

Hatfield, David

From: Hatfield, David
Sent: Thursday, 27 January 2005 4:52 PM
Subject: GrainCorp/AWB authorisation - pre-decision conference
Attachments: PDC Procedures.doc

27 January 2005

Dear Sir/Madam

Authorisation No.s A30233, A30234 and A30235 - GrainCorp Operations Ltd,
AWB Ltd and Export Grain Logistics Pty Ltd

PRE-DECISION CONFERENCE

The Australian Competition & Consumer Commission (the Commission) has been asked to convene a conference in relation to the draft determination issued by the Commission on 16 December 2004 proposing to grant authorisations A30233, A30234 and A30235.

The draft determination follows an application by GrainCorp, AWB and Export Grain Logistics for authorisation in respect of proposed joint venture arrangements for export grain freight and logistics in the eastern states of Australia. The Commission concluded in its draft determination that overall it was satisfied that the public benefit flowing from the proposed arrangements is likely to outweigh any anti-competitive detriment and proposed to grant authorisation to the application.

A copy of the application and draft determination can be found on the Commission's website: www.accc.gov.au.

A pre-decision conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the Commission about its draft determination, prior to it issuing a final determination.

The Commission will hold the conference on **Monday 14 February 2005** in the **Sydney CBD**. The Commission will advise those attending of the exact location of the conference once it has a clearer idea of the number of attendees. The conference will commence at **10:30am**.

Under the Trade Practices Act 1974 (the Act), the conference may be attended by the applicant and other interested parties. If you wish to attend the conference, you must notify the Commission of your intention by **cob Friday 4 February** and briefly indicate why you or your company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

The General Manager
Adjudication
Australian Competition and Consumer Commission
GPO Box 1199
DICKSON ACT 2602

Written notice can also be provided to the Commission by e-mail to: adjudication@acc.gov.au or by facsimile on (02) 6243 1211.

You should provide details of a contact name, telephone number, mailing address and e-mail address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

If you require any further information in regard to the conferences or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please call David Hatfield on (02) 6243 1266.

Yours sincerely

Scott Gregson
General Manager
Adjudication



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AN OUTLINE OF THE PROCEDURES **USUALLY FOLLOWED AT PRE-DETERMINATION CONFERENCES**

The Commission seeks to conduct such conferences as informally, flexibly and speedily as possible. Many take only half a day, and nearly all finish within one day. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

A conference gives the Commission and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the Commission's draft determination. The applicant and/or interested persons has/have the opportunity to persuade the Commission to accept their view. The Commission benefits from direct contact with the parties, and its perceptions of public benefit and competition are tested in a forum of industry members.

1. Preliminary procedures

- (a) When you arrive at the conference you should identify yourself to the Commission staff before the conference begins and complete the attendance book. This assists Commission staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the Commission receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the Commission and other parties present are assisted, and your submission also forms part of the conference record. If you cannot complete a written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to provide a written submission at the conference and you wish it (or certain details in it) to remain confidential, you should make your confidentiality request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request.

Any document you present without making any request for confidentiality will be placed on the Commission's public register, and the information it contains may be used by the Commission in making its decision. Where confidentiality is granted, the confidential information may also be taken into account, although such material will not be placed on the public register.

2. General procedures

- (a) The conference has been convened to discuss the application, to canvass points of view and to assist the Commission's weighing of issues and its interpretation of the information given to it.