

Australian Competition & Consumer Commission

Review of Co-Operative Bulk Handling – Grains Express

Submission

W.A. Grains Group (Inc)
July 2010

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Executive Summary

The WA Grains Group wrote to the ACCC on 4th June 2008 to support the implementation of Grain Express. We continue to see the merits of the system however growers have not seen Grain Express deliver the efficiencies and financial savings that CBH espoused during the implementation phase of Grain Express.

Growers have to critically assess CBH, its practices and processes because every part of our business must be working as hard as possible to improve a grower's international competitiveness. The AWB was a grower owned company that failed through ill discipline, poor practices, and growers not critically analysing the business of AWB. Growers and shareholder lost millions of dollars. We will not make the same mistake again.

In this submission the WA Grains Group will make the following points:

- In the absence of competition at port the net benefit of Grain Express, in a deregulated grain market, cannot easily be established as there is nothing to compare the system with.
- Domestic outturns by road charges have increased by 293% over pre Grain Express.
- Domestic outturns by rail charges have increased from \$5.70/tonne to \$11.00/tonne (93%) in the first two years of Grains Express.
- In the first two years of Grain Express the charges to export grain rose in the order of \$6.00/tonne (approximately 12%) over pre Grains Express.
- The charges to use the CBH system to store grain for the domestic market have increased over pre Grain Express due to the increase in domestic outturn charges.
- CBH have increased FOB charges in the order of 45%.
- Australian FOB costs are in the order of four times dearer than the United States; 3.5 times more expensive than Germany and France and 10% dearer than the Ukraine.
- CBH have introduced a new deadline of March 1st for the nomination of domestic grain outturn from a domestic bin. The March 1st deadline was not communicated to growers. If a grower wishes to outturn grain from the stack into which it was delivered, he/she may not be able to do so because the grain has been physically shifted "closer to port". In some cases this is away from the domestic market increasing freight costs.
- In 2009 CBH downgraded malt barley to feed barley without proof to the growers that the grain had lost quality. Growers lost between \$55 and \$89/tonne through the downgrade.

- CBH have substantially altered the structure of charges for CBH services in the life of Grain Express claiming financial benefits to growers. The benefit is not a reduction in charges just a redistribution as to the way charges are made.
- CBH's Grain Service Agreement dictates that CBH want the outturn of grain pre September of the year following delivery. CBH use "cliff face" storage fees and the threat to invoke Section 24 of the Grain Service Agreement to achieve this aim. This action is about "clearing the decks" of grain leading up to the next harvest and is prohibitive of growers to operate stepped time sales strategies (personal pool).
- CBH has rebated over \$8M to growers due to freight overcharges from the 2008 harvest of 12.3Mt. The freight rebate made by CBH was in the order of \$0.65/tonne. CBH claim that this is the first time that a rebate has been paid to growers which is true, as historically it was paid back to marketers. In fact rebates for freight were operational under the monopoly grain trading system (single desk), and the rebates were paid to pools and not directly to the growers.
- CBH claims that Grains Express prevents the arbitrage of freight by marketers in the grain trade through the use of Grains Express as the monopoly freight system. However at this point in time growers have not seen freight to port charges decrease with the claimed efficiencies produced through Grains Express. Freight rates have been held constant in the two years of Grain Express.
- Competition at port has the potential to see the development of alternate supply chains. If CBH warehouse facilities and Grain Express are indeed the panacea of grain storage and grain freight logistics then CBH and Grain Express will survive regardless of competition. Growers will support the CBH business model if it is in their best interest. If CBH do not deliver on their promises they will quickly find that grower loyalty is not as strong as it used to be. In today's world, price and service, buy loyalty.

1.0 Introduction

The WA Grains Group (Inc) (WAGG) is a grower financed and grower driven group focused on delivering economic gain to growers.

The objects of WAGG are:

- i) To represent the Western Australian grain industry in the areas of production, marketing, plant breeding, agronomic development, storage and handling, processing, bio-security, transport and any other issues in order to promote, sustain and safe-guard the Western Australian grain industry in the longer term
- ii) To encourage profitable and sustainable production and marketing of the Western Australian grain crop.
- iii) To carry out, promote or assist in activities of any kind associated with the development, production, handling, processing, promotion and competitive services of Western Australian grain and its derivatives.

2.0 Terms of Reference for Submission

WAGG presents this submission to demonstrate an evidence based argument as to challenges within the Co-operative Bulk Handling (CBH) Grains Express.

As growers we can only comment from a grower's perspective on the effects of Grains Express on our businesses. As growers we want to be able to export grain below the cost of our international competitors.

3.0 Co-operative Bulk Handling (CBH) Business

CBH was founded in 1933, it has around 4800 grower member/shareholders, its average receival are in the order of 11million tonnes of grain annually, it operates over 195 receival sites and 4 grain export terminals, it has 9 regional offices in WA, 4 regional offices in the eastern states and international offices in Hong Kong and Tokyo. CBH has a permanent staff of 1000 (one staff member for every 4.8 growers) and 1500 casuals. (Source: <https://www.cbh.com.au/about-us/key-facts--figures.aspx>)

At a base level CBH's revenue on a dollar per tonne basis over the last three years has increased. (Refer to table 1). Note that the year ended October refers to the previous harvest year i.e. Year ended October 2007 refers to the 2006 harvest year.

Table 1: Tonnes of grain received into the CBH system Vs the revenue collected expressed on a dollar per tonne basis by Co-operative Bulk Handling.

Year Ended October	Grain Delivered (million tonne)	Total Revenue \$,000	\$/t	Source
2007	6.4	\$216,678	\$33.86	CBH Annual Report 2007
2008	8.2	\$261,762	\$31.92	CBH Annual Report 2008
2009	12.3	\$584,173	\$47.49	CBH Annual Report 2009

Rule of Thumb

There are approximately 7.5 million hectares of crop in WA. If every hectare under crop yields 1t/ha then the CBH system will roughly break even. For every tonne of grain delivered into the CBH system over the breakeven point CBH currently post a profit in the order of \$25/tonne.

4.0 Domestic & Export Outturn

4.1 Domestic Outturn by Road

WAGG believes that Grain Express for domestic outturn via road has increased costs.

Pre Grains Express it cost \$2.90/t to outturn grain domestically by road. In 2008/09, domestic outturn by road was \$3.20/tonne. In 2009/10 domestic outturn by road, there was a charge of \$8.50/tonne (293% increase over 2007/08). (Refer Figure 1)

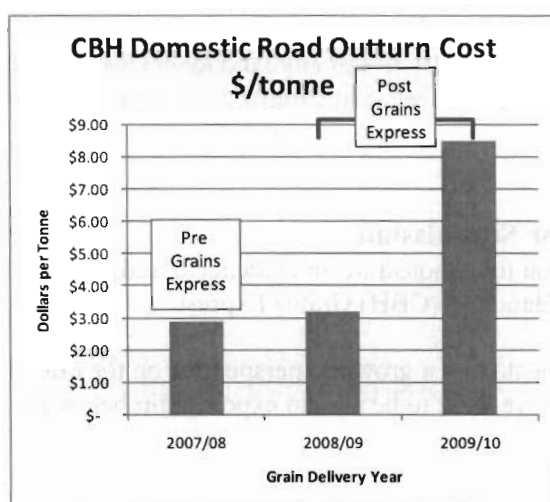


Figure 1:- CBH domestic outturn price for 2008/09 and 2009/10. (Source: - CBH Harvest Handbook 2007/08, CBH Grain Receival, Storage & Handling Charges 2008/09 and CBH 2009/10 Charges Schedule for the Grain Services Agreement.

The current upcountry outturn charge makes it cost prohibitive to use an alternative grain pathway to port.

4.2 Domestic Outturn by Rail

WAGG believes that Grain Express has increased domestic grain rail outturn charges.

In the first year of grain express 2008/09 the charge to outturn grain domestically by rail was \$5.70/t. In 2009/10 the charge has risen to \$11.00/tonne. WAGG has been unable to determine the domestic outturn charge by rail in the year before Grain Express due to a lack of transparency in the system.

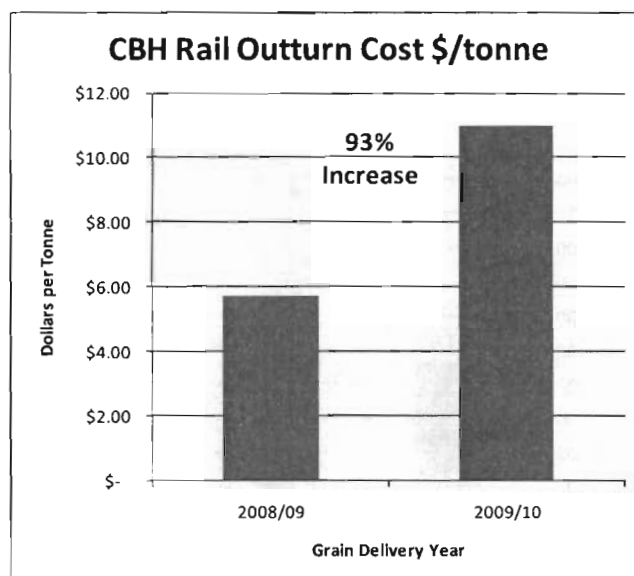


Figure 2:- CBH rail outturn price for 2008/09 and 2009/10. (Source: - Grain Receival, Storage & Handling Charges 2008/09 and 2009/10 Charges Schedule for the Grain Services Agreement)

Note: Service agreements in years before Grain Express are inaccessible from the CBH website. The documents may be searched however the link diverts you to a more recent year.

4.3 Export Outturn

Table 2 and Figure 3 demonstrate that in the first two years of Grain Express that the charge to export grain rose in the order of \$6.00/tonne (approximately 12%) over the charge of the pre Grains Express year of 2007/08.

Table 2: CBH fees and charges for domestic and export wheat for 2007/08 to 2009/10. This assumes a June outturn in the year following delivery and a constant freight rate. (Source: - CBH Frequently Asked Questions for Marketers: Pricing Restructure As at 14 September 2009 and CBH Harvest Handbook 2007/08)

Fees & Charges	2007/08	2008/09	2009/10
Grain Assessment Charge	\$ 1.05	\$ 10.50	\$ 10.00
Grain Recieval Fee	\$ 8.30	\$ 1.15	\$ -
Transport Recovery Fee	\$ 1.00	\$ 1.00	\$ -
Time based storage	\$ 4.30	\$ 6.50	\$ -
Total Recieval	\$ 14.65	\$ 19.15	\$ 10.00
Export Outturn	?	\$ 8.00	\$ 17.10
Blending Fee	?	\$ 1.15	\$ -
Ship Loading Overtime Fees	?	\$ 0.40	\$ -
Non Bulk Handler Costs	?	\$ 4.00	\$ 5.51
Total Export	\$ 12.00	\$ 13.55	\$ 22.61
Outturn Fee	\$ 2.90	\$ 3.20	\$ 8.50
Freight to destination	\$ 25.00	\$ 25.00	\$ 25.00
Total Export	\$ 51.65	\$ 57.70	\$ 57.61
Total Domestic	\$ 42.55	\$ 47.35	\$ 43.50

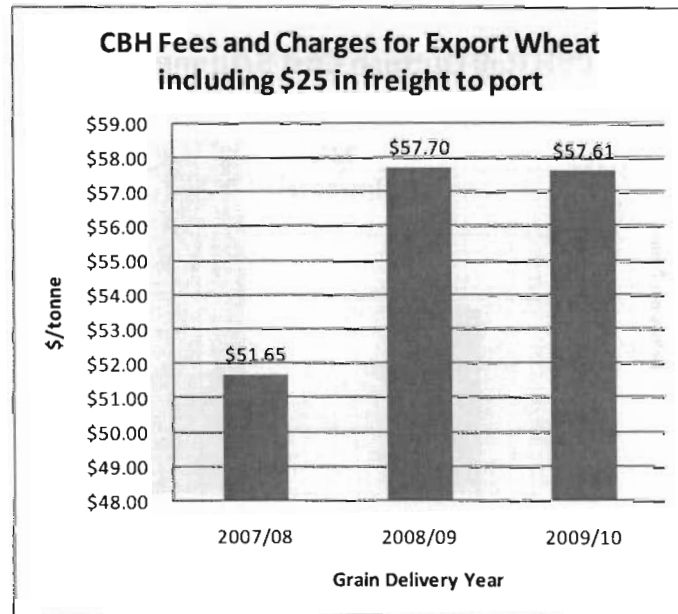


Figure 3: CBH Fees and charges for export wheat including \$25/tonne in upcountry freight to port. Assume a 6 month storage fee i.e. June (Source: - CBH Frequently Asked Questions for Marketers: Pricing Restructure As at 14 September 2009 and CBH Harvest Handbook 2007/08)

Figure 4 has been taken from a CBH brochure and clearly shows the climb in CBH charges in recent years, something that has not been arrested or substantially reduced with the introduction of Grains Express.

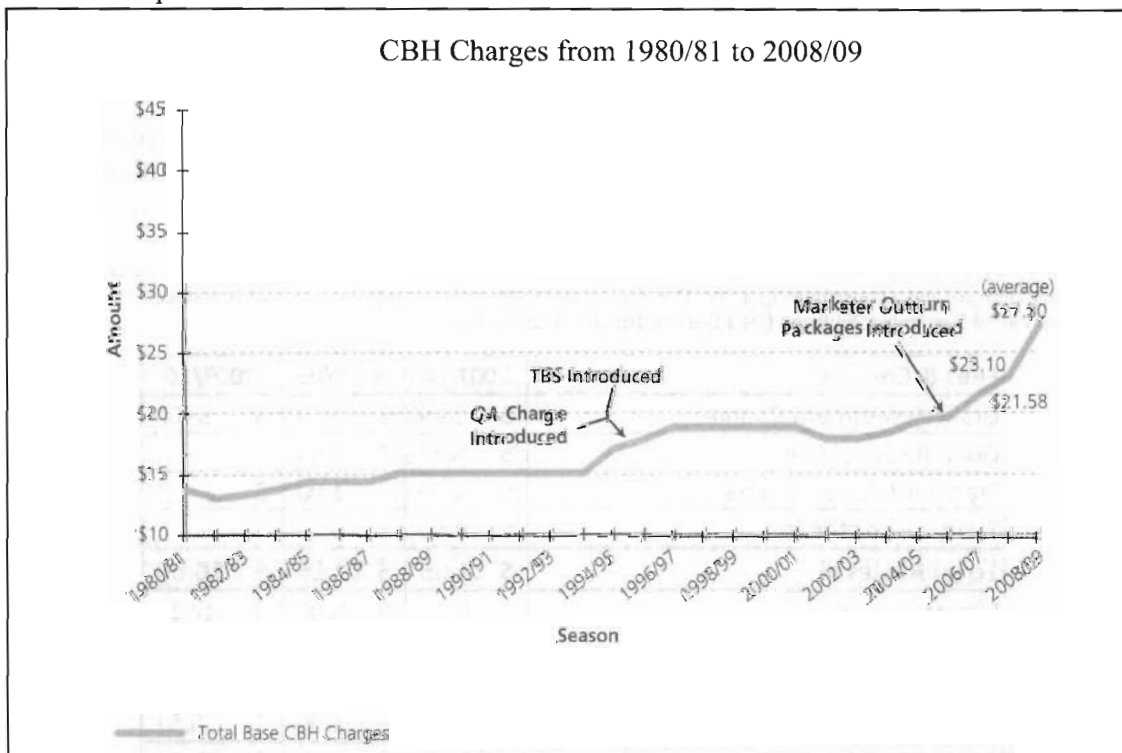


Figure 4: CBH Charges 1980/81 to 2008/09. (Source: - CBH Grain Operations "Storage and handling costs: What are you really being charged?") NB. This graph does not include the second year of Grain Express.

4.4 CBH Free on Board (FOB) Charges

CBH FOB charges are currently \$17.10. CBH have restructured the way that charges are proportioned in 2009/10 and CBH have claimed that these changes have “lessened the cost to growers”.

What CBH fails to acknowledge is that no matter what the FOB charge, growers pay the charge in the end mostly with a premium attached. For instance, a \$17.10 FOB for 2009/10, will see CBH Grain (formerly Grainpool of WA) charged \$22.61 for their benchmark pool. This represents a \$5.51 premium over the flat fee for storage and handling charge. (Ref: Kondinin Group, 2010 “Western Australian Wheat Pools Performance Comparison”.) The grower is charged \$22.61 and not \$17.10.

4.5 CBH FOB Vs International FOB

In the international marketplace Australia lags behind as a nation when it comes to the charging of FOB.

Alan T Tracy the President of the US Wheat Associates in his presentation to the Agribusiness Crop Updates 2010 demonstrated that the average Canadian export fobbing charge to Canadian wheat producers is approximately \$9.00/tonne.



Figure 5: Comparative export costs for handling grain: Canadian ‘Mandatory’ Tariffs (Source: Alan Tracy President of the US Wheat Associates PowerPoint presentation at the 2010 Agribusiness Crop Updates Perth WA.)

In a document provided to WAGG by Peter McBride General Manager – Corporate Affairs AWB Limited from the AWB Geneva office, of he clearly states that Australian FOB costs are in the order of four times dearer than the United States; 3.5 times more expensive than Germany and France and the Ukraine is in the order of 10% less expensive in FOB charges..

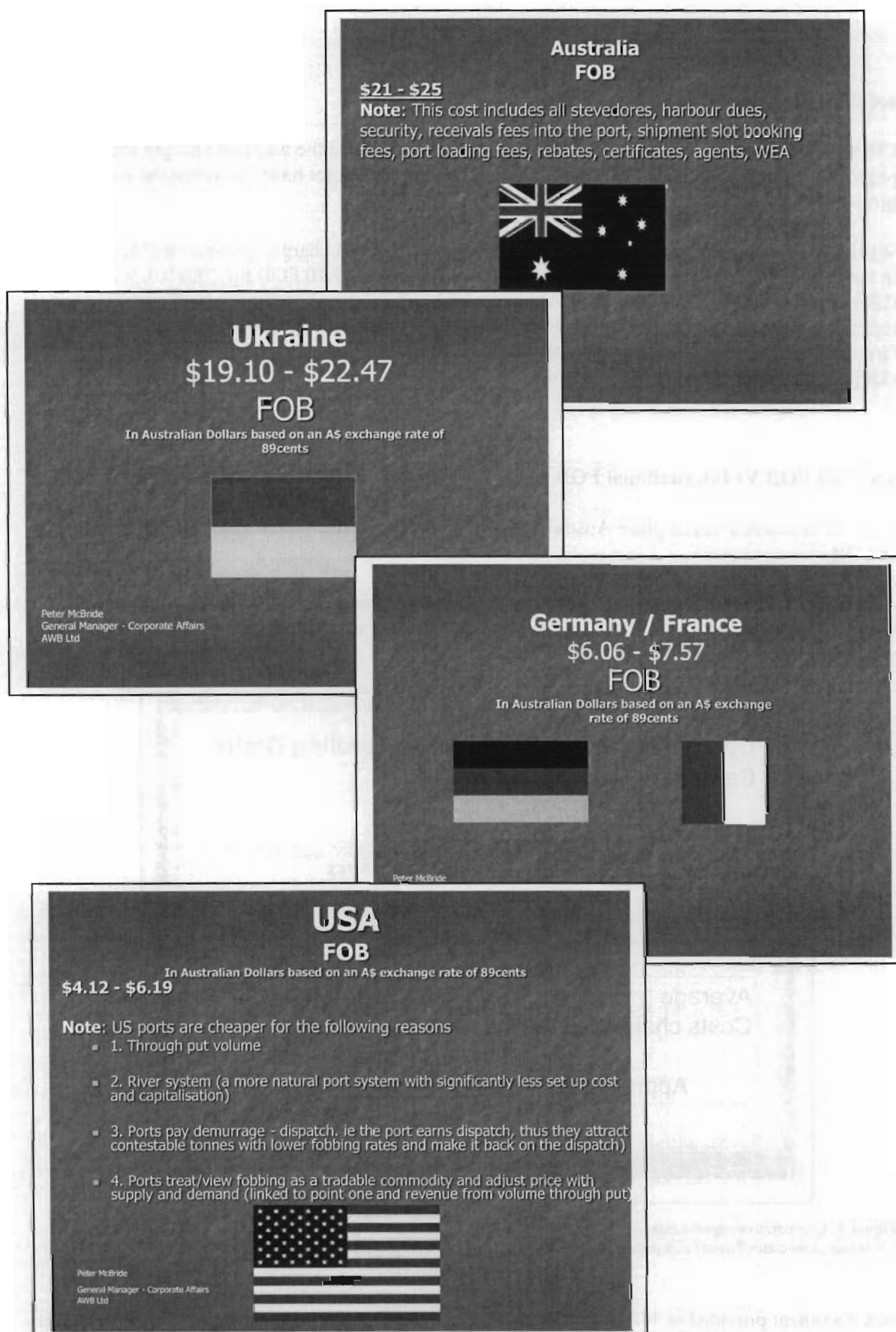


Figure 6: Ukraine, German, France and American FOB costs for Grain (WAGG presentation from information provided by Peter McBride – AWB Ltd)

4.6 Grain Express

CBH claims that without Grain Express that grower access to marketers will decrease, CBH capacity and efficiency will decrease and costs will increase.

The briefing sheet is big on the threats of why growers and therefore marketers need Grains Express and shallow on direct evidence. There is no explanation as to why a lack of support for Grain Express would make service poorer and costs higher particularly when compared to their international counterparts.

What happens if Grain Express goes?		
Total freight costs	↑	Will increase
Storage & handling costs	↑	Will increase
Grower Weighted Averaging	?	Highly unlikely
Efficiency at CBH sites	↓	Less efficient
Port intake capacity	↓	Less capacity
Grower access to all marketers	↓	Limited access

Figure 7: CBH Grain Express Briefing Sheet – What happens if Grain Express goes?

In response to the claims in figure 8 we would like to pose the following questions:-

- Total freight charges have not reduced under Grain Express so why would growers expect that that would be any different without Grain Express?
- Why will storage and handling increase when the same grain is stored and will require the same treatment?
- Why will not having Grains Express prevent the implementation of grower weighted averaging? Grain Express is about a grain freight logistics system and Grower Weighted Averaging is about averaging receival quality. How are the two fundamentally linked?
- How will CBH site efficiency go down when we have not seen efficiencies passed onto growers under Grain Express?
- Why will the port intake capacity decrease? Are CBH planning to reduce their port intake capacity or have CBH confused capacity with throughput? Is this about Grain Express as a system or is this about retaining market share?

- CBH have suggested that without Grain Express and “port pricing” that marketers will not post prices at all receival sites. Why won’t marketers post prices at port and receival sites? Are CBH worried about stranded assets if all receival points don’t have posted prices, or are CBH worried about other companies undercutting CBH freight rates? All prices will default to port if there is no receival site price listed which, is no different to Grain Express. Is this really about Grain Express or sustaining a port monopoly?

CBH for all intents and purposes appear to have developed a system that can work in a deregulated market. Marketers and growers now have experience with Grain Express. If Grain Express is working then marketers and growers will support the system and Grain Express should not be exempt from competition.

Grain Express in its current form locks growers and marketers into using CBH’s grain handling and transport system once the grain is in the CBH system which is a monopoly.

4.7 Hidden Terms and Conditions.

When a grower delivers grain into the CBH system he/she is required to fill in a Carters Delivery Form (CDF). By signing this form the grower is accepting that *“This CDF incorporates the CBH Delivery and Warehousing Terms.”*

For example, a grower delivers his/her 2009 harvest oats to CBH and warehouses the grain. Let’s assume the grower wanted to outturn the grain from the domestic outturn bin in July 2010. In this case CBH told the grower that the grain had been physically moved to another destination hence there are no oats at the site of delivery.

The grower was also told that under the Grain Service Agreement that he/she had not nominated the grain for domestic outturn before the deadline of the first of March 2010, and that CBH had the authority under the Grain Service Agreement Section 3 to move the grain.

3 ENTITLEMENT AT DOMESTIC SITES

3.1 Customers should note that they will now be taking ownership (entitlement) of grain at either a Port Facility or MGC through grower nominations. To access Grain from an up country Domestic Site, the Customer must contact CBH with their request to move their Grain Entitlement prior to the 1st of March of any one year.

3.2 Requests to move Grain Entitlement after the 1st March 2010 will be considered on a case by case basis.

Co-operative Bulk Handling Limited 2009/10 Season Grain Service Agreement for “Standard Grain Storage and Handling Services”

Hence the grower in this instance, under the Grain Service Agreement, apparently should have nominated the grain before March 1st 2010 for domestic outturn.

The CBH Delivery and Warehousing Terms of 14th October 2009 as agreed to by signing the CDF, make no mention of a March 1st deadline to nominate grain for outturn from an upcountry domestic site. Neither do the CBH Delivery and Warehousing Terms mention that the grower is bound by the Grain Service Agreement.

To be clear the grower has agreed to the Delivery and Warehouse Terms by signing each CDF, however he/she has never seen the 2009/10 Grain Service Agreement and there is nothing to say that the grower should know what is in that agreement as it is a document between CBH and an acquirer.

By signing the CDF, CBH are saying that a grower is tied to the Grain Service Agreement by default. This effectively enslaves the grower to a document that he/she has no cause to even know exists. Yet CBH is able to use components of this agreement to enforce its monopoly.

Notwithstanding the argument above, the Delivery and Warehousing Terms do state that CBH can move grain at any time from any bin without notifying the grower.

6.5 Movement of Grain

6.5.1 General

- (a) It is a condition of CBH offering the Services under these Terms, that CBH may require Grain to be moved to another Site or repositioned within a Site to maintain the operational efficiency of the CBH storage system or ensure that a Site can continue to receive grain.*
- (b) CBH is not obliged to notify **You** prior to the movement of any Grain.*
- (c) CBH will use reasonable endeavours to ensure Grain movements are towards the Allocated Port Facility.*

Co-operative Bulk Handling Limited Delivery and Warehousing Terms 14th October 2009

If CBH have the right to move grain without the knowledge of growers, what is the consequence if CBH move the grain “closer to port” which in the case of the Albany and Geraldton port zone is generally away from the domestic market? For the example given above, where does this leave the grower who wants to outturn the grain domestically from their local domestic outturn site? This highlights that the warehousing system has a lot of restraints particularly for domestic outturn for operating stepped time sales strategies (personal pool).

5.0 Quality Downgrades

One of the contentious issues of the existing system from a grower’s viewpoint has been the quality downgrade of malt barley.

In the Co-operative Bulk Handling Limited 2009/10 Season Grain Service Agreement for “Standard Grain Storage and Handling Services” section 25.3 states the following

25.3 Remnants and Regrading

(b) CBH may reclassify the Grade of any malting barley held under this Agreement to that of feed barley standard where the germinative quality is less than 95% or the relevant Grain is more than 2 Seasons old and the Customer's Grain Entitlement will be adjusted accordingly. Any such reclassification will only be conducted after consultation with the Customer and will take place as of 1 October.

As pointed out in section 4.7 above, a grower who signs a carters delivery form (CDF) is only agreeing to the Delivery and Warehousing terms of conditions and has no cause to know of section 25.3 of the Grain Service Agreement.

In light of the Grain Service Agreement the following letter may not be deemed unreasonable in that it is dated after the October 1st deadline. However again we state that a grower has no cause to know of the Grain Service Agreement

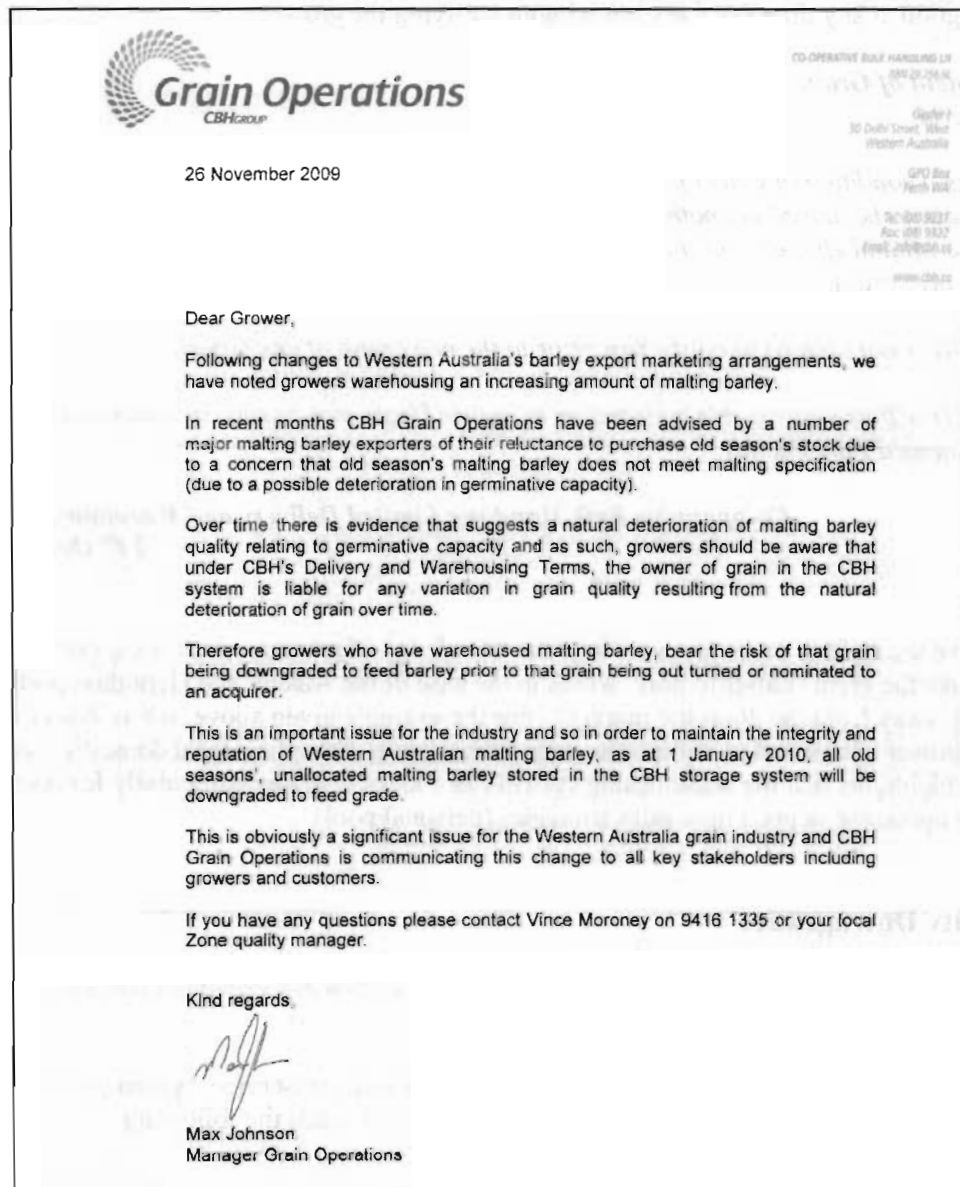


Figure 8: Letter to growers from CBH about the impending downgrade of 2008/09 malt barley to feed.

In CBH's letter it states that:

In recent months CBH Grain Operations have been advised by a number of major malting barley exporters of their reluctance to purchase old season's stock due to a concern that old season's malting barley does not meet malting specification (due to a possible deterioration in germinative capacity).

Over time there is evidence that suggests a natural deterioration of malting barley quality relating to germinative capacity and as such, growers should be aware that under CBH's Delivery and Warehousing Terms, the owner of grain in the CBH system is liable for any variation in grain quality resulting from the natural deterioration of grain over time.

CBH grain operations did not produce any evidence to the growers of a dissatisfaction of the "major malting barley exporters".

The letter clearly states that the market was concerned about the "*possible deterioration in germinative capacity*".

There was no germination testing completed on the 2008/09 malt barley that was released to the growers as evidence of the deterioration of germinative capacity. The test known as the Germinative Energy (GE) Test to prove the "possible deterioration" takes 72 hours to complete. An explanation of the test is given by Wooten *et al* in the Journal of International Brewing. Aside from there being no evidence, the grower's grain was downgraded regardless.

Without testing no consideration was taken into account for the varying conditions that the WA malt barley stacks were stored under. Intrinsicly there needs to be due regard for the inherent varietal dormancy levels, and the affect that temperature and moisture has on the GE of malt barley.

The testing of the grain for GE had no downside risk for the growers as the effect of the CBH letter was a push down that seasons malt grain prices. If the grain had been proven to meet malt standard the malt price at the time was still strong (providing that marketers would buy the grain).

CBH claim that "*there is evidence to suggest the natural deterioration of malting barley quality relating to germinative capacity*".

What CBH fail to say is that "*there has been evidence to suggest natural deterioration*" for many years.

There have been scientific papers published on this same issue since at least 1963 i.e. Burges *et al*. in their paper "Effect of Storage Temperature and Moisture Content on the Germinative Energy of Malting Barley, with particular reference to high temperature" is such evidence.

Even as recently as 2005, Woonton *et al*. in their article "Changes in Germination and Malting Quality During Storage of Barley" it is noted that the factors affecting germination percentages have not changed and indeed definitive management on a variety basis for dormancy and germinative capacity is still struggling with clear parameters as variety plays a large part in what those parameters are.

Hence in the face of Grain Express and grain in the control of CBH, growers were forced into making decisions based upon no evidence of the problems presented. The end result was a financial loss to the grower, a financial gain to the marketer (purchase malt grain at feed price at a \$70/t discount) and CBH got the grain nominated and “moved on” through the system so as not to create logistical problems for CBH.

Additionally, the deregulated market and CBH’s previous monopoly of the WA Barley market though the Grainpool of WA (now known as CBH Grain) has worked against growers.

Growers have been disadvantaged through a lack of experience in grain marketing with items such as the dormancy factor in malt barleys and how dormancy should help dictate their marketing strategy.

An example could be that a grower should take into account that Hamlin has a low dormancy level and should be marketed quickly after harvest, Gardiner and Baudin have a short dormancy of around 1 month and are probably best marketed within the first 6 months after harvest, whilst varieties such as Stirling with a 3 month dormancy can have marketing strategies that push out towards a year of marketing.

To further compound this one issue is the aftermath of growers voicing their anger of the attitude of CBH in its decision making over the malt barley downgrade.

WAGG has become aware that some growers gained compensation from CBH Grain by getting malt 2 price rather than feed price, others got malt 2 price plus \$7, some growers were not compensated at all and some growers got their delivery information changed on line and received malt 1 price.

This whole issue has been dealt with poorly and needs greater transparency.

6.0 Storage

Historically CBH, AWB and Grainpool in the regulated market routinely carried grain over between years. Historically grain pools operate over a 12 to 18 month period.

If we use the example of a grower running a stepped selling system (private pool) for wheat; if the grower sells grain using a typical 18 month sales strategy from January 2010 to June 2011 the grower would be liable for charges in the order of \$20.50/tonne in storage charges

This assumes that the grower was able to negotiate with CBH over extended storage as per section 24 of the Grain Service Agreement. If a grower cannot negotiate with CBH then CBH can invoke section 24.2 as listed below and sell the grain on your behalf.

Grain Express has seen a change in time based storage penalties for grain carried over beyond the 1st September of the year following delivery. CBH’s Service Agreement states that CBH aims to have all “old season” grain outturned before the new seasons grain is delivered.

The financial disincentive to hold grain over 18 months is a substantial increase in storage costs. For instance the October storage fee is 230% higher than the August storage fee in 2008/09.

Why is it that monopoly grain traders pre deregulation routinely had 12 – 18 months shipping programs, however in a deregulated market growers are threatened with the forced sale of their grain if it is not moved within 9 months of harvest?. (Refer section 24 of the Grain Service Agreement)

24 GRAIN REMOVED BEFORE 30 SEPTEMBER EACH YEAR

24.1 Old Grain to be Outturned prior to Harvest Period

The Customer must, on or before 30 September in each year of this Agreement ensure that it has either:

- (a) arranged for CBH to Outturn any Grain held in a Site; or
- (b) arranged with CBH and confirmed in writing, the continuing storage of that Grain by CBH at a Site and on terms acceptable to CBH.

24.2 CBH authorised to sell Grain not Outturned prior to Harvest Period

If the Customer fails to comply with clause 24.1, the Customer agrees that CBH is entitled, in its absolute discretion, to:

- (a) continue storing the Grain and charging the Customer in accordance with this Agreement;
- or
- (b) sell the Grain.

24.3 Election to Sell Grain

The election contained in clause 24.2(b) to sell Grain may be made in relation to any Grain held by CBH at such time after 30 September as is acceptable to CBH.

24.4 Application of Sale Proceeds

If CBH decides pursuant to clause 24.2 to sell Grain, the Customer expressly and irrevocably authorises CBH to:

- (a) sell on such terms including price as determined by CBH;
- (b) create a Tax Invoice on behalf of the Customer who warrants it is, and at all times be, registered for GST to comply with the provisions of the GST Legislation;
- (c) retain that portion of the sale proceeds which covers all CBH charges still outstanding and CBH's costs involved in arranging for the sale of the Grain; and
- (d) pay the balance (if any) of the sale proceeds to the Customer.

Co-operative Bulk Handling Limited 2009/10 Season Grain Service Agreement for "Standard Grain Storage and Handling Services"

Storage charges were applied pre grain express to pools, however due to the lack of transparency in the pooling system it is difficult to say exactly how the storage cost has been applied between years.

What can be said is that CBH have substantially changed their cost structure in the second year of grains express with regards to receipt, FOB and time based storage charges. It can also be said that CBH is offering a warehousing system where CBH don't want the grain held in the system for longer than 9 months otherwise penalties occur.

7.0 Freight Rebate – Has been here all along.

CBH in WA is a co-operative monopoly grain handler. As such CBH is the only grain handling and marketing organisation currently with port assets.

Grain Express gives CBH the monopoly on grain freight transport from upcountry to port and loading onto a ship.

CBH argue that historically that the AWB and Grainpool of WA would arbitrage freight at the growers expense.

CBH announced in its media release of the 27th May 2010

"The CBH Group is pleased to announce that for the first time, a freight rebate will be distributed to more than 5,000 Western Australian grain growers who paid freight to CBH Operations for the 2008-09 season. " ([https://www.cbh.com.au/media-centre/news/2010/may/cbh-distributes-\\$8-million-in-freight-rebate.aspx](https://www.cbh.com.au/media-centre/news/2010/may/cbh-distributes-$8-million-in-freight-rebate.aspx))

By way of further explanation of the "shiny new rebate" CBH produced a frequently asked questions information sheet that stated:

"A surplus of \$8.168m including interest will be given back to growers (individual freight paying entities), equating to approximately 4.25% of the amount of freight each grower was invoiced by CBH Operations for freight in 2008/09. (CBH frequently asked Questions – Grower Freight Rebate. <https://www.cbh.com.au/media/163074/freight%20rebate%20faqs.pdf>).

Although the rebate has been packaged in the media as "new", the concept of freight rebates was in practice in the pre Grains Express and the pre deregulated environment.

In the Grainpool Pool Performance Report for Wheat Pools 2007-08 pp 7-9 shows growers being charged \$14.30/t of freight to port costs while the actual charge by CBH to the Grainpool was \$11.24/t a saving of \$3.06 or 22%. The Grainpool makes a note as part of the statement of pool performance report that:

"Freight savings, such as those identified in Note 8, have been returned back to growers through the final pool return." (Grainpool Performance Report Wheat Pools 2007-08 p 9).

Hence indirectly a rebate on the Grainpool Wheat pool of 2007/08 of 829,355 tonnes at \$3.06/tonne is a rebate back to growers (albeit through a pool) of \$2.537M

CBH claims that Grains Express prevents the arbitrage of freight by marketers in the grain trade by the use of Grains Express as the monopoly freight system. However at this point in time growers have not seen freight to port charges decrease with the claimed efficiencies produced through Grains Express. Freight rates have been held constant in the two years of Grain Express despite reductions in fuel prices.

8.0 Monopoly

In the absence of competition at port the net benefit or loss to the WA grains industry of Grain Express in a deregulated grain market cannot easily be established as there is nothing to compare the system with.

Growers, international marketers, stevedore companies and the like have continued to look for alternate paths to export, outside of CBH. This is because on the world stage, the costs to export grain out of WA are high (refer section 4.4 of this report).

International marketers continue to liaise with growers over on farm storage, they continue to investigate strategies to freight grain to port, and they continue to look at scenarios of grain accumulation points and the logistics of ship loading when grain is not accumulated adjacent to the port outload facility.

It is estimated that there is in the order of 600,000 tonne of on farm grain storage (above seed and livestock feed) today. Growers are choosing to invest in the order of \$100/tonne in on farm storage for an asset with a 20 year depreciation schedule in lieu of paying the \$10.00/tonne per year receival and storage fee to CBH.

Growers are choosing state of the art silo technology rather than the CBH open bulkhead system or CBH facilities which have been allowed to deteriorate. It is reported that CBH need to spend \$225M in today's costs to get its infrastructure "up to scratch". CEO Andy Crane stated that \$46M was spent in storage maintenance alone in 2009 (CBH Pick of the Crop Crop; Issue 12; December 2009).

CBH says on its website that CBH has more than 20M tonne of storage. However if the storage is strategically poorly placed and or poorly maintained i.e. gutters in poor repair and the foundations of facilities now compromised, why hasn't CBH focused on its core business and kept its "house in order" rather than stranding grower funds in items such as:

- share purchase decisions i.e. Elders (Futuris) – loss in excess of \$30M;
- flour mill purchases in Asia that have cost growers in excess of \$100M;
- cash reserves from growers supporting CBH Grain (Grainpool) are nearing \$300M
- co-development of a lupin dehulling plant at a cost of over \$9M
- investment in a container terminal business worth \$15M
- improving ports overseas i.e. Vietnam
- interest free loans to overseas assets.

All of these assets have provided little or no return on investment to growers and some are operating at a loss.

The ongoing maintenance costs are going to be borne by the growers using the CBH system when it could be argued that growers have already paid for "their co-operative" to operate the business in the best interests of the co-operative members.

Competition at port will see the development of alternate supply chains. If CBH storage facilities and Grain Express are indeed the panacea of grain storage and grain freight logistics then CBH and Grain Express will survive. However without competition at port alternatives to CBH are less likely develop.

The amount of disquiet in the WA grains industry about CBH and how its "extra curricular activities" (refer figure 11 on the corporate structure of CBH in 2007) have cost growers to such an extent that the CBH system is now seen to be failing growers through failing infrastructure, a lack of return on investment, and a need to capture a very substantial proportion of the WA grain crop for CBH in its own words to "remain viable".

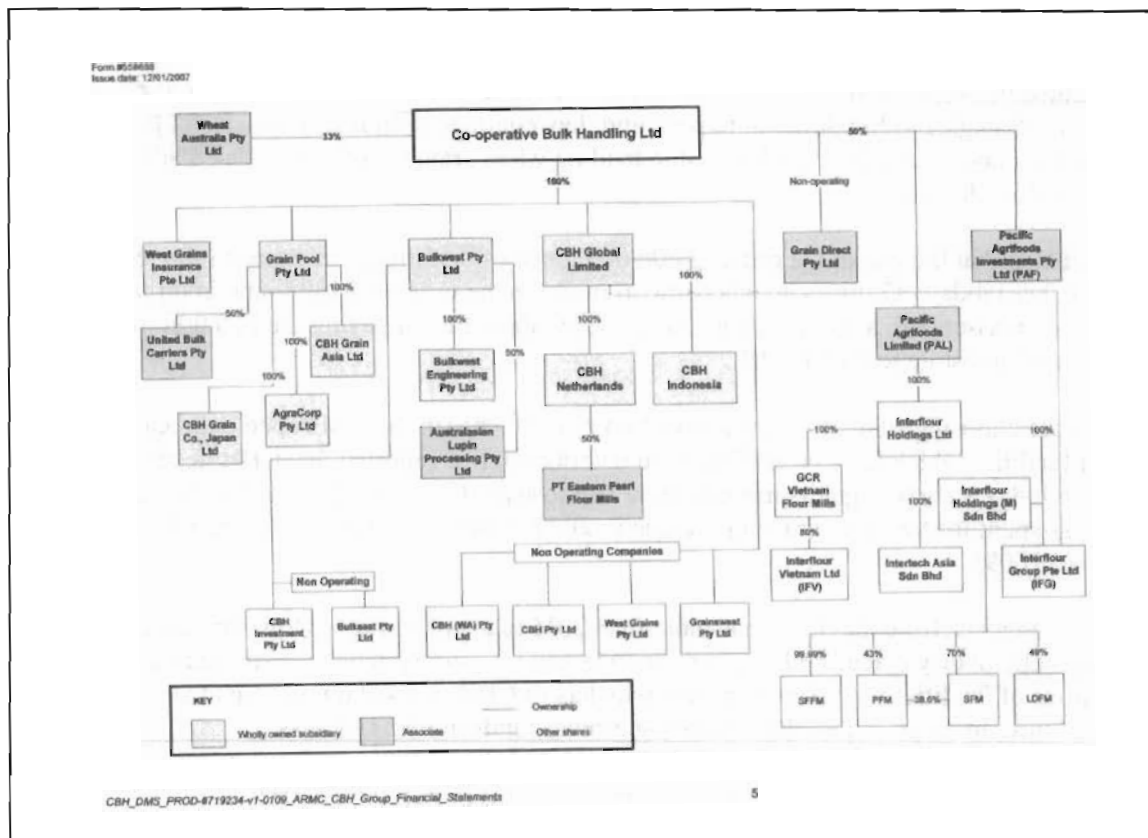


Figure 9: CBH Corporate Structure as at 12/01/07

9.0 Summary

When the Australian Wheat Board (AWB) was being challenged as a grain marketing monopoly CBH were calling for deregulation to allow their grain marketing arm to enter the marketplace, particularly in the wheat market.

It should be noted that senior managers and directors within CBH were instrumental in the breaking of the fertiliser monopoly held by CSBP in Western Australia and hence know firsthand the benefits of a deregulated market. It seems ironic that in a deregulated grain market CBH through Grain Express want protection as a monopoly grain handler and freight logistics organisation.

Growers have to critically assess CBH, its practices and processes because every part of our business must be working as hard as possible to improve a grower's international competitiveness. The AWB was a grower owned company that failed through ill discipline, poor practices, and growers not critically analysing the business of AWB. Growers and shareholder lost millions of dollars. We will not make the same mistake again.

In the 2010/11 grain year this could be the second year in a row that sheep gross margins may outstrip cropping margins. Is CBH up to the challenge of potentially losing grain volume as growers potentially swing back into livestock?

We acknowledge that CBH have developed some very good systems such as Loadnet, and for those growers who have the skills and the access to the technology to utilise Loadnet's capabilities they would not wish to see such a system compromised.

Growers are frustrated with the backlog of CBH maintenance issues that should have been addressed. A senior manager of CBH stated to members of the WAGG group that "if I came to your farm I am sure I would find gutters that needed replacing and fences that needed repairing". What he failed to acknowledge is that growers risk on average around \$1M/ year for an "average" size farm. This \$1M equates to around 20% of the farm equity being risked on each crop year. Growers are not able to increase the price of their "charges" in order to meet rising costs, growers have to live within their means. CBH has used grower's money to the tune of \$500M in expenditure that is not returning a financial benefit to growers, so quite rightly growers are questioning the strategic direction the co-operative is taking.

The WA Grains Group wrote to the ACCC on 4th June 2008 to support the implementation of Grain Express. We continue to see merit in the system however growers have not seen Grain Express deliver the efficiencies and financial savings that CBH espoused during the implementation phase of Grains Express.

In this submission the WA Grains Group have made the following points:

- In the absence of competition at port the net benefit or loss to the WA grains industry of Grain Express in a deregulated grain market cannot easily be established as there is nothing to compare the system with.
- Domestic outturn by road charges have increased by 293% over pre Grain Express.
- Domestic outturn by rail charges have increased from \$5.70/tonne to \$11.00/tonne (93% increase) in the first two years of Grains Express.
- In the first two years of Grain Express the charges to export grain rose in the order of \$6.00/tonne (approximately 12%) over pre Grains Express.
- The cost to use the CBH system to store grain for the domestic market has increased over pre Grain Express due to the increase in domestic outturn charges.
- CBH have increased FOB charges in the order of 45%.
- Australian FOB costs are in the order of four times dearer than the United States; 3.5 times more expensive than Germany and France and 10% dearer than the Ukraine.
- CBH have introduced a new deadline of March 1st for the nomination of domestic grain outturn from a domestic bin. The March 1st deadline was not communicated to growers. If a grower wishes to outturn grain, he/she may not be able to do so because the grain has been physically shifted "closer to port" which in the case of some locations this is away from the domestic market increasing freight costs.
- In 2009 CBH downgraded malt barley to feed barley without proof to the growers that the grain had lost quality. Growers lost between \$55 and \$89/tonne through the downgrade as the letter of impending action sent to growers by CBH caused a reaction in the malt and feed grain market.
- CBH have substantially altered the structure of charges for CBH services in the life of Grain Express claiming financial benefits to growers. The benefit is not a reduction in charges just a redistribution as to the way charges are made.
- CBH's Grain Service Agreement dictates that CBH want the outturn of grain pre September of the year following delivery. CBH use "cliff face" storage fees and the

threat to invoke Section 24 of the Grain Service Agreement to achieve this aim. This action is about “clearing the decks” of grain leading up to the next harvest and is prohibitive of growers to operate stepped time sales strategies.

- CBH claims that it has rebated over \$8M to growers due to freight efficiencies. CBH claim that this is the first time that a rebate has been paid to growers. In fact rebates for freight were operational under the monopoly grain trading system; however the rebates were paid to pools and not directly to the growers.
- CBH claims that Grains Express prevents the arbitrage of freight by marketers in the grain trade through the use of Grains Express as the monopoly freight system. However at this point in time growers have not seen freight to port charges decrease with the claimed efficiencies produced through Grains Express. Freight rates have been held constant in the two years of Grain Express.
- Competition at port has the potential to see the development of alternate supply chains. If CBH warehouse facilities and Grain Express are indeed the panacea of grain storage and grain freight logistics then CBH and Grain Express will survive regardless of competition. Growers will support the CBH business model if it is in their best interest. If CBH do not deliver on their promises they will quickly find that grower loyalty is not as strong as it used to be. In today’s world, price and service is how you capture and maintain market share.

The WA Grains Group wishes to thank the ACCC for the opportunity to provide input into the review of Grain Express.

The WA Grains Group is happy to engage in further conversation in support of the information provided in this document.

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