Joint Venture Agreement which is Appendix One to the supporting submission and also Appendix Two to the submission, contain some commercially sensitive and confidential information. Pursuant to section 89(5) of the TPA, the Parties request that the Commission exercises its power under section 89(5A) to exclude this information from the register kept by the Commission pursuant to section 89(3).
- 2.2 Accordingly, for the Commission's convenience, we have provided a non-confidential version of the supporting submission from which the confidential material referred to above has been deleted and marked "[Confidential - information deleted]".

3 Timeframe for determination

For the purposes of section 90(12) of the TPA, the Parties agree that the Commission may take a longer period for the determination of the application for authorisation of a merger under section 88(9) of the TPA such that the matters may be considered by the Commission together, particularly given that interim authorisation is being sought for the reasons set out in the supporting submission.

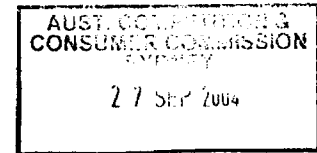
Should you have any questions relating to this application, please do not hesitate to contact me.

Yours sincerely



Dave Poddar
Partner
Direct line +61 2 9296 2281
Email dave.poddar@malleasons.com

A30233



FORM B

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 88(1)

**AGREEMENTS AFFECTING COMPETITION: APPLICATION FOR
AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88(1) of the *Trade Practices Act 1974* for an authorisation under that subsection:

- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

1. (a) **Name of applicant:**

GrainCorp Operations Limited (ABN 52 003 875 401) ("**GrainCorp**")

AWB Limited (ABN 99 081 890 459) ("**AWB**")

Export Grain Logistics Pty Ltd (ACN 109 812 197) ("**Export Grain Logistics**")

(b) **Short description of business carried on by applicant:**

GrainCorp has its core business in bulk commodity storage and handling, marketing and logistics. It operates a network of rail-linked storage across east Australia, as well as nine export terminals.

AWB is Australia's major national grain asset manager and one of the world's largest wheat managers and marketers. AWB is publicly listed on the Australian Stock Exchange. Its core activities are the pooling, marketing, trading, financing, risk management and logistical management of Australian wheat. AWB (International) is the exclusive manager and marketer of all Australian bulk wheat exports through what is known as the Single Desk system. AWB also markets and trades a range of other grains including barley, sorghum and oilseeds.

Export Grain Logistics is a special purpose company incorporated for the purpose of the contracting of supply chain services for, and the management and co-ordination of, grain for export in bulk or in containers from silos in Queensland, New South Wales and Victoria.

(c) **Address in Australia for service of documents on the applicant:**

GrainCorp Operations Limited and Export Grain Logistics Pty Ltd
C/- Mallesons Stephen Jaques, Solicitors
GPO Box 206
Sydney NSW 2001
Attention: Mr Dave Poddar, Partner

AWB Limited
C/- Blake Dawson Waldron, Solicitors
Level 39, 101 Collins Street
Melbourne Vic 3000
Attention: Mr Bill Reid, Partner

2. (a) **Brief description of contract, arrangement or understanding and, where already made, its date:**

A Joint Venture Shareholders Agreement between the applicants which relates to the management and co-ordination of the supply chain for the export of grain in bulk or in containers from silos in Queensland, New South Wales and Victoria.

A copy of the Joint Venture Shareholders Agreement, which is subject to regulatory clearance, is attached as an annexure to the supporting submission to this application.

(b) **Names and addresses of other parties or proposed parties to contract, arrangement or understanding:**

Not applicable.

3. **Names and addresses (where known) of parties and other persons on whose behalf application is made:**

Not applicable.

4. (a) **Grounds for grant of authorisation:**

Refer to submission attached.

(b) **Facts and contentions relied upon in support of those grounds:**


Refer to submission attached.

5. **This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contract, arrangement or understanding.**
- (a) **Is this application to be so expressed?**
- No.
- (b) **If so, the following information is to be furnished:**
- (i) **the names of the parties to each other contract, arrangement or understanding:**
- Not applicable.
- (ii) **the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:**
- Not applicable.
6. (a) **Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*)?**
- Yes.
- (b) **If so, are any other applications being made simultaneously with this application in relation to that joint venture?**
- Yes.
- (c) **If so, by whom or on whose behalf are those other applications being made?**
- GrainCorp
- AWB
- Export Grain Logistics
7. **Name and address of person authorised by the applicant to provide additional information in relation to this application:**

GrainCorp and Export Grain Logistics	AWB
Mr Dave Poddar Partner Mallesons Stephen Jaques GPO Box 206 Sydney NSW 2001 Telephone: (02) 9296 2281 Facsimile: (02) 9296 3999	Mr Bill Reid Partner Blake Dawson Waldron Level 39, 101 Collins Street Melbourne Vic 3000 Telephone: (03) 9679 3622 Facsimile: (03) 9679 3111

Dated: 27 September 2004


Signed by/on behalf of **GrainCorp Operations Limited**


.....
(Signature)

..... DAVE PODAR
(Full Name)

..... LEGAL PRACTITIONER
(Description)

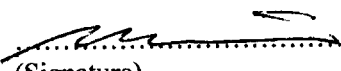
Signed by/on behalf of **Export Grain Logistics Pty Ltd**


.....
(Signature)

..... DAVE PODAR
(Full Name)

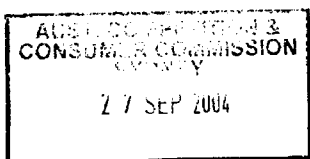
..... LEGAL PRACTITIONER
(Description)

Signed by/on behalf of **AWB Limited**

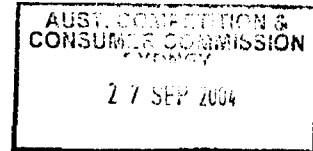

.....
(Signature)

..... WILLIAM REID
(Full Name)

..... LEGAL PRACTITIONER
(Description)



A30234



FORM E

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - sub-section 88(8)

EXCLUSIVE DEALING: NOTIFICATION

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(8) of the *Trade Practices Act 1974* for an authorisation under that sub-section to engage in conduct that constitutes or may constitute the practice of exclusive dealing.

1. (a) **Name of applicants:**

GrainCorp Operations Limited (ABN 52 003 875 401) ("**GrainCorp**")

AWB Limited (ABN 99 081 890 459) ("**AWB**")

Export Grain Logistics Pty Limited (ACN 109 812 197) ("**Export Grain Logistics**")

(b) **Short description of business carried on by applicants:**

GrainCorp has its core business in bulk commodity storage and handling, marketing and logistics. It operates a network of rail-linked storage across east Australia, as well as nine export terminals.

AWB is Australia's major national grain asset manager and one of the world's largest wheat managers and marketers. AWB is publicly listed on the Australian Stock Exchange. Its core activities are the pooling, marketing, trading, financing, risk management and logistical management of Australian wheat. AWB (International) is the exclusive manager and marketer of all Australian bulk wheat exports through what is known as the Single Desk system. AWB also markets and trades a range of other grains including barley, sorghum and oilseeds.

Export Grain Logistics is a special purpose company incorporated for the purpose of the contracting of supply chain services for, and the management and co-ordination of, grain for export in bulk or in containers from silos in Queensland, New South Wales and Victoria.

(c) **Address in Australia for service of documents on the applicants:**

GrainCorp Operations Limited and Export Grain Logistics Pty Limited
C/- Mallesons Stephen Jaques, Solicitors
GPO Box 206
Sydney NSW 2001
Attention: Mr Dave Poddar, Partner

AWB Limited
C/- Blake Dawson Waldron, Solicitors
Level 39, 101 Collins Street
Melbourne Vic 3000
Attention: Mr Bill Reid, Partner

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Supply chain services for the export of grain in bulk or in containers from silos in Queensland, New South Wales and Victoria.

(b) **Description of the conduct that would or may constitute the practice of exclusive dealing:**

Export Grain Logistics, a special purpose company, will supply the services referred to in item 2(a) above on the condition that:

- (i) AWB does not conduct, carry on or promote (whether on its own account, in partnership, in joint venture or as financier, employee, agent of a manager for any other person) an export grain logistics business in a relevant area, being Queensland, New South Wales, Victoria or any combination of these; and
- (ii) GrainCorp does not conduct, carry on or promote (whether on its own account, in partnership, in joint venture or as financier, employee, agent of a manager for any other person) an export grain logistics business in a relevant area, being Queensland, New South Wales, Victoria or any combination of these

A copy of the Joint Venture Shareholders Agreement, which is subject to regulatory clearance, is attached as an annexure to the supporting submission to this application.

3. (a) **Class or classes of persons to which the conduct relates:**

AWB, GrainCorp and Export Grain Logistics

(b) **Number of those persons -**

(i) **At present time:**

Three

(ii) **Estimated within the next year:**

Three

(c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**


See item 1(c) above.

4. (a) **Grounds for grant of authorisation:**
See supporting submission.
- (b) **Facts and contentions relied upon in support of those grounds:**
See supporting submission.
5. (a) **Does this application deal with a matter relating to a joint venture (See section 4J of the Trade Practices Act 1974)?**
Yes
- (b) **If so, are any other applications being made simultaneously with this application in relation to that joint venture?**
Yes
- (c) **If so, by whom or on whose behalf are those other applications being made?**
GrainCorp
AWB
Export Grain Logistics
6. **Name and address of person authorised by the applicant to provide additional information in relation to this application:**

GrainCorp and Export Grain Logistics	AWB
Mr Dave Poddar Partner Mallesons Stephen Jaques GPO Box 206 Sydney NSW 2001 Telephone: (02) 9296 2281 Facsimile: (02) 9296 3999	Mr Bill Reid Partner Blake Dawson Waldron Level 39, 101 Collins Street Melbourne Vic 3000 Telephone: (03) 9679 3622 Facsimile: (03) 9679 3111

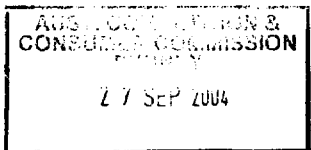
Dated: 27 September 2004

Signed by/on behalf of GrainCorp Operations Limited


.....
(Signature)

.....
DAVE PADDAN
.....
(Full Name)

.....
LEGAL PRACTITIONER
.....
(Description)



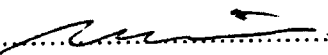
Signed by/on behalf of Export Grain Logistics Pty Limited


.....
(Signature)

.....
DAVE PADDAN
.....
(Full Name)

.....
LEGAL PRACTITIONER
.....
(Description)

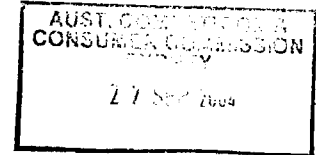
Signed by/on behalf of AWB Limited


.....
(Signature)

.....
WILLIAM REID
.....
(Full Name)

.....
LEGAL PRACTITIONER
.....
(Description)

A30235



FORM F

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Subsection 88(9)

MERGERS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is made under subsection 88(9) of the *Trade Practices Act 1974* for an authorisation under that subsection to acquire shares in the capital of the body corporate, or to acquire assets of the person (including a body corporate), named in item 2.

1. (a) **Name of applicant:**

GrainCorp Operations Limited (ABN 52 003 875 401) ("GrainCorp")

Export Grain Logistics Pty Ltd (ACN 109 812 197) ("Export Grain Logistics")

AWB Limited (ABN 99 081 890 459) ("AWB")

(b) **Short description of business carried on by applicant:**

GrainCorp has its core business in bulk commodity storage and handling, marketing and logistics. It operates a network of rail-linked storage across east Australia, as well as nine export terminals.

AWB is Australia's major national grain asset manager and one of the world's largest wheat managers and marketers. AWB is publicly listed on the Australian Stock Exchange. Its core activities are the pooling, marketing, trading, financing, risk management and logistical management of Australian wheat. AWB (International) is the exclusive manager and marketer of all Australian bulk wheat exports through what is known as the Single Desk system. AWB also markets and trades a range of other grains including barley, sorghum and oilseeds.

Export Grain Logistics is a special purpose company incorporated for the purpose of the contracting of supply chain services for, and the management and co-ordination of, grain for export in bulk or in containers from silos in Queensland, New South Wales and Victoria.

(c) **Address in Australia for service of documents on the applicant:**

GrainCorp Operations Limited and Export Grain Logistics Pty Ltd
C/- Mallesons Stephen Jaques, Solicitors
GPO Box 206
Sydney NSW 2001
Attention: Mr Dave Poddar, Partner

AWB Limited
C/- Blake Dawson Waldron, Solicitors
Level 39, 101 Collins Street
Melbourne Vic 3000
Attention: Mr Bill Reid, Partner

- (d) **Name and address of any person for whose benefit the shares or assets will be held:**
Not applicable.
2. (a) **In the case of a body corporate whose shares or assets are to be acquired:**
- (i) **Name of the body corporate:**
Export Grain Logistics Pty Ltd (ACN 109 812 197) (“Export Grain Logistics”)
 - (ii) **Place of incorporation of the body corporate:**
Australia
 - (iii) **Registered office of the body corporate:**
Melbourne, Victoria
 - (iv) **Short description of the business carried on by the body corporate:**
The contracting of supply chain services for, and the management and coordination of, grain for export in bulk or in containers from silos in Queensland, New South Wales and Victoria.
 - (v) **Number of shares or description of assets to be acquired:**
Two ordinary shares with a value of \$1.00 each.
- (b) **In the case of a person (other than a body corporate) whose assets are to be acquired:**
- (i) **Name and address of the person:**
Not applicable
 - (ii) **Short description of the business carried on by the person:**
Not applicable
 - (iii) **Description of assets to be acquired:**
Not applicable

3. **Where a contract, arrangement, understanding or proposal for the acquisition has been made, brief description of the contract, arrangement, understanding or proposal and its date:**

A Joint Venture Shareholders Agreement between GrainCorp, AWB and Export Grain Logistics, under which GrainCorp and AWB agree to establish a joint venture through Export Grain Logistics to carry on the business described in item 2(a)(iv) above, which is subject to regulatory clearance.

A copy of the Joint Venture Shareholders Agreement is attached as an annexure to the supporting submission to this application.

4. (a) **Grounds for grant of authorisation:**

See supporting submission.

- (b) **Facts and contentions relied upon in support of those grounds:**

See supporting submission.

5. (a) **Does this application deal with a matter relating to a joint venture (See section 4J of the Trade Practices Act 1974)?**

Yes

- (b) **If so, are any other applications being made simultaneously with this application in relation to that joint venture?**

Yes

- (c) **If so, by whom or on whose behalf are those other applications being made?**

GrainCorp

AWB

Export Grain Logistics

6. **Name and address of person authorised by the applicant to provide additional information in relation to this application:**

GrainCorp and Export Grain Logistics	AWB
Mr Dave Poddar Partner Mallesons Stephen Jaques GPO Box 206 Sydney NSW 2001 Telephone: (02) 9296 2281 Facsimile: (02) 9296 3999	Mr Bill Reid Partner Blake Dawson Waldron Level 39, 101 Collins Street Melbourne Vic 3000 Telephone: (03) 9679 3622 Facsimile: (03) 9679 3111

Dated: 27 September 2004

Signed by/on behalf of GrainCorp Operations Limited

.....
(Signature)

..... DAVE REDMAN
(Full Name)

..... LEGAL PRACTITIONER
(Description)

Signed by/on behalf of Export Grain Logistics Pty Ltd

.....
(Signature)

..... DAVE REDMAN
(Full Name)

..... LEGAL PRACTITIONER
(Description)

Signed by/on behalf of AWB Limited

.....
(Signature)

..... WILLIAM REID
(Full Name)

..... LEGAL PRACTITIONER
(Description)

