



Government of **Western Australia**
Department of **Transport**

FILE No:
DOC:
MARS/PRISM:

Enquiries: John Georgiades
Tel: 08 9216 8815

Mr Graeme Samuel
Chairman
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

6 August 2010

Dear Mr Samuel

**Cooperative Bulk handling Limited (CBH) exclusive dealing notification N93439
- interested party consultation**

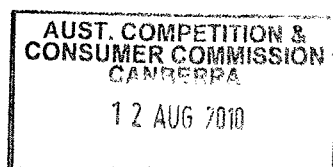
Thank you for providing the opportunity to provide comment on Grain Express and for the time extension for our response to this consultation. The Department of Transport broadly supports the Grain Express on the basis that it provides the best use of the rail freight network in conjunction with road transport to deliver harvests to port in an orderly and efficient manner. I am aware that the State Minister for Transport has also written to you expressing his support.

With the introduction of the deregulated market for wheat export, Grain Express provided a mechanism for utilising the rail network as the key transport mode for moving grain from bin to port. From a whole of Transport perspective, we consider this an important outcome and particularly in minimising the impacts of increased trucking on rural communities that would otherwise have occurred.

We note that in its first year of operation, Grain Express experienced the unrestrained demand by marketers to export their grain in the January to May 2009 period which placed an unrealistic demand on the rail resources that the industry had been contracted by CBH to use.

This was compounded by extremely hot weather resulting in time restrictions on the use of parts of the rail network. This imposed further constraints on the capacity of that network and Grain Express's implementation timetables and precluded the development of an orderly process for the allocation of shipping slots. The 2009-10 harvest has seen some obstacles overcome through measures such as the auction based system for ship allocations which resulted in greater tonnages moving by rail.

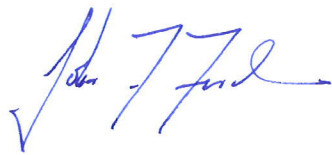
The State and Commonwealth Governments are currently determining a joint investment program in the grain freight (rail and to a lesser extent road) network to ensure that the efficient transportation of grain from the Wheatbelt to ports is realised as no one mode of transport can undertake this task singularly. In this respect, the rail network is an essential component of the supply chain. Grain Express is an important



441 Murray Street, Perth, Western Australia 6000
Tel: (08) 9216 8000 Fax: (08) 9216 8001 www.transport.wa.gov.au
ABN 27 285 643 255

mechanism to realise the rail network capacity to move significant tonnes to port.
The Department has addressed questions which relate to the jurisdiction of this agency.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Fischer', with a stylized flourish at the end.

John Fischer
Executive Director
Transport Policy and Systems
6 / 8 / 2010

**ATTACHMENT A: Department of Transport Western Australia
Response to Questions**

ACCC Question	WA DOT Response / Comment
<p>General</p> <p>1. The impact of the Grain Express arrangements on competition at all levels of the grain supply chain in Western Australia including:</p> <p>(1.1) up-country storage and handling;</p> <p>(1.2) grain transportation; and</p> <p>(1.3) port terminal services.</p> <p>2. The public benefits and public detriments arising from Grain Express.</p> <p>3. The efficiency of Grain Express, including the timeliness of the system in delivering grain to port and the appropriateness of the fees charged.</p>	<p>1</p> <p>(1.1) No change. Some farm storage continues to be built in WA.</p> <p>(1.2) Competition continues to be achieved through tendering process for road and rail contracts for transport services. Road and rail fixed networks have network owners (state and local governments for roads and WestNet rail as lessee for rail).</p> <p>(1.3) CBH as owner of port terminal facilities provides a service with sufficient infrastructure capacity for the Industry. It is the Government's view that duplication /unnecessary expansion of capacity is wasteful of scarce resources and would impose additional net costs on the industry. All marketers are able to access these facilities.</p> <p>2 In the first year of bulk grain deregulation and Grain Express the unrestrained demand by marketers to export their grain in the January to May 2009 period placed an unrealistic demand on the rail resources that the industry had contracted to use. Extremely hot summer weather resulting in time restrictions on the use of parts of the rail network imposed further constraints on the capacity of the rail network. Throughput was further constrained because implementation timetables precluded the development of an orderly process for the allocation of shipping slots. The result was that in order to meet the demands of marketers, CBH moved 1.4 million tonnes of grain that should have been transported by rail onto road. The road externality costs of this were estimated to be \$3.5m (using ARTC Interstate Rail Network Audit April 2001 methodology with values updated by CPI). The brunt of this cost falling on Local and State roads in the form of road damage. Without Grain Express, the situation may well have been further compounded with additional grain transported by road causing congestion at the ports namely the Kwinana and Albany Terminals. An additional risk would have been that some orders may well have not been met with the possible loss of customers to the Western Australian industry.</p> <p>3 The efficiency improvements of Grain Express have been demonstrated in both 2008/9 and 2009/10. The recently announced freight rebate by CBH to growers worth \$8m on a \$90-\$100m contract indicates a significant lowering of actual freight and handling costs. A review of CBH pricing practices would be required to determine that all CBH customers are treated equitably.</p>

4. Whether any improvements were made to Grain Express for the 2009/10 season compared to the 2008/09 season — and the impact of any improvements upon the efficiency of the system.

4 Improvements in the second year of operation were made with the market based auctioning of shipping slots. With the implementation of Grain Express other process rationalisations have occurred with consequent cost reductions. The degree to which these benefits are passed to growers is not known. #

An analysis of CBH's freight movement data provides insight into the relative modal split between road and rail:

* Container grain exports almost doubled from about 750k pa to 1.4m pa

MODE SHARE RAIL AND ROAD

	Pre Grain Express Containers deregulated *		October to June		November to June	
	2007-8		2008-9		2009-10	
Total Rail Moves			4696135	55.5%	4810959	59.3%
Total Road Moves			3765042	44.5%	3308381	40.7%
			8461177		8119339	
	Full Year		Full Year		Full Year	
	2007-8		2008-9		2009-10	
Total Rail Moves	6919423	57.8%	6649680	56.7%	6662780	60.5%
Total Road Moves	5044852	42.2%	5068351	43.3%	4581834	39.5%
	11964275		11718031		11244614	
Total Rail Moves	6919423	54.6%				
Total Road Moves	5744852	45.4%				
	12664275					

Projections based on 2008/9 proportions.

Including 700k container grain off network tonnes

In the year preceding the establishment of Grain Express, 11.96m tonnes of grain was moved to CBH receival sites (ports and Metro Grain Terminal). Rail's share of the freight movements was 57.8% and road's share 42.2%.

2007/8 was a drought year for the Northern Wheatbelt which in recent years afforded a higher market share to road than to rail. At the same time, because container grain was deregulated the amount moved in containers by road doubled from around 0.7m tonnes to 1.4m tonnes. This increment was probably freighted directly to port outside of the CBH network. Including these tonnes in the calculation would show rail mode share to be closer to 55% and road 45%.

This mode share split was maintained in the first year of grain express (2008/9) despite the fact that the proportion of grain exported in containers reverted to historical levels. The reason for the shift from rail to road was the demand by marketers for their grain to be exported in the first four months of the year. This peak demand coupled with the curtailment of rail capacity due to extreme summer heat conditions in the Albany zone was the cause of the modal shift to road – as explained in response to question 2 above. In 2009/10 with a market based auction system for ship allocations, the peak demand was modified and a more even demand for rail generated resulting in a switch back to rail.

<p>Up-country storage and handling</p> <p>5. What is the volume of (1) on-farm grain storage and (2) non-CBH non-farm grain storage available in WA? In relation to the latter, which firms own this storage?</p> <p>6. Is it possible to store all types of grain (including grain for bulk export or grain for container export) in on-farm storage in WA? If so, what proportion of each type is stored this way in WA?</p> <p>7. 'What are the impediments, if any, to farmers storing grain on-farm? (i.e. is fumigation or other measures required whilst stored on-farm? What are the costs of these measures?</p>	<p>5 Data not available to DoT.</p> <p>6 Yes it is. But grain types must be segregated. Data not available to DOT.</p> <p>7 We understand there to be no major impediments. The incentive to use services provided by the bulk handler are economic, convenience, and risk transfer.</p>
<p>8. Approximately, what size is an average grain export shipment, and could a grain exporter fill an average-sized export shipment entirely from on-farm stored grain in WA? If not, why not?</p> <p>9. What would be required to build sufficient up-country off-farm storage to be able to bypass CBH's up-country storage and handling facilities (and therefore, Grain Express)?</p> <p>10. Are there any impediments to building such facilities, for example, insufficient land close to rail and road transport, access to rail network, land use restrictions?</p> <p>11. What volume of grain would be needed to enable a facility to be a cost effective competitor to CBH/Grain Express? How does this compare to volumes in particular geographic regions (for example, by port zone) and WA wide volumes?</p>	<p>8 The answer relates directly to ship size which will to some extent depend on port capacity. Typically ship capacity will vary up to 120,000 tonnes or higher. Most farmers would only provide storage for between 10 and 20k tonnes. The largest might invest in up to 50k tonnes. It is unlikely that individual farmers will be able to organise an entire shipment. Farmer groups may be able to do so.</p> <p>9 This would appear to be the wrong question to ask as the Storage system in Western Australia has capacity to store 20+ million tonnes with seasonal averages of 10 million tonnes. It is not the storage up country that is the constraint. It is the accumulation of the shipment to meet a customer's need. The incentive to bypass the CBH network stems from the under charging to users of road pavement costs and the past practice of sharing rail and storage costs on a network basis. Those farmers whose costs are less than the network average will move their own grain and transfer a penalty to those farmers whose cost are above the network average. CBH is moving from an era when maximum service had to be provided to all farmers at every location to providing services to fewer locations but at a lower resource cost and lower overall charge to farmers. A move to a large number of small storage facilities would eliminate rail from being able to compete for a task that would no longer be suited to rail.</p> <p>10 Westnet Rail would need to respond to any commercial proposition put to them.</p> <p>11 The Department can not answer this question.</p>

<p>12. How much would it cost to build up-country, off-farm storage of a minimum size, to be a cost effective competitor to CBH/Grain Express?</p> <p>By-passing Grain Express (other than up-country storage)</p> <p>13. Excluding up-country storage, what other aspects of the supply chain may be necessary to effectively by-pass Grain Express — for example, is access to the rail network required and if so are there any impediments to gaining such access?</p>	<p>12 Individual farmers are expanding their off-farm storage by utilising a neighbour's storage. ie One farm provides for its four neighbours. The cost effectiveness of this is not known. In 2007/8 there was a proliferation of container packing businesses established with growers by-passing CBH to export grain in containers. In 2008/9 many of these businesses failed.</p> <p>13 Access to the rail network is available to anyone willing to build the transfer facility that is capable of loading trains at an efficient rate.</p>
<p>14. For grain delivered directly to a port outside of Grain Express, are there any extra charges at the port? If so, please list these charges and provide any details you have about your understanding of how these charges are set. In your opinion, are these extra charges reasonable? Please explain why you believe this to be the case.</p> <p>15. If you have not delivered grain direct to port but would like to do so, please provide your reasons for not doing so.</p> <p>16. Does the supply chain for container wheat or non-wheat grains differ in any way from that of bulk export wheat (including in relation to prices charged and other terms and conditions)? If so, please describe the supply chain for container wheat or non-wheat grains.</p>	<p>14. N/A</p> <p>15 N/A</p> <p>16 Not if it is export directed. CBH competitors will move grain from up country to port on road, whereas CBH is more likely to containerise the Grain at the Metro grain centre in Forrestfield.</p>
<p>Transport</p> <p>17. What was your experience with the transport segment of Grain Express for the 2009/10 season as compared to the 2008/2009 season? In particular, were you satisfied that grain was moved efficiently to port or other sites when requested?</p> <p>18. Did CBH require exporters or producers (or both), using Grain Express, to pay any transport surge fees in the 2009/2010 season? If so, what explanation was given for these fees?</p> <p>19. In relation to the transport surge fees CBH charged exporters in the 2008/09 season, please provide details of the dollar and percentage amount of the surge fees that CBH returned.</p>	<p>17 Refer to the above analysis following Question 4 above.</p> <p>18 N/A CBH to respond.</p> <p>19 N/A Marketers/growers to respond.</p>

<p>20. Are there geographic regions in WA where it is more efficient to transport grain from silo (or producer) to port by road compared to rail? What is the difference in the cost of transporting grain by road compared to rail in the various geographic regions?</p> <p>21. How difficult is it to source transport in WA, other than through Grain Express? Is there currently sufficient spare capacity available, for example, rolling stock and/or trucks, for an exporter to arrange its own transport to port?</p> <p>Demurrage 22. Do you think Grain Express contributed to demurrage costs faced by exporters in either the 2008/2009 or 2009/2010 seasons? If so, why? How did the Grain Express contribution to demurrage costs, if any, differ between the 2008/09 and 2009/10 seasons?</p>	<p>20. Analysis shows that some sections of the grain freight supply chain are road only and other sections favour rail. For example, areas in the Great Southern region north of Albany, road is more competitive than rail. Also in the central wheat belt immediately south of Merriken and east of Brookton, rail can not compete with road. The State Government in this area has in place transport subsidy ensuring rail is competitive with road as an interim measure.</p> <p>21 Road transport, traditionally has been easy to source. However, prices will fluctuate with seasonal demand and with fluctuations in economic activity. For the most part growers buy their own heavy haulage and operate them Rail rolling stock is not so easy to source without entering longer term take or pay contracts.</p> <p>22 N/A CBH to answer</p>
<p>Shipping capacity allocation auction system (Auction system)</p> <p>23. Did CBH's Auction system rules impact on your decision to use Grain Express in the 2009/10 season? Please provide details. For example, did the requirement under the Auction rules that marketers must nominate either the Grain Express supply chain or a Direct to Port Access supply chain, within five business days from the completion of each auction, influence your decisions?</p> <p>24. What is your view of the way in which the Auction system operated during the 2009/10 season?</p> <p>25. A number of submissions made to the Productivity Commission's Inquiry into Wheat Export Marketing Arrangements raised concerns that the Auction system constrained the secondary market for shipping slots because of, among other things, the requirement to retain the supply chain nominated in the Auction process. In your view, did the Auction system impact on the secondary market? If yes, what changes to the Auction system do you consider are required to facilitate a more effective secondary market?</p>	<p>23 N/A Note: Historically marketers used to arbitrage transport costs and derive a profit. This activity was detrimental to the industry because it reduced the volume on the fixed network and so increased the cost to be paid by those who used the network. At the same time the increased volume on roads increased the wear and damage on the roads and made them less safe from a community point of view. At the summer peak congestion at the port also imposed higher costs on other users.</p> <p>24 N/A</p> <p>25 The operation of secondary markets for grain shipping should not be the determinant of how expensive and scarce land transport system infrastructure provided by Governments and funded by taxpayers and other users is used. The world financial crisis has occurred because real resources are being consumed to excess through being under priced. To continue to under charge for transport resource consumption will not be sustainable into the future. Refer to Oxford Review of Economic Policy Volume 25, Number 3, 2009: Dieter Helm: Infrastructure investment, the cost of capital, and regulation. This provides an assessment of the role of competition in the economics of infrastructure investment. Source Infrastructure Australia web site.</p>