Our reference
MK/COOP2260-9071023

Woodside Plaza
240 St Georges Terrace Perth WA 6000
GPO BOX 9925 WA 6001
Tel (08) 9460 1666
Fax (08) 9460 1667
www.corrs.com.au

CORRS
CHAMBERS
WESTGARTH
lawyers

Sydney
Melbourne
Brisbane
Perth

2 June 2011

By email and post:
richard.chadwick@accc.gov.au
Dr Richard Chadwick
General Manager Adjudication Branch
Australian Competition & Consumer
Commission
GPO Box 3131
CANBERRA ACT 2601

Contact
Matthew Knox (08) 9460 1602
Email: matthew.knox@corrs.com.au

Dear Dr Chadwick

Exclusive Dealing Notification N93439

I refer to the submission from ARG dated 18 May 2011. In its submission ARG makes a number of assertions about the Western Australian supply chain by comparison with the supply chain in New South Wales.

CBH wishes to correct a number of misconceptions in ARG's submission and sets out in the attachment to this letter a public submission on Rail Movement and Weighing of Grain.

Please contact me if you wish to discuss or require further information.

Yours sincerely

Matthew Knox
Partner

CBH public submission to the ACCC – Rail Movement and Weighing of Grain

1 Importance of rail weighing and associated issues

1.1 CBH considers that one of the greatest contributors in the Australian grain market to inventory error and misalignment arises due to grain not being weighed that is loaded from up-country sites into rail wagons within each of the Australian port-based supply chains.

1.2 Historically under the previous consolidated marketing arrangements the process was:

(i) grain was loaded into rail wagons without weight being captured;

(ii) inventory records were adjusted based on determined average wagon weights. For example, 53.5t per wagon on a wheat basis; and

(iii) inventory management and reconciliation was then managed at a port zone level based on weights captured as grain is outturned to the export or domestic market.

1.3 Changes to this process were introduced as the grain storage and marketing arrangements started to deregulate and also as private rail companies demanded better recording of actual weights for freight invoice generation.

1.4 Bulk Handling Companies in Eastern Australia moved to capturing rail weights at port either by belt weigher or rail weighbridges. However, both weighing methodologies have relative inaccuracies imbedded in the process.

1.5 The table aims to summarise the different streams associated with the movement of grain by rail through each arrangement

Port	Weighing Method	Load Point	Rail Assets	Process
Viterra Ports (SA)	'Rolling Rail' Rail Weighbridges - Train is weighed travelling slowly over the weighbridge producing a weight for each wagon	Viterra Load Point	Viterra Export Select	Grain is outloaded into rail wagons and tonnage at the load site is decremented based on average wagon weights. These average weights are then replaced by actual recorded wagon weights once the process is completed. Actual captured weights then replace the average weight records for outturn and receival transactions.
			Viterra Standard	
			Non Viterra Rail	
		Non Viterra (GrainFlow) Rail Load Point	Viterra Rail	GrainFlow rail loaders have a belt weigher that allows them to weigh into the above rail bins.
			Non Viterra Rail	

Port	Weighing Method	Load Point	Rail Assets	Process
GrainCorp (GNC) Ports (QLD, NSW, VIC)	Belt Weighers - Grain dumped by the train is weighed as it traverses over a conveyor belt. This method weighs the aggregate tonnes. If weights are required for each site on a multi site train then the grainflow must be halted for each component grain parcel.	GrainCorp Load Points	GNC Managed Rail	Grain is outloaded into rail wagons and tonnage at the load site is decremented based on average wagon weights. These average weights are then replaced by actual captured weights. Belt weighers do not weigh at the individual wagon level and therefore must be done on a pro-rata basis across the wagons. When the train has been drift loaded at more than one country site this can lead to site level discrepancies
			Non GNC Managed Rail	
		Non GrainCorp Load Points	GNC Managed Rail	Non GNC load points ensure they weigh grain into the wagons. GrainFlow rail loaders have a belt weigher that allows them to weigh into the above rail bins. ABA, due to past issues with GNC now road weigh all grain into their rail bins to ensure they capture what leaves their site by rail.
			Non GNC Managed Rail	
Australian Bulk Alliance (ABA) Port (VIC)	Grain is tipped and transferred to a weigh scale that allows an aggregate weight of grain received. Split loaded trains that require a separate weight requires the system to be cleared for each component parcel	ABA Load Point	All non ABA Rail	ABA weighs all grain being loaded to rail. This is done by weighing road trucks loaded from the bunkers into the above rail bins.
		GrainCorp Load Points		GrainCorp decrement the clients stock position using average weights and then eventually accept the rail load weights supplied by ABA.
		GrainFlow Load Points		GrainFlow rail loaders have a belt weigher that allows them to weigh into the above rail bins.

1.6 There are a number of issues with each process. In particular:

(i) inaccuracy of weighing methodologies;

(ii) burden of inefficiency of light loading of wagons; and

(iii) client entitlement to stock.

1.7 They are set out in more detail below.

2 Inaccuracy of Weighing Methodologies

2.1 Belt weighing requires constant maintenance and re-adjustment to maintain accuracy. CBH understands that GrainFlow and GNC have a history of issues with belt weighers. In particular, CBH understands that discrepancies as great as 200 tonnes across a 2500 tonne train have occurred between GrainFlow sites and some GNC ports. As a result, GrainFlow adjust their stock figures based on their outturn weights and GNC record as received only what they weigh in. Therefore, in the event of a discrepancy the client loses the tonnage differential between the storage operators.

2.2 Inventory errors are common. This is especially the case in the GNC, GrainFlow and ABA networks. Impacts are:

(i) Misreporting of inventory at port compared to up-country.

(ii) Impact on the planning process as plans are constantly amended to take into account errors in stock levels at country sites.

2.3 Bulk handling companies try to manage and internalise these issues. However, when the bin stock levels run down (due to a drought) all these issues come to light.

3 Burden of inefficiency of light loading of wagons

3.1 Historically, rail operators wore the inefficiency of light loading of wagons and loading operators were not rewarded for loading to the maximum allowable tonnage. Rail operators have now shifted the burden to bulk handling companies or growers. For example, the introduction of rail weighbridges in South Australia. CBH Grain is of the understanding that in other states, some rail operators have demanded the application of payment of freight based on wagon usage rather than actual tonnage carried. Where this occurs it is the bulk handling companies or growers who bear the cost of the inefficiency.

3.2 Confidential – paragraph redacted.

3.3 Confidential – paragraph redacted.

3.4 The advantage of the Grain Express system is that it is a closed system with known outputs. Once the system is opened up by having multiple rail transporters or site entitlement CBH must weigh the output into or out of a rail transporter. This creates the issue of whether CBH:

(i) weighs all grain; which would increase costs across the entire supply chain (Grain Express or otherwise);

(ii) weighs grain using the Grain Express system only; which would increase costs to those users of the Grain Express system to their detriment while benefiting their competitors who are using a non Grain Express system; or

(iii) weighs grain using the non Grain Express system.

3.5 The benefit to all users of the current Grain Express system is clear. Removing the notification would place the costs of weighing the grain onto all users or a select group of users. This must be counter-balanced against any potential transportation savings which, as CBH has previously stated, will not occur or, if they do occur, are marginal at best and only for the benefit of a minority of users.

4 Client entitlement to stock

4.1 If the Grain Express notification is revoked, CBH will need to be able to manage client entitlement to stock at the site level for those people who do not use a Grain Express style bundle. This will need to occur at both an operational level and from an accounting perspective. This process is managed through:

(i) strict adherence to accounting for stock by client by site;

(ii) operational issues, such as clients arranging stock swaps prior to the client being able to access grain from another site; and

(iii) site level inventory stock-take processes and reconciliations being performed on a regular basis.

Strict adherence to accounting for stock by client by site.

4.2 CBH will have a difficult balance to strike between client's wanting control over stock movements and CBH needing to conduct essential movements to attempt to keep its network operating. No movements of a client's grain from a site can occur unless the client has raised an order to approve the movement and the bulk handling company record indicates ownership is available to load.

Stock swaps

4.3 A stock swap must be in place prior to the client being able to access grain from another site. A trader must find a willing counterparty to allow the grain swap to proceed. This may take a significant period of time thereby reducing or eliminating the opportunity for grain consolidation.

4.4 A stock swap ultimately requires a financial settlement to allow equilibrium of costs (both direct freight differences and potential location costs). For example, if a trader wants grain out of Avon but it's entitlement is inaccessible then it may arrange a stock swap with someone holding equivalent available stock at Southern Cross. The trader will incur additional freight associated with paying for the movement from Southern Cross as opposed to Avon and will therefore seek a reimbursement of the difference from the party they are swapping with. Some, or all of the differential may be lost if the trader requires the stock urgently.

4.5 More commonly traders will want to swap stock to a more efficient site or a site closer to port to increase their ability to accumulate for a vessel. Disagreements as to the value of the differential sometimes make these transactions difficult to perform. The standard freight table used for these transactions is the GTA (and its predecessor, NACMA) location differentials. Notwithstanding the existence of location differentials which may or may not adequately compensate a party for actual freight costs, there is also the difficulty of understanding who owns what stock within the system.

Site level inventory stock-take processes and reconciliations

4.6 Stock swaps mean that CBH is required to have in place site level Inventory stock-take and reconciliation processes. CBH currently conducts a single comprehensive annual stock-take and may make minor adjustments based on an area manager's visual inspection through the year if it appears there is a significant difference. Where CBH has to manage client entitlement to stock at the site level for those people who do not use a Grain Express style bundle CBH will need to perform stock-take and reconciliation processes on a regular basis using a consistent process across each site.

4.7 Stock-takes involve a volumetric physical measurement process to confirm grain tonnage within each cell. This is performed to ensure there are no anomalies as the site empties. Reconciliations are required to be performed regularly to ensure any administrative errors/issues are picked up in an expedient manner. Issues, such as damaged grain, need to be managed through a rigorous policy and process to ensure some equitable process for allocation of loss at a site where multiple parties own grain.

4.8 Policy and process is also required to determine what happens with site stock 'longs' and 'shorts' that remain at the site level when the site empties. Similarly , in the event of an insurance event CBH will require a process of allocating the event loss. A policy of how 'shorts' are allocated to individual traders who had/have entitlement at the site is required.

4.9 The obligation to manage client inventory entitlement at the site level is time consuming and requires adequate staff level resourcing to ensure timely completion of reconciliations and transactions.

4.10 These are issues which will need to be addressed if the Grain Express notification is revoked.

5 Above rail competition

5.1 Finally, CBH notes the final comment in ARG's submission that there is no reason why CBH's processes "*need be unduly impacted by the introduction of above rail competition*". As the Commission is aware, CBH's processes (including the Grain Express notification) introduced above rail competition into the Western Australian market by the facilitation of new market entry to compete with ARG. It is not above rail competition which impacts CBH's processes but the inefficiencies and additional cost burdens associated with a fragmented supply chain.