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Date: 7 February 2005

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Pages: 4 (including this page)

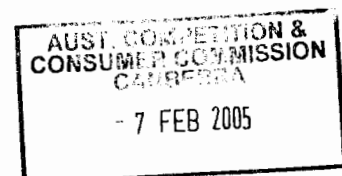
Subject: Submission to ACC re AWB / Graincorp Logistics Joint Venture – Export Grain Logistics (EGL)

Please find attached correspondence in relation to the subject above.

Regards

Michael Iwaniw.

FILE No.
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Ref: SOE/MFN0287/nb

4 February 2005

The General Manager
Adjudication
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Mr. Grimwade

**SUBMISSION TO ACCC RE AWB / GRAINCORP LOGISTICS JOINT VENTURE - EXPORT
GRAIN LOGISTICS (EGL)**

This submission is made in response to the Interim Authorisation and draft determination of the Commission issued 16 December 2004 relating to the formation and operation of EGL. This is also the first opportunity that Australian Bulk Alliance Pty Ltd (ABA) has had to make a submission to the Commission on this issue as, until 31 January 2005, Graincorp Ltd was a 50% owner of ABA. The incoming shareholder, Sumitomo Corporation has expressed its concurrence with the concerns detailed by ABB Grain Ltd in its submission of 19 October 2004. Those concerns are reiterated and further expanded in the following submission.

1. ABA is the only storage and handling company independent of Graincorp and AWB ownership in the region that EGL is proposed to be operating. While AWB has a shareholding in the Melbourne terminal it has no say in the operations of the business. Its influence comes mainly through its storage and handling agreement with ABA.

The reason that EGL is being formed is that it is recognised that the supply chain needs to work across all linkages and that potential savings might be available in these linkages. ABA is a critical path in these linkages with its 7 country receival terminals and the Melbourne grain terminal. These facilities pioneered fast rail loading at country sites and 24 hour train operations in Australia and it is estimated that Supply chain savings of up to 12% have been achieved.

To ensure a profitable storage business, the linkage with rail providers is critical. Under the EGL arrangement, any improvements or innovations ABA wishes to pursue will need to involve EGL. The AWB have already indicated that while storage and handling negotiations can be done without EGL's involvement, this is highly impractical as the freight linkage is so important to ABA's business. Practically speaking, EGL will have to be involved in any initiative by ABA to improve supply chain efficiency because they hold the relationship with the rail provider on behalf of our biggest client, AWB International. This will mean these initiatives will be available to the management and directors of EGL and, by default, to both our largest competitors, Graincorp and AWB Ltd. This will have the effect of marginalising ABA in the storage and handling business as all initiatives are known by our competitors.

The current rules of confidentiality in the EGL joint venture appear to have the effect of ring fencing each party's information from the other. There does not appear to be any mechanism to protect 3rd party confidential information. We have raised this issue with EGL, including specific proposals to address the issues but have received no response. In brief, the specific proposals put to EGL were:

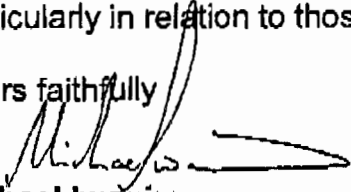
- Provide minimal information on operating procedures but exclude pricing and major storage and handling issues. This would allow us to operate but likely restrict us from participating in supply chain improvement processes.
- Do not allow Graincorp directors of EGL to see any contractual information.
- As a minimum, require all employees and directors of EGL to enter into confidentiality deed between ABA, EGL, Graincorp and AWB.

It is considered that Graincorp and AWB should be required to enter into enforceable undertakings to resolve this issue and provide reasonable assurance of effective ring-fencing of competitive information.

2. The issue of scarce rail rolling stock resources was raised in ABB's submission of 19 October 2004. While this issue has not come to a head because of the poor finish to the grain harvest in southeastern Australia, discussions with rail providers have confirmed that this is looming as a major issue. The requirement for non-discriminatory access to rail resources and transparency of any negotiations that have industry-wide flow on effects is seen as critical.
3. In its draft determination the Commission acknowledged the existence of issues causing public detriment but that these are offset by what are seen to be substantial public benefits. With operation of EGL commencing prior to the recent grain harvest there have been rail freight rate increases of up 7-8% - not an auspicious start to supposed benefits to the industry. With ABA's major competitor joint venturing with its major customer to negotiate and determine actual and comparative freight rates for the Graincorp, GrainFlow and ABA grain export sites, transparency of negotiations and the inclusion of those rates in Estimated Silo Returns is also seen as critical. Again, enforceable undertakings by the joint venturers in this regard are requested.
4. EGL will not only be determining rail freight rates but also selecting grain from various country sites for export through shipping terminals selected by EGL. It is considered essential that undertakings are given for the non-discriminatory treatment of competitive storage sites and ports.

The joint venture between the two major grain handlers/marketers on the east coast of Australia creates a situation where a number of conflicts arise which, in the opinion of ABA, have the potential to result in substantial public detriment. As a substantial competitor in the storage, handling and shipping of export grain in the area of EGL's operations, ABA considers the provision of undertakings by the joint venturers to operate in a non-discriminatory manner, particularly in relation to those issues detailed above, to be a critical matter.

Yours faithfully



Michael Iwaniw
Managing Director