

1 PLEASE EXPLAIN WHAT FACTORS HAVE CAUSED THE CURRENT CONGESTION PROBLEMS, INCLUDING THE CONTRIBUTION OF GRAIN EXPRESS TO THE CURRENT SITUATION.

Short Answer

- 1.1 The major factors that combined to cause congestion in the WA export grain supply chain were:
- 1.1.1 a substantial increase in the number of marketers involved in the export of grain, due to the changes implemented by the Wheat Export Marketing Act 2008 (Cth) (WEMA);
 - 1.1.2 a large harvest in Western Australia and small harvest in Eastern Australia;
 - 1.1.3 a late harvest;
 - 1.1.4 miscellaneous factors including underperformance of rail infrastructure; and
 - 1.1.5 a flood of shipping nominations for the same shipment period.
- 1.2 CBH considers that the Grain Express project reduced the effect of these factors because Grain Express enabled the movement of grain from country storage to port to occur in a coordinated fashion. But for those changes, congestion may have been endemic throughout the supply chain.

Detailed information and response

- 1.3 In the first season of liberalisation of wheat exports from Australia a series of factors combined to cause an unprecedented demand for export shipping in a compressed period. Information on each of these factors is set out below.

Impact of regulatory change

- 1.4 The removal of the exporting restrictions known as the "single desk" caused an immediate proliferation of bulk wheat exporters in the 2008/2009 harvest. This increase in number of marketers increased the risk that demand for shipping capacity would concentrate in a compressed period. To use a simple, but useful, analogy, the system was changed from a single person walking through a doorway to twenty people trying to walk through the same doorway at the same time.
- 1.5 The increase in the number of marketers meant that in 2008/2009 Growers had more choice than ever before with regard to the sale of their grain. Grain Express has an effect also, because it facilitated transactions between growers and marketers by enabling more reliable and orderly decision and contracting.
- 1.6 Instead of nominating a marketer at the time of delivery, under Grain Express, growers had 21 days (without any charge) to nominate a marketer. This meant that there was a delay between delivery of grain and the nomination of grain to marketers across the entire grain harvest rather than merely that portion of growers who warehoused grain.
- 1.7 [Confidential material REDACTED]The main difference is that whilst there was tonnage in warehousing, the remainder of the harvest tonnage had already been nominated to a marketer. Under Grain Express the delay in nomination impacted on the market understanding when it had sufficient entitlement to make a sale.

FIGURE 1 [Confidential material REDACTED]

Size of harvest

- 1.8 Figure 1 - Size and timing of harvest- shows the seasonal variation experienced in harvests in Western Australia over the last 8 years with a variance of nearly 10 million tonnes.

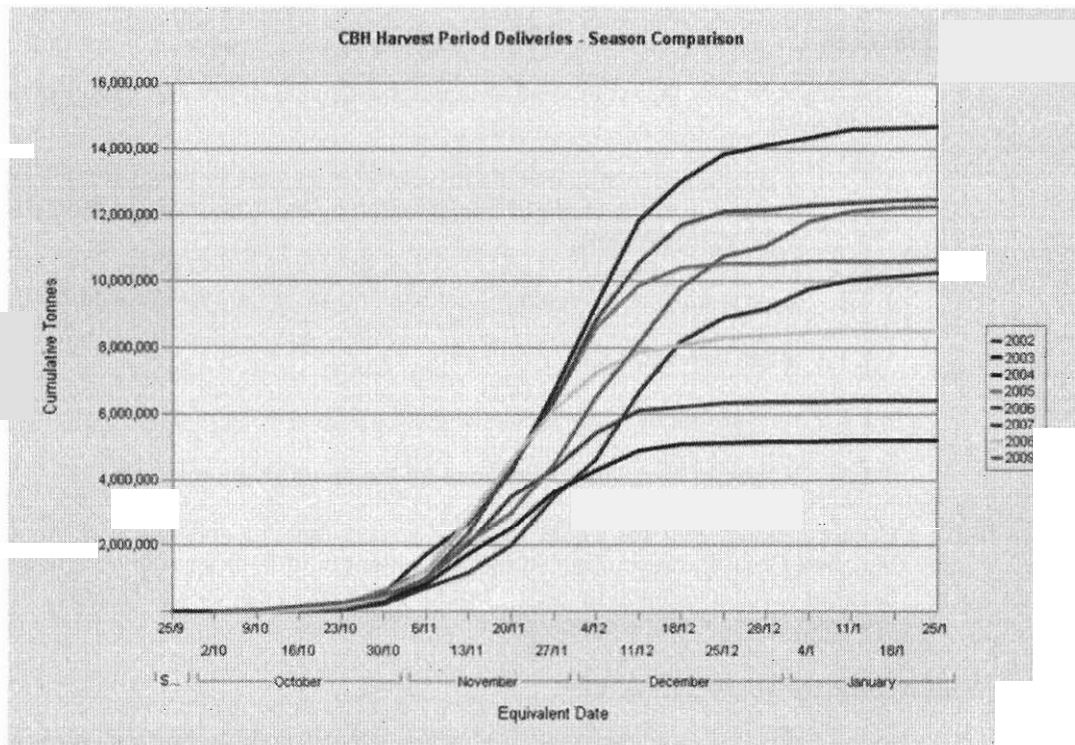
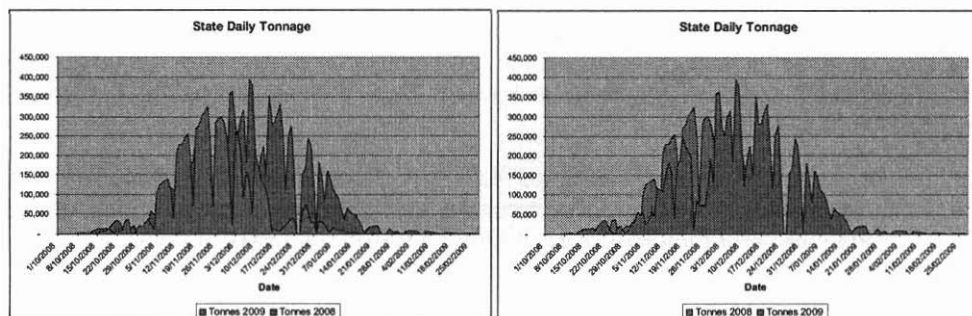


Figure 1 - Size and timing of harvest

- 1.9 Of itself a large harvest will not cause congestion problems such as those experienced in the 2008/2009 harvest. In the record harvest of 2003/2004 the CBH system experienced substantially less congestion than this year. However, a large harvest places inherent pressure on the supply chain and combined with the factors referred to below resulted in unusual congestion.

Timing of harvest

- 1.10 It can be seen in Figure 1 - Size and timing of harvest that small harvests like 2007/2008 and 2002/2003 were finished by early December as opposed to the 2008/2009 harvest which went all the way through January. Likewise the pace of the 2008/2009 harvest can be seen to be slower than other large harvests like 2003/2004 and 2005/2006. The two diagrams below show the difference in receivals between 2007/2008 and 2008/2009 where significant tonnages were received later in harvest.



- 1.11 Agricultural consultants were also advising Growers to patiently exercise their choices when marketing their grain. These circumstances when combined with a very late

harvest due to prevailing wet weather conditions in Western Australia during November and December resulted in marketer ownership being delayed to a greater degree than in previous years. These delays inhibited shipping during harvest and concentrated demand.

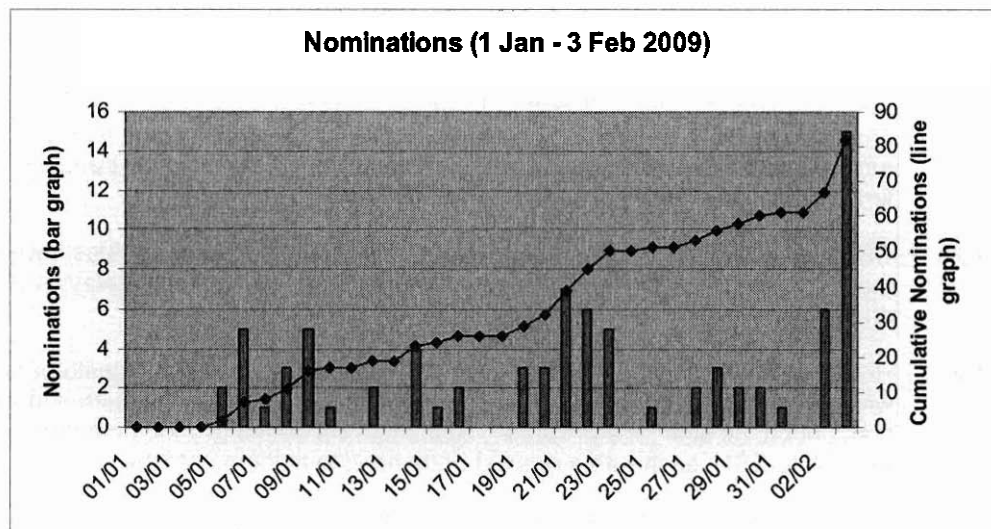
- 1.12 The delay in the harvest had a significant multiplier effect. For example fumigation activity was significantly delayed which meant that a large volume of grain was under gas and not available during January and February. The period of peak demand for the export service occurred in February 2009 with marketers lodging nominations to export 2,408,248 mt. Later than normal fumigation meant that access to grain was very problematic during this period.

Other factors

- 1.13 CBH was facing severe restrictions in the performance of rail based grain transport which had not been tested to the same degree in the previous two seasons. At this time CBH had restrictions preventing trains from running during daylight hours.
- 1.14 The plentiful availability of grain in Western Australia (compared to a drought affected Eastern Australia), plus a favourable freight differential of \$10 per tonne (over South Australia) meant that exporting from WA became very attractive.
- 1.15 In addition:
- 1.15.1 there was a very significant drop in shipping rates and a corresponding increase in available shipping which would make shipping earlier more attractive; and
 - 1.15.2 in January 2009 grain prices were falling, which meant that traders wished to ship as soon as possible.

The flood of nominations

- 1.16 The following chart shows that 82 nominations (about 3 to 3.5 months worth of shipping) were received within a one month period, with more than 50% received in the last 10 days.



- 1.17 Had CBH been more explicit about the shipping capacity (of which the main determiner is the ability of the transport infrastructure to get grain to port) during the period then it is possible the backlog would not have existed. However, even if the shipping capacity was known that fact in itself would not guarantee that a sudden

flood of nominations would not have occurred in the same fashion as occurred in January and February 2009.

- 1.18 To prevent the backlog from occurring CBH would have had to take steps to strictly allocate this capacity to the trade to prevent demand from exceeding supply as opposed to operating a first come first served process. However, the strict adherence to either rejecting nominations or allocating capacity would have resulted in some customers not being able to fulfil contracts already signed by them as they would not have acquired capacity and access to the stem.
- 1.19 Unfortunately, there was no precedent for shipping demand and capacity allocation processes before the liberalisation of wheat exports from Australia and CBH only had its own shipping process precedent to follow. Prior to 1 July 2008 the process of capacity allocation was that the exporter would generally contact CBH prior to their sales and shipping nominations, to establish if the shipment could be executed from Western Australia. This process kept the shipping from WA within the capacity of CBH's transport corridor. This was the result of the two main exporters clearly understanding the capacity of the transport corridor and the proportionate split of capacity between them given historical export tonnages of the different grain types.
- 1.20 CBH examined the possibility of introducing a capacity booking system prior to the 2008/09 season, but it ran out of time and resources due to:
 - 1.20.1 the work being performed for the introduction of Grain Express;
 - 1.20.2 the need to get a Grain Services Agreement drafted and out for the potential early start to harvest; and
 - 1.20.3 the requirement to have the Grain Services Agreement up on the CBH website by 1 October 2008 to comply with the WEMA requirement.
- 1.21 Discussions were held with industry in November 2009 about an allocation system for "priority shipping". In its communication with customers on this point CBH raised the possibility that in the absence of some method of capacity allocation, in periods of heavy terminal congestion, vessels may be delayed. Only 2 exporters responded to a proposal sent around on 19 November 2008 which would seem to indicate that this was not a concern of customers and highlights the difficulty that CBH would face in any potential alteration of the rules around accessing the shipping stem.
- 1.22 In the events leading to February 2009, multiple exporters of grain from Western Australia did not contact CBH prior to sales or shipping nominations to confirm if their proposed delivery timeframe was possible to execute. Whilst some marketers made early enquiries as to shipping capacity, these were not immediately translated into a firm nomination. **[Confidential material REDACTED]**
- 1.23 CBH had to stop receiving further nominations from 3 February 2009 as it was clear that to do so would continue to cost exporters due to considerable delays and ongoing uncertainty over shipping.
- 1.24 However, on closing the shipping stem CBH was advised by some customers that it was contractually better for the exporter to have the vessel on the stem and delayed than not on the stem at all. Further, customers continued to send nominations through to CBH, each with a request or demand to fit them onto the stem.
- 1.25 CBH recognised that to insist on its contractual right to reject nominations, whilst preventing there being a backlog of ships on the stem, could still result in damage to Australia's reputation as a grain exporter due to the large number of contractual defaults that would occur as opposed to the incurring of delay costs.
- 1.26 CBH's attempts to assist all marketers have resulted in it incurring significant costs in meeting the increased level of demand. **[Confidential material REDACTED]**

2 PLEASE EXPLAIN WHAT CBH CONSIDERS IS LIKELY TO HAVE OCCURRED IN THE CURRENT ENVIRONMENT IF GRAIN EXPRESS HAD NOT BEEN OPERATING.

2.1 CBH remains of the view expressed in its submission in support of the Grain Express notification that, in the absence of Grain Express, the grain supply chain would have been unmanageable. Without coordinated management of the land-based supply chain, grain movement would have been inefficient and potentially dysfunctional. In relation to the current season it is CBH's opinion that it would have exported a significantly lower tonnage and at a greater cost than would have otherwise been the case this year.

2.2 The following factors made the difference:

2.2.1 **Without Grain Express, there would have been relatively lower volumes of grain moved to port.** A key benefit of Grain Express lay in its ability to allow CBH to manage stock in the most effective means possible to meet the needs of the market. Although the rate of nominations was initially low and the harvest relatively late CBH was able to confidently move grain to port without site limitations preventing the campaigning of large volumes. In the absence of Grain Express, grain would have been moved in relatively low volumes and from many sites.

2.2.2 The relative flexibility of the CBH stock system under Grain Express also meant that ships could be loaded and grain exported regardless of the specific location of the physical that was acquired by the exporter. CBH was in a position to quickly accumulate whole cargos and export from a single point of departure even in circumstances where the owners' physical product was spread over the entire wheat-belt.

2.2.3 Given the flexible stock systems under Grain Express CBH staff have to date worked on relatively fewer sites than would normally be the case. CBH Operations was therefore able to concentrate and utilise its resources to best effect. This meant that a significantly greater number of man hours were engaged in the loading of trains and trucks as sites were campaign cleared as opposed to hours spent opening, closing, re-fumigating and travelling.

3 PLEASE OUTLINE THE CURRENT PROPORTION OF WHEAT BEING DELIVERED BY ROAD AND RAIL AT EACH OF CBH'S EXPORT TERMINALS UNDER GRAIN EXPRESS.

3.1 Figures to 21 April 2009 show that of the overall movements made to port from CBH receival points 3,145,164 tonnes were moved on rail and 1,988,292 tonnes were moved on road. That equates to 61.3% on rail and 38.7% on road.

By Port Zone as at 21 April

Port	Road Tonnes	Road %	Rail Tonnes	Rail %	Total Tonnes
Albany	494,107	52.9	439,242	47.1	933,349
Esperance	428,392	100	0	0	428,392
Geraldton	565,513	67.8	268,262	32.2	833,775
Kwinana	277,116	10.3	2,409,424	89.7	2,686,540

4 MORE GENERALLY, PLEASE PROVIDE CBH'S VIEW ABOUT THE OPERATION OF GRAIN EXPRESS TO DATE, INCLUDING WHETHER CBH HAS ANY PLANS TO REVIEW ITS OPERATION PRIOR TO THE NEXT SEASON.

- 4.1 Operationally, CBH staff regard Grain Express as a significant success. The clearance of sites by campaign movement and the demand for grain has allowed to focus its operations on shifting grain volume. This has led to the complete emptying of some sites and has been instrumental in allowing CBH to surge grain to port to meet the demand. For example, the table below compares the 2008/09 stock in open bulkhead storage with 2005/06 season which were very similar seasons. On the basis of a comparable timeframe, the amount of stock remaining in bulkheads is lower in the 2008/09 season by 615,536 tonnes

Zone	08/09 difference over 05/06 (Tonnes)
Albany	176,397
Esperance	43,897
Geraldton	135,596
Kwinana	259,647
Total	615,536

- 4.2 This is a direct result of the changed logistics under Grain Express and has immediate benefits including:
- 4.2.1 Significantly fewer grain losses,
 - 4.2.2 A safer work environment with less handling of tarpaulins in high wind environment,
 - 4.2.3 A safer product more likely to be free of mycotoxins.
 - 4.2.4 A clear labour efficiency,
 - 4.2.5 A clear freight efficiency.
- 4.3 Without Grain Express and Destination Site entitlement, CBH could not have used road transport to surge grain towards the standard guage sites and then maximise the grain flowing down the standard guage line.
- 4.4 In addition, the introduction of Grain Express saw a dramatic decline in the number of nominations to marketers that needed to be corrected and a significant increase in the use of LoadNet® to transfer entitlement to grain to marketers. This meant that Grower access to the market was greatly enhanced through Grain Express.
- 4.5 CBH also has not received complaints from Marketers about their ability control the volume of location of nominations to them using the enhanced StockNet system.
- 4.6 As stated in the Grain Express submission and on many occasions publicly, CBH always intended to review the operation of Grain Express following the first year.
- 4.7 Accordingly, CBH is currently engaged in reviewing Grain Express with all relevant industry stakeholders. This review has led to additional changes being proposed for next year. Further, CBH is proceeding with previously planned changes which could not be implemented last year due to time constraints which are designed further improve the level of service that can be provided to customers.

[Confidential material REDACTED]

**PLEASE PROVIDE A RESPONSE TO CONCERNS REGARDING
MARKETERS BEING EFFECTIVELY DECLINED ACCESS TO CBH'S
PORT FACILITIES UNLESS THEY USE GRAIN EXPRESS. IN
PARTICULAR:**

- I. PLEASE CONFIRM WHETHER MARKETERS CAN ACCESS CBH'S
PORT FACILITIES WITHOUT USING GRAIN EXPRESS.**
- II. IF YES, PROVIDE DETAILS OF INSTANCES OF DELIVERY OF
GRAIN DIRECT TO PORT. PLEASE ALSO PROVIDE A COPY OF
THE STANDARD TERMS AND CONDITIONS THAT GOVERN THE
ARRANGEMENT OF DELIVERY OF GRAIN TO PORT.**

CBH has not declined access to its port facilities unless marketers use Grain Express and would be interested to review further detail regarding the factual basis of the allegation. Marketers can and have accessed CBH's port facilities without using Grain Express.

- 5.2 On the one occasion that Marketers requested access to port facilities outside of CBH's Grain Express product that was granted. More details are provided in paragraph 5.6.
- 5.3 If the ACCC's question assumes that direct to port deliveries are necessarily distinct from Grain Express, that assumption is incorrect. CBH's Grain Express service encompasses direct to port deliveries by growers and potentially by marketers.
- 5.4 Direct to port deliveries under Grain Express are commingled with other Grain Express grain and obtain the efficiency, quality and flexibility benefits of CBH's coordinated supply chain. A marketer making a direct to port delivery into Grain Express does not acquire transport services from CBH.
- 5.5 Direct to Port deliveries are catered for contractually in Grain Express under the existing Grain Services Agreement (see clause 4 – Grain Receipt Service).
- 5.6 If the ACCC's question is directed to the direct to port deliveries by marketers from locations other than CBH storage sites then there was one such occurrence this year.
[Confidential material REDACTED]
- 5.7 **[Confidential material REDACTED]**
- 5.8 There are no standard terms for such a product and the terms that govern the product were created without the benefit of the work performed in creating the access undertaking.