



10/01/2011

Mr David Hatfield

Acting General Manager

Adjudication Branch

Australian Competition & Consumer Commission

GPO Box 3131

Canberra ACT 2601

Draft Notice to Revoke Notification N93439, lodged by Cooperative Bulk Handling on 11 June 2008

Bunge are pleased to have the opportunity to provide comment to the mentioned Draft Notice dated 6 December 2010.

About Bunge

Bunge Limited (www.bunge.com) is listed on the New York Stock Exchange and has a market capitalisation of approximately \$US8.0B. Bunge is a leading global agribusiness and food company founded in 1818 and headquartered in White Plains, New York. Bunge's 30,000 employees in over 30 countries enhance lives by improving the global agribusiness and food production chain. Bunge is an accredited wheat exporter in Australia.

Bunge has been active in executing its export program mostly on the East Coast since deregulation of the wheat export arrangements, but in recent times has executed several cargoes in Western Australia. The intention is to become a significant player in Western Australia over the medium term.

General

Bunge have closely monitored and considered the submissions lodged in relation to the Grain Express Notification lodged by Cooperative Bulk Handling, and thereafter ACCC's assessment in forming the preliminary view to revoke the exclusive dealing notification.

Bunge agree with ACCC's assessment as summarised in paragraph 5.294:

On balance, the ACCC considers that the notified the tying arrangement substantially lessens competition in the market for grain transport in Western Australia and that the substantial anti-competitive detriments outweigh any public benefits resulting from the notified conduct.

Vast experience in deregulated global markets, including those on the East Coast of Australia, indicate that CBH's Grain Express arrangement is one that is both rare and unusual in any market that operates transparently and efficiently. The use of market power in storage and handling has clearly been leveraged upon to lessen competition in transport services.

The excessive domestic outturn fee, radically higher than international and national benchmarks, has been used to ensure engagement of non-CBH transport services remain uneconomical. The tying arrangement is not fair to growers and marketers who firstly, have virtually no choice in the provision of storage services and secondly, denied contestability in the provision of transport services.

Market for grain receival, storage and handling services in Western Australia

Bunge generally agrees with ACCC's assessment in paragraphs 5.73 – 5.93 that CBH has significant market power with regard to country receival services, except to add that a slow increase in on-farm storage should not be of concern, but rather a natural progression of a marketplace maturing post deregulation of exports.

A deregulated market, regarding exports, typically encourages innovation and the investigation by parties to determine the most efficient and cheapest pathway to the marketplace. Western Australia will slowly develop through the growth in on-farm storage as growers and marketers align to explore niche and value adding opportunities. CBH cannot realistically expect to maintain their current market share of 95% in country receival services.

However, the demand for port loading services should remain strong and it is hoped the current undertaking to ensure fair, competitive and unhindered access to export facilities remains.

Market for grain transport in Western Australia

Bunge strongly agrees with ACCC's assessment in paragraphs 5.123 – 5.156 regarding the tying arrangement substantially lessening competition for the provision of transport services.

The submissions by the grain exporters have covered this topic well and Bunge only provide support to the arguments raised.

CBH's domestic outturn fee

Bunge strongly agrees with ACCC's assessment in paragraphs 5.171 – 5.178 regarding the anti-competitive nature of the domestic outturn fee.

The grossly unfair fee cannot be justified on a cost basis, and CBH have exaggerated the small volumes argument. Smaller volumes can somewhat be controlled by concentrating outturns into loading windows and operating efficiently in this manner as East Coast bulk handlers have done.

To provide another example, in recent times there have been opportunities to move grain by rail from Western Australia to East Coast destinations. However, although such movements are more efficient than road, the application of the \$8.50 per tonne fee ensured these movements proved unviable. The huge cost penalty incurred because the train heads east, and not west, defies logic.

Timing of revocation

Bunge agrees with CBH's submission in paragraph 5.299 that any decision to revoke the notification should not come into effect until prior to the 2011/12 harvest season. This will allow sufficient time for all parties to adapt and prepare for the change in policy.

In summary, Bunge's objective is to achieve fair contestability of all essential components of the Australian grain supply chain.

Bunge thanks you for the opportunity to comment upon your Draft Notice and looks forward to a positive outcome in the Final Notice.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Chris Aucote', with a large, stylized flourish extending to the right.

Chris Aucote
General Manager
Bunge Agribusiness Australia Pty Ltd