

11th July 2008



The General Manager
Adjudication Branch
Australian competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

By email: adjudication@accc.gov.au

Dear Sir

Re: Cooperative Bulk Handling Limited (CBH) exclusive dealing notification N93439

The Western Australian Farmers Federation (Inc) (WAFarmers) has the largest membership base of any rural lobby group in Western Australia with most of these members producing grains.

Following our June 3rd correspondence to the ACCC referring to the draft public ACCC Notification Submissions to be lodged by CBH, the WAFarmers Grains Council invited Andrew Menschelyi and Richard Williams of the CBH group to brief them on the proposal of Grain Express.

Having also thoroughly read CBH's Notification of Exclusive Dealing and supporting submissions as listed on the ACCC's website on July 11, including annexure's O, M, I, D, C, B, A in addition to appendices 1 and 2, WAFarmers is compelled to again address the ACCC regarding Grain Express.

In submitting our qualifications to the application as submitted by CBH Group, WAFarmers has determined that, in order to overcome any anti-competitive elements with the CBH Group application, it is essential that CBH should begin to effectively separate the Group into two discrete businesses:

1. Storage/Handling/Transport
2. The commercial arms of the Group comprising of Grainpool, Agracorp and Pacific Agrifood businesses (collectively the Asian Flour mills).

The two or three businesses that result from the re-structuring should comprise separate and independent boards and management.

While we fully support a concept which is focused on keeping grain on rail we recognise Grain Express is the only proposal which has been put forward and, as such, offer our conditional support with the following reservations in conjunction with the preceding paragraph.

- That the grain freight payment proposal be amended to be realistic and not be financially burdensome for Western Australian grain producers. Any system which would see farmers charged for grain freight before they receive payment for grain would severely disadvantage them in an environment of restricted access to cash-flow which would compound problems already exacerbated by rapidly rising input costs, drought and diminished farm equity.
- It is imperative that the ultimately separated transport, storage and handling facility of CBH makes available transparent information regarding WA grain quality and accumulation by locality to all marketers and growers.

- The compulsory charging of warehousing fees for grains which begins 21 days after the delivery of wheat is in direct contradiction of promotion by CBH of a system which allows growers to 'market at leisure'. CBH has the capability to export grain to its Asian flour mills and this should relieve any port congestion that may occur whilst growers are making marketing decisions. Growers should be given until the end of January to market their grain before storage charges apply.
- CBH must make available to all marketers and growers the availability of a payment system based on the quality of grains. History has shown that CBH has the ability to support quality based payments and there would be no acceptance of the Grain Express concept if this opportunity for growers and marketers was to be removed.
- With the ability of grain growers to virtually transfer grains to other site destinations than the site delivered to, we believe there should be an immediate removal of zone differentials.

We also believe that it would be in the best interest of growers in a non-competitive market situation that a management committee be formed with representatives from WAFarmers, the Pastoralist's and Graziers Association (PGA), the government and CBH to participate in the negotiation and settlement of freight rates and conditions.

Subsequent to our discussion with the CEO of the CBH Group Mr. Imre Menschelyi, WAFarmers expects that a resolution to these matters to be forthcoming in a timely manner.

Yours sincerely



Derek Clauson
WAFarmers Grains Section President.