

**Submission Regarding Appl A30233 A30234 A30235 GrainCorp AWB
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With regard to matters discussed at the Pre-decision Conference:

The Applicants may have been in breach of equitable or contractual obligations to third parties, have threatened, damaged or otherwise been unconscionable in their dealings with third parties, and/or the Trade Practices Act or other law prior to, in their Applications and/or during the interim approval. This deserves investigation by the ACCC, and if it is found that the Applicants have been in breach of equitable or contractual obligations to third parties, have threatened, damaged or otherwise been unconscionable in their dealings with third parties, and/or have been in breach of the Trade Practices Act or other law, it should be enforced and the Applicants should not be insulated, protected or rewarded by a continued interim approval or any form of final approval of their Applications.

The Applicants acknowledged at the Pre-decision Conference, that certain of the benefits which they implied or represented in the course of their Applications to the ACCC were not deliverable.

Questions and anecdotal evidence have been raised, regarding the implied and stated representations and claims by the Applicants and/or the Trade Practices Act or other law, regarding the conduct of the Applicants with reference to upcountry facilities, rail transport, storage, port terminals, supply chain costs and trading in the areas that are the subject of the Application(s).

Interested parties called attention to the past behavior of the Applicants in directing grains virtually exclusively to their owned port terminal facilities in cases where it was freight neutral to alternative port terminal facilities, as a demonstration that if the Application(s) are approved, grain and course grain will be directed to the port terminal facilities in which the Applicants have an interest, over alternative facilities which may provide lower supply chain costs to growers or other benefits.

Applicant's continued ownership and operation of existing, and/or investment in new, inefficient or duplicating upcountry, storage or port terminal infrastructure, particularly if driven by incompetence or self service, should not be protected from the costs or rewarded for this behavior by a continued interim approval or any form of final approval of the Application(s).

The Applicants have been asked, and it is incumbent on the Applicants, that they promptly provide detailed data on the whole of supply chain showing the benefits and detriments of their trading, transport and related activities and performance prior to and during the interim approval, and that interested parties be given an opportunity to challenge that data prior to the ACCC making a decision in relation to a final approval.

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The Applications, interim approval and any final approval results in the distortion in and inequitable allocation of opportunities, risk, profit and wealth in favour of the Applicants, and against growers, independent traders, transport providers, and developers, owners and operators of independent upcountry, transshipment and port terminal infrastructure.

In recent years there has been an increase of concentration of ownership and control of business and assets in Australia which has had a detrimental impact on competition, on the diversity, quality and pricing of goods and services offered, and on the diversity (by industry and size) of Australian owned business and assets, which in turn is detrimental to the Australian economy and the Australian public interest. The Application(s) represent a further example of further concentration of ownership and control with the likely foregoing detrimental effects, and for these reasons should be denied.

The AWB's current rights to the Single Desk, self enhancement and protection, and the motivation of the Applicants are entwined. The GrainCorp and AWB proposed Undertaking to the ACCC is not adequately on point, is convoluted, is difficult to enforce and places the onus on the ACCC. While the ACCC should not continue the interim approval and not approve the Application(s) in any form, any approval if given should be entirely revoked and the Applicants required to dismantle the proposed arrangements on the day of the earlier of any abuse of such an approval by the ACCC or of AWB's rights to the Single Desk, or of AWB's change in or partial or full loss of its rights to the Single Desk or any change in the Single Desk, in any form.

Higher utilization of rail rolling stock, greater productive availability of existing or any level of rail rolling stock, greater reduction in rail haulage costs and rates, reduction in storage and port terminal costs, is not achieved by the Applicant(s) proposed arrangements and plans.

Higher utilization of rail rolling stock, greater productive availability of existing or any level of rail rolling stock, and greater reduction in rail haulage costs and rates as well as lower storage costs and port terminal costs, is logistically driven by and most effectively achieved through the provision of competitive and more efficient port terminals and port terminal operations, through:

- Modern (e.g. with soft handling conveyor and transfer systems to protect product from degradation and efficient segregation of grades, screening, blending, receipt and discharge) substantial storage capacity, allowing trains to move closer to a regular schedule than a campaign [100,000 tonnes + whatever the market can use, in modern segregated storage].
- Long rail balloon loops, enabling longer more economic trains to operate [up to ~70-80 wagons], without having to break them up and shunt at the port.

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- High rail receival rates, reducing train turn around times at the port terminal to in the order of 2-3 hours [via 2500 tph rail receival facilities].

The introduction of independent, competitive and more efficient port terminals and port terminal operations are required to enable:

- Maximum utilization of rail rolling stock.
- Maximum productive availability of existing or any level of rail rolling stock.
- Attract additional rolling stock to the task if needed.
- Maximum reduction in rail haulage costs and rates.
- A substantially level playing field and open competition in rail haulage services notwithstanding size of operator and market share.
- Lower storage costs.
- Lower port terminal costs.
- Maximum supply chain savings to the growers and independent traders.

Modern (as is required to maximize the value and price of grains and course grains) and additional storage can be provided on a least cost basis to the supply chain at the port terminal, and if it is provided at the port terminal the value and sale price of the production all growers is maximized. Continued interim approval and any form of approval of the Applications would have a detrimental effect on the achievement of the foregoing.

With Australia being a "price taker" and of limited production capacity, Australian, growers and grower organizations have raised, including publicly, that what is required to produce the most profitable product and maximize their profit involves high value specialist crops linked to long term off-take contracts and requires a competitive and open access modern upcountry facility, transport and port terminal supply chain which is at arms length from traders and ultimate purchasers, and that their future depends on it. This says that the Single Desk is anachronistic and that the arrangements proposed by the Applicant(s) are an obstacle to the health and growth of Australia's grain, course grain and related sectors.

Maximum supply chain savings, maximum value and profit to growers, best support of the future of Australia's grain and course grain sectors, and industries which service or use same, requires that storage and port terminal infrastructure be separately owned, outside the control of and at arms length from the Single

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Desk. Continued interim approval and any form of approval of the Applications would have a detrimental effect on the achievement of the foregoing.

That all interested parties are given an opportunity to comment on the Applicants' final submission, prior to the ACCC making any decision with regard to a final approval.