



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/945-08
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29 June 2011

Mr Richard Codling
Group General Counsel
Co-operative Bulk Handling Limited

By email: Richard.Codling@cbh.com.au

Dear Mr Codling

**Exclusive dealing notification N93439 lodged by Co-operative Bulk Handling Limited
- Notice to revoke notification**

In June 2010, after receiving concerns from interested parties, the Australian Competition and Consumer Commission (the ACCC) commenced a review of the 2008 exclusive dealing notification lodged by Co-operative Bulk Handling Limited (CBH). As part of this review, on 6 December 2010 the ACCC released a draft decision proposing to revoke the notification. The ACCC has now completed its review.

The notified conduct involved CBH requiring growers that use CBH's up-country storage facilities to also use transport services supplied by CBH to transport grain to port.

The ACCC's decision

The ACCC has issued a notice revoking the statutory protection from legal action provided by CBH's exclusive dealing notification. A copy of the notice is attached. A copy of the notice is also available from the ACCC website
<www.accc.gov.au/ExclusiveDealingRegister>.

The ACCC is satisfied that the conduct as notified has or is likely to have the effect of substantially lessening competition in the market(s) for grain transport services in Western Australia and that any public benefits arising from the notified conduct do not

outweigh the public detriment caused by the substantial lessening of competition likely to result from the conduct.

The ACCC has issued the notice because it considers the notified conduct allows CBH to leverage its substantial power in the market for grain receipt, storage and handling services to prevent competition in the provision of transport services for bulk export grain in Western Australia.

Absent the notified conduct, CBH would still be free to offer growers a bundled receipt, storage, handling and transport service. However growers who store their grain with CBH would be free to choose whether to use CBH's grain transport services or to organise alternative transport to port.

If no application for review of the notice is made to the Australian Competition Tribunal (the Tribunal), revocation will take effect on 1 May 2012 to provide CBH and other industry participants time to adjust to the changes and to put appropriate systems and processes in place for the following harvest.

The full reasons for the ACCC's decision are provided in Chapters 6 to 10 of the attached notice.

Application for review

Pursuant to section 101A of the *Competition and Consumer Act 2010*, a person dissatisfied with the notice may apply to the Tribunal for its review. An application for review must be made within 21 days after the date of the notice.

An application for review of the notice should be lodged directly with the Tribunal. The Tribunal is an independent statutory body separate from the ACCC and is located within the Federal Court of Australia.

For further information about the Tribunal please refer to the Tribunal's website located at <http://www.competitiontribunal.gov.au/>.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact me on (02) 6243 1132 or Marie Dalins on (03) 9290 1893 or Gavin Jones on (03) 9290 1475.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch